

SENATE BILL No. 380

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-38.

Synopsis: State-assisted retirement plan. Establishes a state-assisted retirement plan (plan) for purposes of encouraging Indiana residents to increase their rate of savings and to build assets for the use of a participant or the participant's beneficiaries or survivors after the participant's retirement. Provides that the treasurer of state is the administrator of the plan. Requires that the plan be qualified under Section 401(a) or another applicable section of the Internal Revenue Code. Provides that an employer can participate in the plan only if the employer does not offer its employees a pension or retirement system of any kind. Provides that participation in the plan is voluntary for eligible employers and employees, and permits self-employed individuals to participate in the plan. Provides that the plan may not be construed as a debt, a liability, or an obligation of the state, and that the state does not guarantee amounts deposited into an account or investment returns earned by an account.

Effective: July 1, 2013.

Walker

January 10, 2013, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 380



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-38 IS ADDED TO THE INDIANA CODE AS A
- 2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**
- 3 **2013]:**
- 4 **ARTICLE 38. STATE-ASSISTED RETIREMENT PLAN**
- 5 **Chapter 1. Definitions**
- 6 **Sec. 1. The definitions in this chapter apply throughout this**
- 7 **article.**
- 8 **Sec. 2. "Account" refers to a plan account established for a**
- 9 **participant under IC 4-38-2-6(b).**
- 10 **Sec. 3. "Compensation" means wages, salary, commissions, and**
- 11 **any other form of remuneration, as defined by the plan, paid for**
- 12 **personal services by an employer to a participant.**
- 13 **Sec. 4. "Internal Revenue Code" has the meaning set forth in**
- 14 **IC 6-3-1-11.**
- 15 **Sec. 5. "Participant" means an individual who has elected to**
- 16 **participate in the plan.**
- 17 **Sec. 6. "Participating employer" means a person or entity that**



1 meets the eligibility requirements established by the plan to
2 participate in the plan as an employer.

3 Sec. 7. "Plan" refers to the state-assisted retirement plan
4 established under IC 4-38-2-1.

5 Sec. 8. "Treasurer" refers to the treasurer of state.

6 **Chapter 2. Plan Establishment; General Provisions**

7 Sec. 1. (a) A state-assisted retirement plan is established for
8 purposes of encouraging Indiana residents to increase their rate of
9 savings and to build assets for the use of a participant or the
10 participant's beneficiaries or survivors after the participant's
11 retirement.

12 (b) The treasurer shall adopt provisions to implement the plan
13 established under subsection (a), subject to obtaining the approval
14 of the Internal Revenue Service in a manner that satisfies the
15 treasurer that the plan is qualified under Section 401(a) or another
16 applicable section of the Internal Revenue Code.

17 (c) The treasurer shall administer the plan.

18 (d) The plan shall be maintained as a separate trust account.

19 (e) The treasurer may adopt a plan document that the treasurer
20 considers appropriate or necessary to administer the plan.

21 (f) The treasurer may request from the Internal Revenue
22 Service any rulings or determination letters that the treasurer
23 considers necessary or appropriate in order to implement or
24 administer the plan.

25 Sec. 2. The treasurer may contract with public or private
26 persons or entities for the provision of all or any portion of the
27 services the treasurer considers necessary for the management and
28 operation of the plan, including the investment of plan assets.

29 Sec. 3. The treasurer may establish an advisory board to assist
30 the treasurer in implementing and administering the plan.

31 Sec. 4. (a) The plan must establish eligibility requirements that
32 an employer must meet to become a participating employer.

33 (b) Only an employer that does not offer its employees a pension
34 or retirement system of any kind may be a participating employer.

35 (c) The action of an employer to become a participating
36 employer is voluntary.

37 Sec. 5. An individual who is:

38 (1) employed by a participating employer; or

39 (2) self-employed;

40 may elect to be a participant in the plan.

41 Sec. 6. (a) The plan consists of the following:

42 (1) Each participant's contributions to the plan under section

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- 1 **8 of this chapter.**
- 2 **(2) Contributions to the plan made by a participating**
- 3 **employer under section 7 of this chapter on behalf of each**
- 4 **participant who is employed by the participating employer.**
- 5 **(3) Rollovers to the plan by a participant to the extent**
- 6 **permitted by the Internal Revenue Code and applicable**
- 7 **regulations and guidance.**
- 8 **(4) All earnings on investments or deposits of the plan.**
- 9 **(b) The plan shall establish a separate account in the plan for**
- 10 **each individual who elects to be a participant in the plan under**
- 11 **section 5 of this chapter, consisting of the following:**
- 12 **(1) Contributions made to the participant's account under**
- 13 **section 7 of this chapter by the participating employer who**
- 14 **employs the participant.**
- 15 **(2) Contributions made by the participant under section 8 of**
- 16 **this chapter.**
- 17 **(3) Net earnings on contributions made under subdivisions (1)**
- 18 **or (2) to the participant's account, determined after**
- 19 **subtracting administrative fees established under section 9 of**
- 20 **this chapter.**
- 21 **(c) Each participant must be credited individually with the**
- 22 **amount of:**
- 23 **(1) the contributions made to the participant's account by the**
- 24 **participating employer who employs the participant;**
- 25 **(2) the participant's contributions; and**
- 26 **(3) the net investment earnings on the contributions described**
- 27 **in subdivisions (1) and (2).**
- 28 **Sec. 7. (a) A participating employer may contribute to the**
- 29 **account of a participant whom the employer employs, in the**
- 30 **manner and at intervals established by the plan, either:**
- 31 **(1) a specific dollar amount; or**
- 32 **(2) a percentage of the participant's compensation.**
- 33 **(b) A participating employer, besides making contributions**
- 34 **under subsection (a), may make additional contributions to the**
- 35 **account of a participant whom the employer employs, as specified**
- 36 **by the plan.**
- 37 **(c) A participant is vested in contributions made on the**
- 38 **participant's behalf by the participating employer who employs the**
- 39 **participant in accordance with the schedule specified by the plan.**
- 40 **Sec. 8. (a) A participant may contribute to the participant's**
- 41 **account, in the manner and at intervals established by the plan,**
- 42 **either:**

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1 (1) a specific dollar amount; or

2 (2) a percentage of the participant's compensation.

3 (b) A participant's contributions and net earnings on the
4 participant's contributions belong to the participant at all times.

5 (c) A participant shall direct the investment of all amounts in
6 the participant's account among the investment alternatives
7 provided under the plan.

8 Sec. 9. (a) The treasurer shall pay all administrative costs of the
9 plan from the earnings of the plan before crediting earnings to
10 each participant's account.

11 (b) The treasurer shall determine the appropriate
12 administrative fees to be charged to a participant's account.

13 (c) The treasurer may assess each participating employer an
14 administrative fee to recover the costs incurred in establishing the
15 plan.

16 Sec. 10. (a) A participant who terminates employment with a
17 participating employer is entitled to withdraw an amount in the
18 participant's account to the extent the participant is vested in the
19 account and the withdrawal is required or permitted by the plan
20 or the Internal Revenue Code.

21 (b) A participant who becomes employed by an employer
22 offering a pension or retirement system in which the participant is
23 eligible to participate may elect a direct rollover of the
24 participant's account to the eligible pension or retirement system
25 as provided by the plan and applicable federal law.

26 Sec. 11. (a) In accordance with the plan, each participant shall
27 designate one (1) or more beneficiaries to receive the participant's
28 account after the participant's death.

29 (b) If there is no properly designated beneficiary, or if no
30 designated beneficiary survives the participant, the participant's
31 account shall be paid:

32 (1) to the surviving spouse of the participant;

33 (2) if there is not a surviving spouse, to the surviving
34 dependent or dependents of the participant in equal shares; or

35 (3) if there is not a surviving spouse or dependent, to the
36 participant's estate.

37 (c) The beneficiary or beneficiaries designated under subsection
38 (a) or a survivor as determined under subsection (b) may elect to
39 have the participant's account paid under the options offered by
40 the plan and as required or permitted by federal law.

41 Sec. 12. If the plan is terminated, the treasurer shall pay the
42 account balances to participants, beneficiaries, and survivors as

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1 provided by the plan and in accordance with federal law.
 2 **Sec. 13. A participant, beneficiary, survivor, or participating**
 3 **employer that has a good faith belief that the plan is not being**
 4 **administered as required by the plan or applicable federal law may**
 5 **file a complaint as provided by the plan.**
 6 **Chapter 3. Miscellaneous Provisions**
 7 **Sec. 1. Accounts and earnings or interest on accounts are**
 8 **exempt from taxation in Indiana to the extent that those accounts,**
 9 **earnings, or interest are exempt from federal taxation under the**
 10 **Internal Revenue Code.**
 11 **Sec. 2. (a) The plan established by this article may not be**
 12 **construed as a debt, a liability, or an obligation of the state.**
 13 **(b) All documents used to communicate with a participant,**
 14 **beneficiary, or survivor in connection with transactions involving**
 15 **a participant's account must clearly state the following:**
 16 **(1) That the account is not insured by the state.**
 17 **(2) That the state does not guarantee:**
 18 **(A) amounts deposited into an account; or**
 19 **(B) investment returns earned by amounts in an account.**

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