



February 26, 2018

ENGROSSED SENATE BILL No. 188

DIGEST OF SB 188 (Updated February 26, 2018 3:03 pm - DI 113)

Citations Affected: IC 4-12; IC 34-13; noncode.

Synopsis: Eliminates the consumer fees and settlements fund. Retroactively amends provisions concerning the transfers from the securities rating settlements fund to the consumer fees and settlements fund effective July 1, 2017, to instead make the transfers to the agency settlement fund. Requires the auditor of state to transfer money from the consumer fees and settlements fund to the agency settlement fund. Provides that the funds appropriated to the attorney general from the consumer fees and settlement fund for the state fiscal year beginning July 1, 2017, and the state fiscal year beginning July 1, 2018, shall instead be appropriated from the agency settlement fund. Provides that after the transfers from the consumer fees and settlements fund to the agency settlement fund are completed the auditor of state shall close the consumer fees and settlements fund. Provides that the appropriation in current law for liability insurance premiums and expenses incurred by the attorney general for the employment of outside counsel in defending claims against the state is subject to approval by the budget director.

Effective: Upon passage; July 1, 2017 (retroactive).

Mishler, Bray

(HOUSE SPONSORS — BROWN T, HUSTON)

January 3, 2018, read first time and referred to Committee on Appropriations.
February 1, 2018, amended, reported favorably — Do Pass.
February 5, 2018, read second time, ordered engrossed. Engrossed.
February 6, 2018, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 12, 2018, read first time and referred to Committee on Ways and Means.
February 26, 2018, amended, reported — Do Pass.

ES 188—LS 6509/DI 128



February 26, 2018

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 188

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 4-12-1-14.7, AS ADDED BY P.L.213-2015,
2 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017 (RETROACTIVE)]: Sec. 14.7. (a) The securities rating
4 settlement fund is established for the purpose of depositing and
5 distributing money received under a multistate agreement related to
6 litigation concerning the rating processes used by Standard & Poor's
7 Financial Services and McGraw Hill Financial, Inc.
8 (b) All money that is received by the state under the multistate
9 agreement described in subsection (a) shall be deposited in the fund.
10 (c) The fund shall be administered by the budget agency. Money in
11 the fund at the end of the state fiscal year does not revert to the state
12 general fund.
13 (d) Money deposited into the fund shall be distributed by the auditor
14 of state as follows:
15 (1) Sixty-seven and sixty-seven hundredths percent (67.67%)
16 shall be transferred to the state general fund.
17 (2) Sixteen and one hundred sixty-five thousandths percent

ES 188—LS 6509/DI 128



1 (16.165%) shall be transferred to the securities division
2 enforcement account established by IC 23-19-6-1.

3 (3) Sixteen and one hundred sixty-five thousandths percent
4 (16.165%) shall be transferred to the ~~consumer fees and~~
5 ~~settlements agency settlement fund established by~~
6 **IC 4-12-16-2.**

7 SECTION 2. IC 4-12-16-3, AS ADDED BY P.L.217-2017,
8 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2017 (RETROACTIVE)]; Sec. 3. (a) The fund consists of:

10 (1) except as provided in subsections (b) and (c), all funds
11 received by the state under:

12 (A) multistate and Indiana specific settlements; **and**

13 ~~(B) assurances of voluntary compliance accepted by the~~
14 ~~attorney general; and~~

15 ~~(C) (B) any other form of agreement that:~~

16 (i) is enforceable by a court; and

17 (ii) settles litigation between the state and another party; **and**

18 ~~(2) all federal funds described in IC 4-6-9-7; and~~

19 ~~(3) (2) all money recovered as court costs or costs related to~~
20 ~~litigation.~~

21 (b) Any amount of restitution that is:

22 (1) awarded to an individual or institution under a ~~consumer~~
23 ~~settlement or assurance of voluntary compliance;~~

24 **(2) unclaimed by an individual or institution;**

25 **(3) received by a state agency; and**

26 ~~(3) (4) determined to be abandoned property under IC 32-34-1;~~

27 ~~must be deposited in the abandoned property fund established by~~
28 ~~IC 32-34-1-33.~~

29 (c) The fund does not include the following:

30 (1) Funds received by the state department of revenue.

31 (2) Funds required to be deposited in the securities division
32 enforcement account (IC 23-19-6-1).

33 (3) Funds received as the result of a civil forfeiture under
34 IC 34-24-1.

35 (4) Funds received as a civil penalty or as part of an enforcement
36 or collection action by an agency authorized to impose a civil
37 penalty or engage in an enforcement or collection action, if the
38 funds are required to be deposited in the general fund or another
39 fund by statute.

40 **(5) Funds recovered by the Medicaid fraud control unit in**
41 **actions to recover money inappropriately paid out of or**
42 **obtained from the state Medicaid program.**



1 **(6) Amounts required to be paid as consumer restitution or**
 2 **refunds in settlements specified in this chapter.**

3 **(7) Amounts received under the Master Settlement Agreement**
 4 **(as defined in IC 24-3-3-6).**

5 SECTION 3. IC 34-13-3-24 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) There is
 7 appropriated from the state general fund sufficient funds to:

8 (1) settle claims and satisfy tort judgments obtained against the
 9 state; ~~and~~

10 (2) pay ~~expenses authorized by this chapter, including: interest~~
 11 ~~on claims and judgments; and~~

12 **(3) subject to approval by the budget director, pay:**

13 (A) liability insurance premiums; ~~and~~

14 ~~(B) interest on claims and judgments; and~~

15 ~~(C)~~ **(B)** expenses incurred by the attorney general in
 16 employing other counsel to aid in defending or settling claims
 17 or civil actions against the state.

18 SECTION 4. [EFFECTIVE JULY 1, 2017 (RETROACTIVE)] (a)
 19 **Notwithstanding P.L.217-2017, the appropriations from the**
 20 **consumer fees and settlement fund for the attorney general for the**
 21 **state fiscal year beginning July 1, 2017, and for the state fiscal year**
 22 **beginning July 1, 2018, are not made from the consumer fees and**
 23 **settlement fund, and instead are made for the attorney general for**
 24 **those state fiscal years from the agency settlement fund established**
 25 **by IC 4-12-16-2.**

26 **(b) This SECTION expires June 30, 2019.**

27 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) **Before March**
 28 **20, 2018, the auditor of state shall transfer the money in the**
 29 **consumer fees and settlements fund to the agency settlement fund**
 30 **established by IC 4-12-16-2.**

31 **(b) The auditor of state shall account for and the state treasurer**
 32 **shall transfer the amounts from funds or accounts of the state**
 33 **necessary to carry out the purposes of this SECTION.**

34 **(c) The auditor of state shall close the consumer fees and**
 35 **settlements fund on the date that is the day after the transfers**
 36 **required under this SECTION are completed.**

37 **(d) This SECTION expires July 1, 2019.**

38 SECTION 6. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 188, 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, delete lines 11 through 16 and insert: "**section 3 of this chapter, which must be used to pay expenses for the attorney general to investigate, litigate, and administer activities relating to multistate consumer protection cases.**".

Page 2, line 5, delete "of funds received by the state under IC 4-12-16-3." and insert ":

- (A) of a civil penalty recovered by the attorney general;
- (B) recovered in a settlement of an action initiated by the attorney general; or
- (C) awarded as a judgment in an action initiated by the attorney general."

Page 2, line 25, delete "JULY 1, 2018]:" and insert "JULY 1, 2017 (RETROACTIVE)]:".

Page 3, line 6, delete "JULY 1, 2018]:" and insert "JULY 1, 2017 (RETROACTIVE)]:".

Page 4, between lines 13 and 14, begin a new paragraph and insert: "**SECTION 5. [EFFECTIVE JULY 1, 2017 (RETROACTIVE)] (a) The auditor of state shall retroactively apply the provisions in IC 4-12-1-14.7, as amended by this act, and IC 4-12-16-3, as amended by this act, and shall recalculate the amounts that the state auditor would have transferred under IC 4-12-1-14.7 and IC 4-12-16-3, as if IC 4-12-1-14.7 and IC 4-12-16-3, each as amended by this act, were both in effect for the period beginning after June 30, 2017, and ending on the date of the transfer under subsection (b).**

(b) The auditor of state shall transfer an amount equal to the amount determined by the auditor of state under this SECTION from the consumer fees and settlements fund to the agency settlement fund established by IC 4-12-16-2.

(c) The auditor of state shall account for and the state treasurer shall transfer the amounts from funds or accounts of the state necessary to carry out the purposes of this SECTION.



(d) The auditor of state shall close the consumer fees and settlements fund on the date that is the day after the transfers required under this SECTION are completed.

(e) This SECTION expires July 1, 2019."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 188 as introduced.)

MISHLER, Chairperson

Committee Vote: Yeas 10, Nays 2.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 188, 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:

Delete the title and insert the following:

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

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 24.

Page 4, delete lines 4 through 6.

Page 4, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 4. IC 34-13-3-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. **(a)** There is appropriated from the state general fund sufficient funds to:

(1) settle claims and satisfy tort judgments obtained against the state; ~~and~~

(2) pay ~~expenses authorized by this chapter, including: interest on claims and judgments; and~~

(3) subject to approval by the budget director, pay:

(A) liability insurance premiums; ~~and~~

~~(B) interest on claims and judgments; and~~

~~(C)~~ **(B)** expenses incurred by the attorney general in employing other counsel to aid in defending or settling claims or civil actions against the state."

Page 4, delete lines 16 through 35, begin a new paragraph and insert:

ES 188—LS 6509/DI 128



"SECTION 5. [EFFECTIVE UPON PASSAGE] (a) **Before March 20, 2018, the auditor of state shall transfer the money in the consumer fees and settlements fund to the agency settlement fund established by IC 4-12-16-2.**

(b) **The auditor of state shall account for and the state treasurer shall transfer the amounts from funds or accounts of the state necessary to carry out the purposes of this SECTION.**

(c) **The auditor of state shall close the consumer fees and settlements fund on the date that is the day after the transfers required under this SECTION are completed.**

(d) **This SECTION expires July 1, 2019."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 188 as printed February 2, 2018.)

BROWN T

Committee Vote: yeas 14, nays 5.

