

HOUSE BILL No. 1349

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-38.

Synopsis: Hoosier employee retirement options portal. Establishes the Hoosier employee retirement options portal (portal) for the purpose of connecting eligible employers and their employees with approved retirement plans to increase the employees' retirement savings. Establishes the Hoosier employee retirement options portal board (board) consisting of seven members: (1) the securities commissioner; (2) the auditor of state; (3) the treasurer of state; and (4) four members appointed by the governor, including two members with knowledge, skill, and expertise in retirement savings plan administration or investments, or both; one member who is an attorney admitted to practice law in Indiana with knowledge, skill, and expertise in federal labor, retirement, or tax law; and one member affiliated with a consumer advocacy organization. Provides that the securities commissioner serves as chairperson of the board. Requires the board, not later than June 30, 2017, to design a plan for the operation of the portal and propose standards for the approval of retirement plans to be available through the portal. Requires the board, not later than December 31, 2018, to begin accepting applications from financial services firms that desire to provide retirement plans through the portal. Requires a firm to be licensed or hold a certificate of authority and be in good standing in Indiana and meet all federal laws and regulations to offer retirement plans through the portal. Requires each financial services firm participating in the portal to offer a minimum of a target date fund and a balanced fund as investment options. Requires the board to activate the portal when the board has approved retirement plans from two financial services firms. Requires the portal to provide
(Continued next page)

Effective: July 1, 2016.

Eberhart, Lehman

January 12, 2016, read first time and referred to Committee on Employment, Labor and Pensions.



Digest Continued

a range of investment options to meet the needs of investors of various ages and with various levels of risk tolerance. Provides that an employer's participation in a plan offered through the portal is voluntary. Provides that an employer that offers a plan must automatically enroll all employees qualified to participate in the plan at a default contribution rate of 3%. Requires that an employee automatically enrolled in a plan must have the option to waive or terminate participation and increase or decrease the employee's contribution percentage. Provides that a plan's default investment option must be a target date fund. Provides that an employee must be able to rollover the employee's account in the plan to an individual retirement account or other eligible plan if the employee ceases participation in the plan. Allows the board to contract with a private sector entity to design, implement, and operate the portal. Establishes the Hoosier employee retirement options portal administrative fund to pay the expenses of the portal. Requires that the administrative fund must be self-sustaining and allows the board to use private funding sources, including private foundation grants, for starting-up, operating, and marketing of the portal. Requires a financial services firm to pay an annual fee of \$5,000 to the administrative fund as a condition of participation in the portal. Provides that the state of Indiana may not have any liability under ERISA as the result of the board's administration of the portal. Requires biennial reports to the general assembly concerning the effectiveness and efficiency of the portal.



Introduced

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1349



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 4-38 IS ADDED TO THE INDIANA CODE AS A
 2 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 3 2016]:
 4 **ARTICLE 38. HOOSIER EMPLOYEE RETIREMENT**
 5 **OPTIONS PORTAL**
 6 **Chapter 1. Definitions**
 7 **Sec. 1. The definitions used in this chapter apply throughout this**
 8 **article.**
 9 **Sec. 2. "Approved plan" means a retirement plan offered by a**
 10 **private sector financial services firm that meets the requirements**
 11 **established by this article and the board to participate in the**
 12 **portal.**
 13 **Sec. 3. "Balanced fund" means a hybrid mutual fund that**
 14 **includes a relatively fixed mix of stocks, bonds, and cash**
 15 **equivalents in a single portfolio in order to provide both income**



1 and capital appreciation while avoiding excessive risk.

2 Sec. 4. "Board" refers to the Hoosier employee retirement
3 options portal board established by IC 4-38-4-1.

4 Sec. 5. "Compensation" means wages, salary, commissions, and
5 any other form of remuneration within the meaning of Section
6 219(f)(1) of the Internal Revenue Code (26 U.S.C. 219(f)(1)) paid
7 for personal services by a participating employer to an employee
8 enrolled in a participating employer's approved plan.

9 Sec. 6. "Eligible employer" means a corporation, partnership,
10 limited liability company, or any other legal entity that, at the time
11 of initial enrollment in a plan obtained through the portal:

12 (1) has not more than one hundred (100) employees; and

13 (2) is legally doing business in Indiana.

14 The term includes a self-employed individual.

15 Sec. 7. "Employee" has the meaning set forth in IC 22-2-13-3.

16 Sec. 8. "Enrollee" means an employee who participates in an
17 approved plan offered by the employee's employer.

18 Sec. 9. "Fund" refers to the portal's administrative fund
19 established by IC 4-38-5-1.

20 Sec. 10. "Hybrid mutual fund" refers to a category of mutual
21 fund characterized by a portfolio that is made up of a mix of stocks
22 and bonds that can vary proportionately over time or remain fixed.

23 Sec. 11. "Individual retirement account" or "IRA" means a
24 retirement plan described in Section 408(a) of the Internal Revenue
25 Code.

26 Sec. 12. "Internal Revenue Code" has the meaning set forth in
27 IC 6-3-1-11.

28 Sec. 13. "Mutual fund" refers to an investment vehicle:

29 (1) that is made up of a pool of capital collected from many
30 investors for the purpose of investing in securities, such as
31 stocks, bonds, and other assets;

32 (2) that is operated by money managers, who invest the pool
33 of capital in an attempt to provide income and capital gains
34 for the investors; and

35 (3) whose portfolio is structured and maintained to match the
36 investment objectives stated in the fund's portfolio.

37 Sec. 14. "Participating employer" means an eligible employer
38 that acquires an approved plan through the portal.

39 Sec. 15. "Portal" refers to the Hoosier employee retirement
40 options portal established by IC 4-38-2-1.

41 Sec. 16. "Private sector financial services firm" or "financial
42 services firm" means a person or entity that meets the



1 requirements under IC 4-38-2-5(b).

2 Sec. 17. "Self-employed individual" has the meaning set forth in
3 26 U.S.C. 401(c)(1)(B).

4 Sec. 18. "SIMPLE IRA" means a retirement plan described in
5 Section 408(p) of the Internal Revenue Code.

6 Sec. 19. "Target date fund" means a hybrid mutual fund that is
7 structured to address a selected future date, typically an investor's
8 projected retirement date, and automatically resets the asset mix
9 of stocks, bonds, and cash equivalents in the fund's portfolio
10 according to the time remaining before the selected future date.

11 **Chapter 2. Hoosier Employee Retirement Options Portal**

12 Sec. 1. The Hoosier employee retirement options portal is
13 established for the purpose of connecting eligible employers and
14 their employees with approved retirement plans to increase the
15 employees' retirement savings.

16 Sec. 2. Not later than June 30, 2017, the board shall:

- 17 (1) design a plan for the operation of the portal; and
18 (2) propose standards for the approval of the retirement plans
19 to be available through the portal.

20 Sec. 3. The board shall consider the following when establishing
21 standards for the approval of retirement plans:

- 22 (1) Transparency and disclosure standards.
23 (2) Suitability (particularly with regard to the saver
24 population targeted by the retirement plan).
25 (3) Automatic enrollment.
26 (4) Automatic escalation.
27 (5) Lifetime income streams.
28 (6) Any other factor affecting the ease of use or the
29 performance of the retirement plan.

30 Sec. 4. The board may consult with or request assistance from
31 any of the following in developing the portal and criteria for the
32 approval of retirement plans:

- 33 (1) The Indiana public retirement system.
34 (2) The department of financial institutions.
35 (3) The secretary of state.
36 (4) Organizations representing eligible employers, employees,
37 and private and nonprofit sector retirement plan
38 administrators and providers.
39 (5) Organizations representing private sector financial
40 services firms.
41 (6) Any other individual or entity that the board determines
42 has information relevant to the development of the portal and



1 approval criteria for retirement plans.

2 Sec. 5. (a) Not later than December 31, 2018, the board shall
3 begin accepting applications from financial services firms that
4 desire to provide retirement plans through the portal.

5 (b) In order to submit an application under subsection (a), a
6 financial services firm must:

7 (1) be:

8 (A) licensed or hold a certificate of authority; and

9 (B) in good standing;

10 with the state of Indiana; and

11 (2) meet all federal laws and regulations;

12 to offer retirement plans.

13 Sec. 6. (a) Before approving a plan to be offered through the
14 portal, the board shall verify the following:

15 (1) That the private sector financial services firm offering the
16 plan meets the requirements under section 5(b) of this
17 chapter.

18 (2) That the plan meets the requirements established by this
19 chapter or the board.

20 (b) The board is not responsible for ensuring or enforcing
21 compliance with any federal laws or regulations that apply to a
22 private sector financial services firm unless the board is required
23 by federal law to do so.

24 (c) Approved plans must meet all standards established by
25 federal law or regulation for retirement plans.

26 Sec. 7. Each financial services firm participating in the portal
27 must offer at least two (2) investment options in each approved
28 plan, including:

29 (1) a target date fund, with asset allocations and maturities
30 designed to coincide with an employee's expected date of
31 retirement; and

32 (2) a balanced fund.

33 Sec. 8. (a) When the board has approved retirement plans from
34 two (2) financial services firms, the board shall activate the portal
35 on the Internet.

36 (b) In order for the portal to continue operating, at least two (2)
37 financial services firms must offer approved plans on the portal.
38 However, this subsection may not be construed to limit the number
39 of private sector financial services with approved plans
40 participating in the portal.

41 (c) The board shall allow participation in the portal of all
42 private sector financial services firms that meet the requirements



1 of section 5(b) of this chapter and offer an approved plan.

2 (d) The board may remove from the portal an approved plan
3 that no longer meets the requirements established by this chapter
4 or the board.

5 Sec. 9. (a) The portal must provide a range of investment
6 options to meet the needs of investors of various ages and with
7 various levels of risk tolerance.

8 (b) The board shall make available through the portal to eligible
9 employers a diverse array of retirement plans, including:

10 (1) life insurance plans that are designed for retirement
11 purposes;

12 (2) a SIMPLE IRA type plan that provides for employer
13 contributions to enrollee accounts;

14 (3) plans in which the employer does not contribute to
15 enrollee accounts, such as payroll deduction individual
16 retirement account type plans or workplace based individual
17 retirement accounts open to all employees; and

18 (4) any other retirement plan the board considers appropriate
19 for employee retirement savings.

20 (c) An eligible employer's participation in an approved plan
21 offered through the portal is voluntary.

22 Sec. 10. An approved plan must include the option for an
23 enrollee to receive a distribution as a rollover distribution under
24 the Internal Revenue Code from the approved plan to an
25 individual retirement account or another eligible retirement plan
26 if the enrollee ceases participation in the approved plan.

27 Sec. 11. Financial services firms offering approved plans
28 through the portal:

29 (1) must provide information about their plans' historical
30 investment performance in a form established by the board;
31 and

32 (2) may not charge:

33 (A) a participating employer an administrative fee; or

34 (B) an enrollee more than one hundred (100) basis points
35 in total annual fees.

36 Sec. 12. The board shall ensure that a licensed professional who
37 assists a participating employer or the participating employer's
38 employees in enrolling in an approved plan through the portal
39 receives routine, market based commissions or other compensation
40 for the licensed professional's services.

41 Sec. 13. The board may contract with a private sector entity to
42 design, implement, and operate the portal and may employ



1 consultants and other professionals to assist with implementation
2 and oversight of the portal, including the following:

3 (1) Designing and operating an Internet web site that includes
4 information about how eligible employers can voluntarily
5 participate in the portal.

6 (2) Developing marketing materials about the portal that can
7 be distributed electronically, posted on the Internet web sites
8 of state agencies that interact with eligible employers, or
9 inserted into mail from state agencies.

10 (3) Identifying and promoting existing federal and state tax
11 credits and benefits for employers and employees to
12 encourage retirement savings and participation in retirement
13 plans.

14 (4) Promoting the benefits of retirement savings and
15 providing other information that promotes financial literacy.

16 Sec. 14. (a) The board shall adopt rules under IC 4-22-2,
17 including emergency rules in the manner provided under
18 IC 4-22-2-37.1, to carry out the board's responsibilities under this
19 article.

20 (b) In developing rules to implement this article, the board may
21 consult with or request assistance from any of the following:

22 (1) Organizations representing eligible employers, qualified
23 employees, and private and nonprofit sector retirement plan
24 administrators and providers.

25 (2) Organizations representing private sector financial
26 services firms.

27 (3) Any other individual or entity that the board determines
28 has information relevant to the development of an effective
29 and efficient method for operation of the portal and the
30 development of approval criteria for retirement plans.

31 (c) The board shall develop proposed rules under this section
32 not later than January 1, 2018. Rules proposed under this article
33 may not be finally adopted until after the end of the 2018 regular
34 session of the general assembly.

35 Sec. 15. The board shall ensure that the screening and
36 evaluation of retirement plans and private sector financial services
37 firms is objective and does not provide an unfair advantage to any
38 particular firm.

39 **Chapter 3. Participation In and Liability Under the Portal**

40 Sec. 1. The board shall not expose the state of Indiana as an
41 employer or through the board's administration of the portal to
42 any potential liability under the federal Employee Retirement



1 **Income Security Act of 1974 (29 U.S.C. 1001 et seq.). As such, the**
 2 **board is specifically prohibited from offering and operating a state**
 3 **based retirement plan for businesses or individuals who are not**
 4 **employed by the state of Indiana.**

5 **Sec. 2. The board shall encourage private sector financial**
 6 **services firms to participate in the portal.**

7 **Sec. 3. Participation in an approved plan from the portal is**
 8 **voluntary for eligible employers.**

9 **Sec. 4. (a) If an employer offers an approved plan from the**
 10 **portal, the employer must automatically enroll all employees**
 11 **qualified to participate in the approved plan in the approved plan**
 12 **at a default contribution rate of three percent (3%) of the**
 13 **employee's compensation.**

14 **(b) An employee automatically enrolled in an approved plan**
 15 **under subsection (a) must have the option:**

16 **(1) to waive or terminate the employee's participation in the**
 17 **approved plan; and**

18 **(2) to increase or reduce the contribution rate percentage to**
 19 **the approved plan.**

20 **(c) An enrollee must be able to select the investment options for**
 21 **the enrollee's contributions to the enrollee's account in an**
 22 **approved plan.**

23 **(d) If an enrollee does not select an investment option,**
 24 **contributions to the enrollee's account must be invested in a default**
 25 **investment option, which is a target date fund having a target date**
 26 **that is closest to the projected retirement date of the enrollee.**

27 **(e) An approved plan must include the option for an enrollee to**
 28 **receive a distribution as a rollover distribution under the Internal**
 29 **Revenue Code from the approved plan to an individual retirement**
 30 **account or another eligible retirement plan if the enrollee ceases**
 31 **participation in the approved plan.**

32 **Sec. 5. Enrollment in an approved plan offered through the**
 33 **portal is not an entitlement. The general assembly may modify or**
 34 **terminate the portal at its discretion at any time.**

35 **Chapter 4. The Hoosier Employee Retirement Options Portal**
 36 **Board**

37 **Sec. 1. The Hoosier employee retirement options portal board**
 38 **is established.**

39 **Sec. 2. (a) The board consists of seven (7) members as follows:**

40 **(1) The following three (3) ex officio members:**

41 **(A) The securities commissioner (appointed under**
 42 **IC 23-19-6-1(a)).**



- 1 **(B) The auditor of state.**
 2 **(C) The treasurer of state.**
 3 **(2) The following four (4) members appointed by the**
 4 **governor:**
 5 **(A) Two (2) individuals with knowledge, skill, and expertise**
 6 **in retirement savings plan administration, investments, or**
 7 **both, who cannot offer an approved plan on the portal.**
 8 **(B) One (1) individual who is an attorney admitted to**
 9 **practice law in Indiana with knowledge, skill, and expertise**
 10 **in federal labor, retirement, or tax law.**
 11 **(C) One (1) individual who is affiliated with a consumer**
 12 **advocacy organization.**
 13 **(b) The securities commissioner shall serve as the chairperson**
 14 **of the board.**
 15 **(c) An ex officio member of the board may designate an**
 16 **individual to serve as the member's proxy.**
 17 **Sec. 3. (a) An appointed member of the board serves a four (4)**
 18 **year term.**
 19 **(b) An appointed member serves until the member's successor**
 20 **is appointed and qualified.**
 21 **(c) During an appointed member's service on the board, the**
 22 **member may not be an officeholder or employee of the state.**
 23 **(d) Whenever a member is appointed to fill a vacancy on the**
 24 **board, the member serves for the balance of the unexpired term of**
 25 **the member's predecessor.**
 26 **Sec. 4. (a) The initial terms of office for the four (4) individuals**
 27 **appointed to the board by the governor under section 2(a)(2) of this**
 28 **chapter are as follows:**
 29 **(1) One (1) member appointed under section 2(a)(2)(A) of this**
 30 **chapter for a term of one (1) year.**
 31 **(2) One (1) member appointed under section 2(a)(2)(A) of this**
 32 **chapter for a term of three (3) years.**
 33 **(3) The member appointed under section 2(a)(2)(B) of this**
 34 **chapter for a term of two (2) years.**
 35 **(4) The member appointed under section 2(a)(2)(C) of this**
 36 **chapter for a term of four (4) years.**
 37 **(b) Not later than July 1, 2016, the governor shall appoint**
 38 **individuals to initial terms of office as provided by this section.**
 39 **Sec. 5. (a) An ex officio member of the board is not entitled to**
 40 **reimbursement for traveling expenses and other expenses actually**
 41 **incurred in connection with the member's duties.**
 42 **(b) An appointed member of the board is not entitled to:**



- 1 (1) the minimum salary per diem provided by IC 4-10-11-2.1;
 2 or
 3 (2) reimbursement for traveling expenses and other expenses
 4 actually incurred in connection with the member's duties.
- 5 **Sec. 6. (a) Each board member shall take an oath of office to:**
 6 (1) diligently and honestly administer the affairs of the board;
 7 and
 8 (2) not knowingly violate or willingly permit the violation of
 9 any law applicable to the portal.
- 10 **(b) The oath must be:**
 11 (1) subscribed to by the board member making the oath;
 12 (2) certified by the officer before whom the board member
 13 takes the oath; and
 14 (3) filed with the secretary of state.
- 15 **(c) A board member is qualified for membership on the board**
 16 **when the board member's oath is filed with the secretary of state.**
- 17 **Sec. 7. (a) Four (4) members of the board constitute a quorum.**
 18 **(b) The affirmative vote of a majority of the members present**
 19 **is required for the board to take action.**
- 20 **(c) The board:**
 21 (1) shall hold its first meeting not later than August 31, 2016;
 22 (2) shall meet at least:
 23 (A) six (6) times during the state fiscal year beginning after
 24 June 30, 2016; and
 25 (B) semiannually during state fiscal years beginning after
 26 June 30, 2017; and
 27 (3) may meet more frequently as determined by a majority
 28 vote of the board or at the call of the chairperson.
- 29 **Chapter 5. The Hoosier Employee Retirement Options Portal**
 30 **Administrative Fund**
- 31 **Sec. 1. The Hoosier employee retirement options portal**
 32 **administrative fund is created for the purpose of paying the**
 33 **expenses of the portal.**
- 34 **Sec. 2. The fund shall be administered by the board.**
- 35 **Sec. 3. The fund consists of:**
 36 (1) appropriations by the general assembly;
 37 (2) annual fees paid by private sector financial services firms
 38 that participate in the portal under section 7 of this chapter;
 39 (3) donations, gifts, and grants in money, property, or any
 40 other form made to the fund;
 41 (4) all earnings on investments or deposits of the fund; and
 42 (5) money received from any other source, including transfers



1 from other funds or accounts.

2 Sec. 4. The treasurer of state shall invest the money in the fund
3 not currently needed to meet the obligations of the fund in the same
4 manner as other public funds may be invested.

5 Sec. 5. Money in the fund at the end of a state fiscal year does
6 not revert to the state general fund but remains in the fund to be
7 used exclusively for the purposes of this article.

8 Sec. 6. (a) The fund must be self-sustaining.

9 (b) In addition to money from any other source, the board may
10 use private funding sources, including private foundation grants,
11 to pay for the expenses of starting up, operating, and marketing the
12 portal.

13 Sec. 7. Private sector financial services firms that participate in
14 the portal established by IC 4-38-2-1 are required, as a condition
15 of participation in the portal, to pay an annual fee of five thousand
16 dollars (\$5,000) to be deposited in the fund upon approval of the
17 firm's retirement plan by the board under IC 4-38-2.

18 **Chapter 6. Miscellaneous Provisions**

19 Sec. 1. The board shall submit biennially to the general
20 assembly in an electronic format under IC 5-14-6 a written report
21 concerning the effectiveness and efficiency of the portal, including
22 the levels of enrollment in each plan offered through the portal and
23 the savings levels of each plan's enrollees. Private sector financial
24 services firms that participate in the portal shall provide this
25 information in a format and by a method determined by the board.

26 Sec. 2. With the help of the securities division, the board shall
27 annually, or upon the request of the budget committee, review
28 individual retirement account products proposed for inclusion in
29 the portal to confirm that the products comply with the
30 requirements of chapter 2 of this article, except for those
31 requirements that pertain to federal laws and regulations.

32 Sec. 3. If any part of this law is found to be in conflict with
33 federal requirements that are prescribed for the allocation of
34 federal funds to the state, the conflicting part of this law is
35 inoperative solely to the extent of the conflict and only for the
36 agencies directly affected. The finding does not affect the operation
37 of the remainder of this law or its application to the agencies
38 concerned. Rules adopted under this law must meet federal
39 requirements that are a necessary condition to the receipt of
40 federal funds by the state.

