



February 19, 2003

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## HOUSE BILL No. 1879

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DIGEST OF HB 1879 (Updated February 18, 2003 11:14 AM - DI 96)

**Citations Affected:** IC 5-10; noncode.

**Synopsis:** Conversion of unused accrued leave. Provides that the rate at which a state agency employee's unused excess accrued vacation and sick leave is converted to a contribution to deferred compensation for the employee must be increased to 100% of the employee's daily pay per day of unused leave. Requires the state personnel department to establish a plan under which retiring state employees may convert certain accrued excess leave to a nontaxable monetary contribution to pay the retiring employees' group health insurance premiums.

**Effective:** July 1, 2003.

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**Oxley**

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January 23, 2003, read first time and referred to Committee on Labor and Employment.  
February 18, 2003, reported — Do Pass.

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HB 1879—LS 7302/DI 102+



February 19, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1879

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 5-10-1.1-7.5, AS ADDED BY P.L.184-2001,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 7.5. (a) As used in this section, "state agency"  
4 means the following:

5 (1) An authority, a board, a branch, a commission, a committee,  
6 a department, a division, or other instrumentality of state  
7 government.

8 (2) A separate corporate body politic that adopts the plan  
9 described in subsection (b).

10 (3) State elected officials and their office staff.

11 (4) The legislative services agency.

12 (5) Legislative staff eligible to participate in the state employees'  
13 deferred compensation plan established by section 1 of this  
14 chapter.

15 However, the term does not include a state educational institution (as  
16 defined in IC 20-12-0.5-1) or a political subdivision.

17 (b) The deferred compensation committee shall adopt provisions in

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1 a defined contribution plan, under Sections 401(a) and 414(d) of the  
 2 Internal Revenue Code, for the purpose of converting unused excess  
 3 accrued leave to a monetary contribution for employees of a state  
 4 agency. These provisions may be part of the plan and trust established  
 5 under section 1.5(a) of this chapter.

6 (c) The deferred compensation committee is the trustee of the plan  
 7 described in subsection (b). The plan must be a qualified plan, as  
 8 determined by the Internal Revenue Service.

9 (d) The state personnel department shall adopt rules under IC 4-22-2  
 10 that it considers appropriate or necessary to implement this section.  
 11 The rules adopted by the state personnel department under this section  
 12 must:

13 (1) be consistent with the plan described in subsection (b);

14 (2) include provisions concerning:

15 (A) the type and amount of leave that may be converted to a  
 16 monetary contribution;

17 (B) the conversion formula for valuing any leave that is  
 18 converted;

19 (C) the manner of employee selection of leave conversion; and

20 (D) the vesting schedule for any leave that is converted; and

21 (3) apply to all state agencies.

22 (e) The rules adopted by the state personnel department under  
 23 subsection (d) specifying the conversion formula must provide for a  
 24 conversion rate under which the amount contributed on behalf of a  
 25 participating employee for a day of leave that is converted under this  
 26 section is equal to ~~at least sixty~~ **one hundred percent (100%)**  
 27 of the employee's daily pay as of the date the leave is converted.

28 (f) The deferred compensation committee may adopt the following:

29 (1) Plan provisions governing:

30 (A) the investment of accounts in the plan; and

31 (B) the accounting for converted leave.

32 (2) Any other plan provisions that are necessary or appropriate for  
 33 operation of the plan.

34 (g) The plan described in subsection (b) may be implemented only  
 35 if the deferred compensation committee has received from the Internal  
 36 Revenue Service any rulings or determination letters that the  
 37 committee considers necessary or appropriate.

38 **(h) Conversion and contribution under the plan described in**  
 39 **subsection (b) is an alternative to conversion and contribution**  
 40 **under the plan described in IC 5-10-14-3(a). An employee who at**  
 41 **separation from service has accrued unused leave in excess of the**  
 42 **amount for which the state compensates an employee in good**



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1 standing upon separation from service may elect to have the excess  
2 leave converted and contributed in any proportion between:

- 3 (1) the plan described in subsection (b); and  
4 (2) the plan described in IC 5-10-14-3(a).

5 However, a unit of accrued unused leave may be converted for use  
6 in only one (1) plan.

7 SECTION 2. IC 5-10-12-3, AS AMENDED BY P.L.184-2001,  
8 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2003]: Sec. 3. (a) Subject to subsections (b) and (c), an  
10 employee who:

- 11 (1) has at least ten (10) years of creditable service with a state  
12 agency;  
13 (2) retires after June 30, 2000; and  
14 (3) has accrued and unused sick days, vacation days, or personal  
15 days on the employee's retirement date;

16 is entitled to have the amounts specified in section 5 of this chapter  
17 deposited by the state into a cafeteria plan under Section 125 of the  
18 Internal Revenue Code.

19 (b) The provisions of this chapter requiring the department to make  
20 deposits into a cafeteria plan on behalf of retired employees described  
21 in subsection (a) apply only if the department has received from the  
22 Internal Revenue Service any approvals or rulings that the department  
23 considers necessary or appropriate for the cafeteria plan.

24 (c) The provisions of this chapter requiring the department to make  
25 deposits into a cafeteria plan on behalf of retired employees described  
26 in subsection (a) do not apply if the plan described in  
27 IC 5-10-1.1-7.5(b) is implemented and the deferred compensation  
28 committee has received from the Internal Revenue Service any rulings  
29 or determination letters that the committee considers necessary or  
30 appropriate for the plan described in IC 5-10-1.1-7.5(b).

31 **(d) The provisions of this chapter requiring the department to**  
32 **make deposits into a cafeteria plan on behalf of retired employees**  
33 **described in subsection (a) do not apply if the plan described in**  
34 **IC 5-10-14-3(a) is implemented and the department receives from**  
35 **the Internal Revenue Service any rulings or determination letters**  
36 **that the department considers necessary or appropriate for the**  
37 **plan described in IC 5-10-14-3(a).**

38 SECTION 3. IC 5-10-14 IS ADDED TO THE INDIANA CODE AS  
39 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
40 1, 2003]:

41 **Chapter 14. Health Insurance Premium Benefits for Certain**  
42 **Unused Leave**

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1           **Sec. 1.** As used in this chapter, "department" means the state  
2 personnel department.

3           **Sec. 2.** As used in this chapter, "state agency" has the meaning  
4 set forth in IC 5-10-1.1-7.5.

5           **Sec. 3. (a)** An employee:

6               (1) who retires after June 30, 2003; and

7               (2) who, on the employee's retirement date, has accrued  
8 unused leave in excess of:

9                   (A) the amount for which the state compensates an  
10 employee in good standing upon separation from service;  
11 and

12                  (B) any amount that the employee elects to convert under  
13 IC 5-10-1.1-7.5;

14 is entitled to make an election to have the amount specified in  
15 subsection (c) converted into a monetary contribution deposited  
16 into a plan that pays on a nontaxable basis the group health  
17 insurance premiums payable by the employee under IC 5-10-8  
18 after the employee's termination of employment, including  
19 retirement.

20           (b) The provisions of this chapter requiring the department to  
21 make deposits into a plan described in subsection (a) apply only if  
22 the department has received from the Internal Revenue Service  
23 any rulings or determination letters that the department considers  
24 necessary or appropriate for the plan.

25           (c) Conversion and contribution under the plan described in  
26 subsection (a) is an alternative to conversion and contribution  
27 under the plan described in IC 5-10-1.1-7.5(b). An employee who  
28 at separation from service has accrued unused leave in excess of  
29 the amount for which the state compensates an employee in good  
30 standing upon separation from service may elect to have the leave  
31 converted and contributed in any proportion between:

32               (1) the plan described in subsection (a); and

33               (2) the plan described in IC 5-10-1.1-7.5(b).

34 However, a unit of accrued unused leave may be converted for use  
35 in only one (1) plan.

36           **Sec. 4. (a)** The department shall adopt rules under IC 4-22-2  
37 that it considers necessary to make the periodic payments  
38 described in section 3(a) of this chapter on behalf of retired  
39 employees described in section 3(a) of this chapter and to otherwise  
40 carry out this chapter.

41           (b) The rules adopted by the department must meet the  
42 following requirements:



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**(1) The rules must be consistent with the plan described in section 3(a) of this chapter.**

**(2) The rules must include provisions specifying that:**

**(A) the maximum amount of leave that may be converted to a monetary contribution is the amount of leave accrued on the employee's retirement date that is in excess of the amount for which the state compensates an employee in good standing upon separation from service;**

**(B) the rate at which accrued unused leave is converted to a monetary contribution to pay group health premiums is one hundred percent (100%) of the employee's daily pay as of the employee's retirement date per day of unused leave;**

**(C) the employee may not elect to receive cash for the leave being converted under this chapter; and**

**(D) monetary contributions not used by the employee revert to the state.**

**(3) The rules must apply to all state agencies.**

**Sec. 5. Within thirty (30) days after an employee's retirement date, an employee who wishes to convert accrued used leave under this chapter must file with the department a written application and any information required by the department.**

**Sec. 6. The department shall implement the plan described in section 3(a) of this chapter not later than December 31, 2003.**

**SECTION 4. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 5-10-14-4, as added by this act, the state personnel department shall initially carry out the duties imposed upon it under IC 5-10-14-4, as added by this act, under interim written guidelines approved by the director of the state personnel department.**

**(b) This SECTION expires on the earlier of the following:**

**(1) The date rules are adopted under IC 5-10-14-4, as added by this act; or**

**(2) December 31, 2003.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1879, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 8, nays 5.

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