



Reprinted
February 21, 2012

ENGROSSED HOUSE BILL No. 1250

DIGEST OF HB 1250 (Updated February 20, 2012 3:07 pm - DI 87)

Citations Affected: IC 4-2; IC 4-15.

Synopsis: State government nepotism. Prohibits an individual who is employed by a state agency from being: (1) employed in the same agency in which the individual's relative is the appointing authority; and (2) placed in the direct line of supervision of a relative. Allows a job assignment that existed on July 1, 2012, to be continued. Allows an individual employed in an agency for at least 12 consecutive months immediately preceding the date the individual's relative becomes the appointing authority of the agency to: (1) remain employed by the agency; and (2) be within the direct line of supervision of the relative. Prohibits an individual from contracting with or supervising the work of a business entity of which a relative is a partner, executive officer, or sole proprietor. Provides that a person within an agency who violates the nepotism statute may be subject to the penalties enforced by the state ethics commission. Repeals provisions concerning employment of relatives in state agencies.

Effective: July 1, 2012.

Mahan, Bosma, Stemler

(SENATE SPONSORS — LAWSON C, HOLDMAN, TALLIAN)

January 9, 2012, read first time and referred to Committee on Government and Regulatory Reform.

January 25, 2012, amended, reported — Do Pass.

January 30, 2012, read second time, ordered engrossed. Engrossed.

January 31, 2012, read third time, passed. Yeas 92, nays 4.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Pensions and Labor.

February 9, 2012, amended, reported favorably — Do Pass.

February 20, 2012, read second time, amended, ordered engrossed.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1250

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

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

1 SECTION 1. IC 4-2-6-1, AS AMENDED BY P.L.2-2007,
2 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 1. (a) As used in this chapter, and unless the
4 context clearly denotes otherwise:

5 (1) "Advisory body" means an authority, a board, a commission,
6 a committee, a task force, or other body designated by any name
7 of the executive department that is authorized only to make
8 nonbinding recommendations.

9 (2) "Agency" means an authority, a board, a branch, a bureau, a
10 commission, a committee, a council, a department, a division, an
11 office, a service, or other instrumentality of the executive,
12 including the administrative, department of state government. The
13 term includes a body corporate and politic set up as an
14 instrumentality of the state and a private, nonprofit, government
15 related corporation. The term does not include any of the
16 following:

17 (A) The judicial department of state government.

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- 1 (B) The legislative department of state government.
 2 (C) A state educational institution.
 3 (D) A political subdivision.
 4 (3) "Appointing authority" means **the following:**
 5 (A) **Except as provided in clause (B),** the chief administrative
 6 officer of an agency. The term does not include a state officer.
 7 (B) **For purposes of section 16 of this chapter, "appointing**
 8 **authority" means:**
 9 (i) **an elected officer;**
 10 (ii) **the chief administrative officer of an agency; or**
 11 (iii) **an individual or group of individuals who have the**
 12 **power by law or by lawfully delegated authority to make**
 13 **appointments.**
 14 (4) "Assist" means to:
 15 (A) help;
 16 (B) aid;
 17 (C) advise; or
 18 (D) furnish information to;
 19 a person. The term includes an offer to do any of the actions in
 20 clauses (A) through (D).
 21 (5) "Business relationship" includes the following:
 22 (A) Dealings of a person with an agency seeking, obtaining,
 23 establishing, maintaining, or implementing:
 24 (i) a pecuniary interest in a contract or purchase with the
 25 agency; or
 26 (ii) a license or permit requiring the exercise of judgment or
 27 discretion by the agency.
 28 (B) The relationship a lobbyist has with an agency.
 29 (C) The relationship an unregistered lobbyist has with an
 30 agency.
 31 (6) "Commission" refers to the state ethics commission created
 32 under section 2 of this chapter.
 33 (7) "Compensation" means any money, thing of value, or financial
 34 benefit conferred on, or received by, any person in return for
 35 services rendered, or for services to be rendered, whether by that
 36 person or another.
 37 (8) **"Direct line of supervision" means the chain of command**
 38 **in which the superior affects, or has the authority to affect,**
 39 **the terms and conditions of the subordinate's employment,**
 40 **including making decisions about work assignments,**
 41 **compensation, grievances, advancements, or performance**
 42 **evaluation.**

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- 1 ~~(8)~~ **(9)** "Employee" means an individual, other than a state officer,
 2 who is employed by an agency on a full-time, a part-time, a
 3 temporary, an intermittent, or an hourly basis. The term includes
 4 an individual who contracts with an agency for personal services.
 5 ~~(9)~~ **(10)** "Employer" means any person from whom a state officer
 6 or employee or the officer's or employee's spouse received
 7 compensation. For purposes of this chapter, a customer or client
 8 of a self-employed individual in a sole proprietorship or a
 9 professional practice is not considered to be an employer.
 10 ~~(10)~~ **(11)** "Financial interest" means an interest:
 11 (A) in a purchase, sale, lease, contract, option, or other
 12 transaction between an agency and any person; or
 13 (B) involving property or services.
 14 The term includes an interest arising from employment or
 15 prospective employment for which negotiations have begun. The
 16 term does not include an interest of a state officer or employee in
 17 the common stock of a corporation unless the combined holdings
 18 in the corporation of the state officer or the employee, that
 19 individual's spouse, and that individual's unemancipated children
 20 are more than one percent (1%) of the outstanding shares of the
 21 common stock of the corporation. The term does not include an
 22 interest that is not greater than the interest of the general public
 23 or any state officer or any state employee.
 24 ~~(11)~~ **(12)** "Information of a confidential nature" means
 25 information:
 26 (A) obtained by reason of the position or office held; and
 27 (B) which:
 28 (i) a public agency is prohibited from disclosing under
 29 IC 5-14-3-4(a);
 30 (ii) a public agency has the discretion not to disclose under
 31 IC 5-14-3-4(b) and that the agency has not disclosed; or
 32 (iii) is not in a public record, but if it were, would be
 33 confidential.
 34 ~~(12)~~ **(13)** "Person" means any individual, proprietorship,
 35 partnership, unincorporated association, trust, business trust,
 36 group, limited liability company, or corporation, whether or not
 37 operated for profit, or a governmental agency or political
 38 subdivision.
 39 ~~(13)~~ **(14)** "Political subdivision" means a county, city, town,
 40 township, school district, municipal corporation, special taxing
 41 district, or other local instrumentality. The term includes an
 42 officer of a political subdivision.

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1 ~~(14)~~ **(15)** "Property" has the meaning set forth in IC 35-41-1-23.

2 **(16) "Relative" means any of the following:**

- 3 (A) A spouse.
 4 (B) A parent or stepparent.
 5 (C) A child or stepchild.
 6 (D) A brother, sister, stepbrother, or stepsister.
 7 (E) A niece or nephew.
 8 (F) An aunt or uncle.
 9 (G) A daughter-in-law or son-in-law.

10 **For purposes of this subdivision, an adopted child of an**
 11 **individual is treated as a natural child of the individual. For**
 12 **purposes of this subdivision, the terms "brother" and "sister"**
 13 **include a brother or sister by the half blood.**

14 ~~(15)~~ **(17)** "Represent" means to do any of the following on behalf
 15 of a person:

- 16 (A) Attend an agency proceeding.
 17 (B) Write a letter.
 18 (C) Communicate with an employee of an agency.

19 ~~(16)~~ **(18)** "Special state appointee" means a person who is:

- 20 (A) not a state officer or employee; and
 21 (B) elected or appointed to an authority, a board, a
 22 commission, a committee, a council, a task force, or other
 23 body designated by any name that:
 24 (i) is authorized by statute or executive order; and
 25 (ii) functions in a policy or an advisory role in the executive
 26 (including the administrative) department of state
 27 government, including a separate body corporate and politic.

28 ~~(17)~~ **(19)** "State officer" means any of the following:

- 29 (A) The governor.
 30 (B) The lieutenant governor.
 31 (C) The secretary of state.
 32 (D) The auditor of state.
 33 (E) The treasurer of state.
 34 (F) The attorney general.
 35 (G) The superintendent of public instruction.

36 ~~(18)~~ **(20)** The masculine gender includes the masculine and
 37 feminine.

38 ~~(19)~~ **(21)** The singular form of any noun includes the plural
 39 wherever appropriate.

40 (b) The definitions in IC 4-2-7 apply throughout this chapter.

41 SECTION 2. IC 4-2-6-16 IS ADDED TO THE INDIANA CODE
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 2012]: **Sec. 16. (a) This chapter does not prohibit the**
 2 **continuation of a job assignment that existed on July 1, 2012.**
 3 **(b) As used in this section, "employed" refers to all employment,**
 4 **including full-time, part-time, temporary, intermittent, or hourly.**
 5 **The term includes service as a state officer or special state**
 6 **appointee.**
 7 **(c) An individual employed in an agency may not hire a relative.**
 8 **(d) Except as provided in subsection (e), an individual may not**
 9 **be employed in the same agency in which an individual's relative**
 10 **is the appointing authority.**
 11 **(e) An individual may be employed in the same agency in which**
 12 **the individual's relative is the appointing authority, if the**
 13 **individual has been employed in the same agency for at least twelve**
 14 **(12) consecutive months immediately preceding the date the**
 15 **individual's relative becomes the appointing authority.**
 16 **(f) Except as provided in subsection (e), an individual may not**
 17 **be placed in a relative's direct line of supervision.**
 18 **(g) An individual employed in an agency may not contract with**
 19 **or supervise the work of a business entity of which a relative is a**
 20 **partner, executive officer, or sole proprietor.**
 21 **(h) Any person within an agency who knowingly participates in**
 22 **a violation of this chapter is subject to the penalties set forth in**
 23 **section 12 of this chapter.**
 24 SECTION 3. IC 4-15-7 IS REPEALED [EFFECTIVE JULY 1,
 25 2012]. (Employment of Relatives by Public Officials Prohibited).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1250, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 5 through 6.

Page 1, line 7, delete "2." and insert "1."

Page 2, line 2, delete "3." and insert "2."

Page 2, line 4, delete "does not include the situation" and insert **"includes service as an elected officer or special state appointee."**

Page 2, delete line 5.

Page 2, line 6, delete "4." and insert "3."

Page 2, between lines 14 and 15, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "special state appointee" means

a person who is:

(1) not a state officer or employee; and

(2) elected or appointed to an authority, a board, a commission, a committee, a council, a task force, or other body designated by any name that:

(A) is authorized by statute or executive order; and

(B) functions in a policy or an advisory role in the executive (including the administrative) department of state government, including a separate body corporate and politic."

Page 2, delete lines 15 through 20, begin a new paragraph and insert:

"Sec. 5. Except as provided in section 7 of this chapter, an individual may not be employed in the same agency in which an individual's relative is employed."

Page 2, line 21, delete "or serving as an" and insert **"may not hire or be placed in a direct supervisory relationship with:"**.

Page 2, delete line 22.

Page 2, line 27, delete "or serves." and insert ".".

Page 2, delete lines 28 through 42, begin a new paragraph and insert:

"Sec. 7. Section 5 of this chapter is not violated if:

(1) an individual's relative has been employed in the same agency for at least twelve (12) consecutive months immediately preceding the date the individual is employed in the same agency; and

(2) the employment does not violate section 6 of this chapter.



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Sec. 8. Any person within an agency who participates in a violation of this chapter is subject to the penalties set forth in IC 4-2-6-12."

Page 3, delete line 1.

and when so amended that said bill do pass.

(Reference is to HB 1250 as introduced.)

MAHAN, Chair

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1250, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"Sec. 1. This chapter does not prohibit the continuation of a job assignment that existed on July 1, 2012."

Page 1, line 5, delete "1." and insert "2."

Page 1, line 5, delete "means an authority, a" and insert **"has the meaning set forth in IC 4-2-6-1."**

Sec. 3. As used in this chapter, "appointing authority" means:

- (1) an elected officer;**
- (2) the head of an agency, a department, a division, a board, or a commission; or**
- (3) an individual or group of individuals who have the power by law or by lawfully delegated authority to make appointments.**

Sec. 4. As used in this chapter, "direct line of supervision" means the chain of command in which the superior affects or has the authority to affect, the terms and conditions of the subordinate's employment, including making decisions about work assignments, compensation, grievances, advancements, or performance evaluation."

Page 1, delete lines 6 through 16.

Page 1, line 17, delete "2." and insert "5."

Page 2, line 1, after "part-time," insert **"temporary,"**

Page 2, line 2, delete "contractual employment." and insert **"hourly."**

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Page 2, line 4, delete "3." and insert "**6. (a)**".

Page 2, delete lines 6 through 12, begin a new line block indented and insert:

- "(1) A spouse.**
- (2) A parent or stepparent.**
- (3) A child or stepchild.**
- (4) A brother, sister, stepbrother, or stepsister.**
- (5) A niece or nephew.**
- (6) An aunt or uncle.**
- (7) A daughter-in-law or son-in-law.**

(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.

(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood."

Page 2, line 13, delete "4." and insert "7."

Page 2, line 13, delete "means" and insert "**has the meaning set forth in IC 4-2-6-1.**

Sec. 8. An individual employed in an agency may not hire a relative.

Sec. 9. (a) Except as provided in subsection (b), an individual may not be employed in the same agency in which an individual's relative is the appointing authority.

(b) An individual may be employed in the same agency in which the individual's relative is the appointing authority, if the individual has been employed in the same agency for at least twelve (12) consecutive months immediately preceding the date the individual's relative becomes the appointing authority.

Sec. 10. Except as provided in section 9(b) of this chapter, an individual may not be placed in a relative's direct line of supervision.

Sec. 11. An individual employed in an agency may not contract with or supervise the work of a business entity of which a relative is a partner, executive officer, or sole proprietor."

Page 2, delete lines 14 through 39.

Page 2, line 40, delete "8." and insert "**12.**".

Page 2, line 40, after "who" insert "**knowingly**".

and when so amended that said bill do pass.

(Reference is to HB 1250 as printed January 25, 2012.)

BOOTS, Chairperson

Committee Vote: Yeas 7, Nays 1.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1250 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-2-6-1, AS AMENDED BY P.L.2-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) As used in this chapter, and unless the context clearly denotes otherwise:

(1) "Advisory body" means an authority, a board, a commission, a committee, a task force, or other body designated by any name of the executive department that is authorized only to make nonbinding recommendations.

(2) "Agency" means an authority, a board, a branch, a bureau, a commission, a committee, a council, a department, a division, an office, a service, or other instrumentality of the executive, including the administrative, department of state government. The term includes a body corporate and politic set up as an instrumentality of the state and a private, nonprofit, government related corporation. The term does not include any of the following:

- (A) The judicial department of state government.
- (B) The legislative department of state government.
- (C) A state educational institution.
- (D) A political subdivision.

(3) "Appointing authority" means **the following:**

(A) Except as provided in clause (B), the chief administrative officer of an agency. The term does not include a state officer.

(B) For purposes of section 16 of this chapter, "appointing authority" means:

- (i) an elected officer;**
- (ii) the chief administrative officer of an agency; or**
- (iii) an individual or group of individuals who have the power by law or by lawfully delegated authority to make appointments.**

(4) "Assist" means to:

- (A) help;
- (B) aid;
- (C) advise; or
- (D) furnish information to;

a person. The term includes an offer to do any of the actions in clauses (A) through (D).

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- (5) "Business relationship" includes the following:
- (A) Dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:
 - (i) a pecuniary interest in a contract or purchase with the agency; or
 - (ii) a license or permit requiring the exercise of judgment or discretion by the agency.
 - (B) The relationship a lobbyist has with an agency.
 - (C) The relationship an unregistered lobbyist has with an agency.
- (6) "Commission" refers to the state ethics commission created under section 2 of this chapter.
- (7) "Compensation" means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.
- (8) "Direct line of supervision" means the chain of command in which the superior affects, or has the authority to affect, the terms and conditions of the subordinate's employment, including making decisions about work assignments, compensation, grievances, advancements, or performance evaluation.**
- ~~(8)~~ (9) "Employee" means an individual, other than a state officer, who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis. The term includes an individual who contracts with an agency for personal services.
- ~~(9)~~ (10) "Employer" means any person from whom a state officer or employee or the officer's or employee's spouse received compensation. For purposes of this chapter, a customer or client of a self-employed individual in a sole proprietorship or a professional practice is not considered to be an employer.
- ~~(10)~~ (11) "Financial interest" means an interest:
- (A) in a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or
 - (B) involving property or services.
- The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of a state officer or employee in the common stock of a corporation unless the combined holdings in the corporation of the state officer or the employee, that individual's spouse, and that individual's unemancipated children are more than one percent (1%) of the outstanding shares of the

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common stock of the corporation. The term does not include an interest that is not greater than the interest of the general public or any state officer or any state employee.

~~(H)~~ **(12)** "Information of a confidential nature" means information:

(A) obtained by reason of the position or office held; and

(B) which:

(i) a public agency is prohibited from disclosing under IC 5-14-3-4(a);

(ii) a public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or

(iii) is not in a public record, but if it were, would be confidential.

~~(I)~~ **(13)** "Person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

~~(J)~~ **(14)** "Political subdivision" means a county, city, town, township, school district, municipal corporation, special taxing district, or other local instrumentality. The term includes an officer of a political subdivision.

~~(K)~~ **(15)** "Property" has the meaning set forth in IC 35-41-1-23.

(16) "Relative" means any of the following:

(A) A spouse.

(B) A parent or stepparent.

(C) A child or stepchild.

(D) A brother, sister, stepbrother, or stepsister.

(E) A niece or nephew.

(F) An aunt or uncle.

(G) A daughter-in-law or son-in-law.

For purposes of this subdivision, an adopted child of an individual is treated as a natural child of the individual. For purposes of this subdivision, the terms "brother" and "sister" include a brother or sister by the half blood.

~~(L)~~ **(17)** "Represent" means to do any of the following on behalf of a person:

(A) Attend an agency proceeding.

(B) Write a letter.

(C) Communicate with an employee of an agency.

~~(M)~~ **(18)** "Special state appointee" means a person who is:

(A) not a state officer or employee; and

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(B) elected or appointed to an authority, a board, a commission, a committee, a council, a task force, or other body designated by any name that:

- (i) is authorized by statute or executive order; and
- (ii) functions in a policy or an advisory role in the executive (including the administrative) department of state government, including a separate body corporate and politic.

~~(17)~~ **(19)** "State officer" means any of the following:

- (A) The governor.
- (B) The lieutenant governor.
- (C) The secretary of state.
- (D) The auditor of state.
- (E) The treasurer of state.
- (F) The attorney general.
- (G) The superintendent of public instruction.

~~(18)~~ **(20)** The masculine gender includes the masculine and feminine.

~~(19)~~ **(21)** The singular form of any noun includes the plural wherever appropriate.

(b) The definitions in IC 4-2-7 apply throughout this chapter."

Page 1, line 1, delete "IC 4-15-7.1" and insert "IC 4-2-6-16".

Page 1, line 2, delete "CHAPTER" and insert "SECTION".

Page 1, delete line 4.

Page 1, line 5, delete "1." and insert "**16. (a)**".

Page 1, run in lines 3 through 5.

Page 1, delete lines 7 through 17, begin a new paragraph and insert:

"(b) As used in this section, "employed" refers to all employment, including full-time, part-time, temporary, intermittent, or hourly. The term includes service as a state officer or special state appointee."

Page 2, delete lines 1 through 23.

Page 2, line 24, delete "Sec. 8." and insert "**(c)**".

Page 2, line 26, delete "Sec. 9. (a)" and insert "**(d)**".

Page 2, line 26, delete "(b)," and insert "**(e)**".

Page 2, line 29, delete "(b)" and insert "**(e)**".

Page 2, line 34, delete "Sec. 10." and insert "**(f)**".

Page 2, line 34, delete "section 9(b) of this chapter," and insert "**subsection (e)**".

Page 2, line 37, delete "Sec. 11." and insert "**(g)**".

Page 2, line 40, delete "Sec. 12." and insert "**(h)**".

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Page 2, line 42, delete "IC 4-2-6-12" and insert "**section 12 of this chapter.**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1250 as printed February 10, 2012.)

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