

PENSION LEGISLATION
2013 LEGISLATIVE SESSION

H.E.A. 1057

H.E.A. 1057 made several amendments to the Prosecuting Attorneys Retirement Fund (PARF). These amendments represented the most significant improvements to PARF, since the establishment of that retirement fund in 1990.

The amendments made to PARF by H.E.A. 1057 include the following:

1. Taxation of Contributions

Prosecutors participating in PARF pay six percent (6%) of their annual state salary into the retirement fund. Currently, that payment into the retirement fund is made after federal income taxes are paid on such contribution amounts.

H.E.A. 1057 amended IC 33-39-7-12(b) to provide that the State may elect to allow the contributions to be made by PARF participants before federal income taxes are paid on such contribution.

2. Ceiling on Contributions

Currently, prosecutors participating in PARF are required to make their 6% contribution to the retirement fund at all times that the prosecutor is an active, non-retired member of the fund.

H.E.A. 1057 amended IC 33-39-7-12 to add subsection (c), which provides that a PARF participant is not required to make any further contributions to the fund after twenty-two (22) years of service.

3. Full Benefits Upon Retirement

A participant in PARF may currently retire and draw full PARF retirement benefits only after the PARF participant has reached the age of 65 (and vested). Drawing PARF retirement benefits prior to age 65 will result in a statutory reduction of those retirement benefits. A participant in PARF may not currently draw any retirement benefits from PARF prior to reaching the age of 62.

H.E.A. 1057 amended IC 33-39-7-15 and IC 33-39-7-16 to allow a PARF participant to draw full PARF retirement benefits either at age 65 or anytime after age 55 if that participant meets the Rule of 85.

4. Partial Years of Service

Currently, the Prosecuting Attorneys Retirement Fund does not allow the calculation of retirement benefits based upon any partial years of service.

H.E.A. 1057 amended IC 33-39-7-16 to include partial years of service in the retirement benefit calculation.

5. Survivorship Benefits

The survivorship benefits provisions of the Prosecuting Attorneys Retirement Fund were amended by H.E.A. 1057 (IC 33-39-7-19, IC 33-39-7-20 and IC 33-39-7-21), as follows:

- a. The statute now clearly provides for survivorship benefits to be paid if the prosecutor dies while in office.
- b. The minimum annual survivorship benefit payment to survivors was increased from \$7,000 to \$12,000.
- c. Survivorship benefits are no longer subject to a reduction for “early retirement.”

6. Disability Benefits

The disability provisions of the Prosecuting Attorneys Retirement Fund were substantially amended by H.E.A. 1057 (IC 33-39-7-17 and IC 33-39-7-18). The changes made by H.E.A. 1057 include the following:

- a. Prosecutor disability benefits are now paid to any participant in the plan, whether or not that prosecutor is in active service at the time of the disability.
- b. Prosecutors are now eligible for disability benefits from PARF if the disability is established to the satisfaction of the Board of Trustees of the Indiana Public Retirement System (INPRS). Presently, disability payments from PARF are only made to a prosecutor who qualifies for social security disability benefits.
- c. Currently, a prosecutor is not eligible to receive PARF disability benefits until that prosecutor has been a participant in PARF for at least five (5) years. H.E.A. 1057 provides for the payment of PARF disability benefits

at any time that a PARF participant (active or non-active) becomes disabled.

- d. The PARF disability benefits rates increased from a range of 40% to 50% of the annual salary paid to the prosecutor at the time of separation from service to a range of 50% to 60% of the annual salary paid to the prosecutor at the time of separation from service.
- e. PARF disability benefits are not subject to reduction for “early retirement.” NOTE: INPRS took the position that such disability benefits never were subject to an “early retirement” reduction.

The improvements made to the Prosecuting Attorneys Retirement Fund by H.E.A. 1057 were designed to provide greater parity between PARF and the retirement benefits received by the judges under the Judges Retirement System. However, there were three (3) parity proposals made by prosecutors during the 2013 legislative session that were not enacted as a part of H.E.A. 1057. Those three (3) provisions are:

- 1. Retirement benefits for prosecutors do not include any county supplemental pay for purposes of determining the PARF retirement benefit.
- 2. The reduction in retirement benefits for early retirement remains at 0.25% per month. The Judges Retirement System provides for an early retirement benefit reduction of 0.1% per month.
- 3. The retired judges receive an automatic cost of living increase in their retirement benefits any time that the annual state salary of the judges is increased.

In addition to the above, an idea was floated to legislators during the 2013 legislative session whereby some or all of the IPAC staff attorneys would become participants in PARF. That idea got no traction at all.

S.E.A. 499

Currently, IC 33-39-7-13 allows a prosecutor who was a participant in PARF, but has not vested in the plan, to withdraw the funds that the prosecutor previously paid into PARF, plus interest in an amount designated by the Board of Trustees. A prosecutor who withdraws contributions under this statute loses all years of service in PARF at the time of such withdrawal.

S.E.A. had amended IC 33-39-7-13(b) to allow a prosecutor who previously withdrew contributions from PARF to essentially “buy back” into PARF by repaying the amount previously withdrawn, plus interest in an amount determined by the Board of

Trustees. When a prosecutor “buys back” into PARF, that restores the previously lost years of service.

H.E.A. 1148

This legislation reduced the vesting time for a participant in the Public Employees Retirement Fund (PERF) from 10 years to 5 years. The bill also provides that a PERF employee cannot draw PERF retirement benefits until that employee terminates service in a covered position and does not perform any service in a position covered by PERF for at least 30 days.

H.E.A. 1080

This is the “13th check” legislation. All individuals currently drawing PERF retirement benefits will receive a supplemental retirement benefits check, no later than October 1, 2013, based upon the years of service in PERF, as follows:

5 – 10 years	\$150
10 – 20 years	\$275
20 – 30 years	\$375
30+ years	\$450

S.E.A 527

S.E.A. 527 is legislation assigning certain pension issues to summer study by the Pension Management Oversight Commission (PMOC). S.E.A. 527 urges PMOC to study the retirement, disability and death benefits provided under the Judges Retirement System, including:

1. The cost of the benefits;
2. Whether the current method of funding the benefits is adequate;
3. Possible additional methods of funding the benefits, if necessary; and
4. Whether changes in the benefits are advisable.

APPENDIX

**COMPARISON OF JUDGES' PENSION
WITH PROSECUTORS' PENSION**

Judges contribute 6% before income taxes as a “pickup” contribution.	Prosecutors make 6% contribution after paying income taxes.
Judges make no contributions to pension after 22 years of service.	Prosecutors have no such 22 year ceiling on contributions.
Judges receive full retirement benefits either at age 65 or anytime after 55 if the Rule of 85 is met.	Prosecutors do not receive full retirement benefits until age 65.
Judges can retire early at age 62 with a reduction in pension amount of 0.1% per month.	Prosecutors can retire early at age 62 with a reduction in pension amount of 0.25% per month.
Judges retirement benefits based upon salary which includes any county supplemental salary.	Prosecutors retirement benefits based upon state paid salary only.
Judges retirement benefits include benefits based upon partial year of service after 8 years.	Prosecutors have no partial year of service provision.
Judges survivor benefits include benefits to surviving spouse or children if Judge dies while in office.	Prosecutors survivor benefits do not clearly state that benefits payable to surviving spouse or children if Prosecutor dies while in office.
Judges survivor benefits include a minimum annual benefit payment of \$12,000.	Prosecutors survivor benefits include a minimum annual benefit payment of \$7,000.
Judges survivor benefits are not subject to reduction for “early” retirement.	Prosecutors survivor benefits are subject to reduction for “early” retirement.
Judges disability benefits paid if Judge disabled and has been a participant in pension plan.	Prosecutors disability benefits only paid if Prosecutor becomes disabled while in active service.
Judges paid disability if disability established to satisfaction of Board of Trustees.	Prosecutors disability benefits paid only if Prosecutor qualifies for social security disability payments.
Judges paid disability at any time if disabled and a participant in pension plan.	Prosecutors not paid any disability benefits until served at least 5 years.
Judges disability paid at rates of 50% to 60% of salary.	Prosecutors disability paid at rates of 40% to 50% of salary.
Judges disability payments not subject to reduction for “early” retirement.	Prosecutors disability payments are subject to reduction for “early” retirement.
Judges receive cost of living adjustment.	Prosecutors have no cost of living adjustment.

HOUSE ENROLLED ACT No. 1057

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SOURCE: IC 33-39-7-0.1; (13)HE1057.1.1. -->

SECTION 1. IC 33-39-7-0.1, AS ADDED BY P.L.220-2011, SECTION 543, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 0.1. The amendments made to sections 15, 16, and 19 of this chapter by P.L.33-2006 apply to a participant in the fund who:

- (1) is serving on July 1, 2006; or
- (2) ~~begins service~~ **serves** after July 1, 2006;

in a position described in section 8 of this chapter.

SOURCE: IC 33-39-7-8; (13)HE1057.1.2. --> SECTION 2. IC 33-39-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) As used in this chapter, "services" means the ~~period beginning on the first day upon~~ **sum of all periods in which a person first became: is employed as:**

- (1) a prosecuting attorney or chief deputy prosecuting attorney;
- (2) any other deputy prosecuting attorney who is:
 - (A) appointed under IC 33-39-6-2; and
 - (B) paid by the state from the state general fund; or
- (3) the executive director or the assistant executive director of the prosecuting attorneys council of Indiana.

~~whether that date is before, on, or after January 1, 1990, and ending on the date under consideration, including all intervening employment in a position described in subdivisions (1) through (3).~~ If an individual is elected or appointed to a position described in subdivisions (1) through

(3) and serves one (1) or more terms or part of a term, then retires from office **or otherwise separates from service**, but at a later period or periods is appointed or elected and serves in a position described in subdivisions (1) through (3), the individual shall pay into the fund during all the periods that the individual serves in that position, except as otherwise provided in this chapter, whether the periods are connected or disconnected.

(b) A senior prosecuting attorney appointed under IC 33-39-1 is not required to pay into the fund during any period of service as a senior prosecuting attorney.

SOURCE: IC 33-39-7-12; (13)HE1057.1.3. --> SECTION 3. IC 33-39-7-12, AS AMENDED BY P.L.13-2011, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) Except as **otherwise** provided in ~~subsection (b)~~, **this section**, each participant shall make contributions to the fund as follows:

(1) A participant described in section 8(a)(1) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after December 31, 1989.

(2) A participant described in section 8(a)(2) or 8(a)(3) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after June 30, 1994.

A participant's contributions shall be deducted from the participant's monthly salary by the auditor of state and credited to the fund.

(b) The state may pay the contributions for a participant. **The state may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.**

(c) After a participant has contributed to the fund as provided in subsection (a) for twenty-two (22) years, the participant is not required to make additional contributions to the fund.

~~(d)~~ (d) After December 31, 2011, the auditor of state shall submit the contributions paid by or on behalf of a participant under this section by electronic funds transfer in accordance with section 12.5 of this chapter.

SOURCE: IC 33-39-7-15; (13)HE1057.1.4. --> SECTION 4. IC 33-39-7-15, AS AMENDED BY P.L.33-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. A participant whose employment in a position described in section 8 of this chapter is terminated is entitled to a retirement benefit computed under section 16 or 18 of this chapter, beginning on the date specified by the participant in a written application, if all of the following conditions are met:

(1) The application for retirement benefits and the choice of the retirement date is filed on a form provided by the board, and the

retirement date is:

(A) after the cessation of the participant's service;

(B) on the first day of a month; and

(C) not more than six (6) months before the date the application is received by the board.

However, if the board determines that a participant is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the participant became incompetent.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit; ~~or~~

~~(B) meets the requirements for disability benefits under section 17 of this chapter.~~

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving and is not entitled to receive any salary for services currently performed, except for services rendered as a senior prosecuting attorney under IC 33-39-1.

SOURCE: IC 33-39-7-16; (13)HE1057.1.5. --> SECTION 5. IC 33-39-7-16, AS AMENDED BY P.L.16-2011, SECTION 11, AND SEA 499-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) This section does not apply to a participant who ~~meets the requirements for disability benefits under~~ **becomes permanently disabled, as described in section 17 of this chapter.**

(b) A participant who:

(1) applies for a retirement benefit; and

(2) is at least:

(A) sixty-five (65) years of age; or

(B) fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85);

is entitled to an annual retirement benefit as calculated in subsection (c).

~~(b) (c)~~ **(c)** Except as provided in subsections ~~(e)~~, (d), ~~and (e)~~, **and (f)**, the amount of the annual retirement benefit to which a participant ~~who applies for a retirement benefit and who is at least sixty-five (65) years of age~~ **described in subsection (b)** is entitled equals the product of:

(1) the highest annual salary that was paid to the participant before separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.

~~(e)~~ **(d)** Except as provided in subsections (e) and (f), and section 19(c)(2)(B) of this chapter, a participant who:

(1) applies for a retirement benefit; and

(2) is not at least sixty-five (65) years of age; the participant described in

subsection (b);

is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

~~(d)~~ **(e)** Except as provided in subsection ~~(e)~~; **(f)**, benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

~~(e)~~ **(f)** This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant:

- (1) had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan; and
- (2) had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund.

~~(f)~~ **(g)** If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at a rate specified by rule by the board.

SOURCE: IC 33-39-7-17; (13)HE1057.1.6. --> SECTION 6. IC 33-39-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. ~~(a)~~ Except as provided in subsection (b), a participant who becomes disabled while in active service in a position described in section 8 of this chapter may retire for the duration of the disability if:

- (1) the participant has at least five (5) years of creditable service;
- (2) the participant has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and
- (3) at least once each year until the participant becomes sixty-five (65) years of age a representative of the board verifies the continued disability.

For purposes of this section, a participant who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the participant furnishes proof of the qualification to the board.

- ~~(b)~~ Benefits may not be provided under this chapter for any disability that:
- (1) results from an intentionally self-inflicted injury or attempted suicide while sane or insane;
 - (2) results from the participant's commission or attempted commission of a felony;
- or
- (3) begins within two (2) years after a participant's entry or reentry into active

service in a position described in section 8 of this chapter and was caused or contributed to by a mental or

physical condition that manifested itself before the participant entered or reentered active service.

(a) A participant is considered to have a permanent disability if the board has received written certifications by at least two (2) licensed and practicing physicians, appointed by the board, that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and

(2) the condition is likely to be permanent.

(b) A participant found to have a permanent disability under subsection (a) must be reexamined by at least two (2) physicians appointed by the board, at the times the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, benefits cease to be payable as of the date of the examination, unless on that date the participant is:

(1) at least sixty-five (65) years of age; or

(2) at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85).

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated to prove that an individual is qualified for disability benefits under this section shall **must** be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

SOURCE: IC 33-39-7-18; (13)HE1057.1.7. --> SECTION 7. IC 33-39-7-18, AS AMENDED BY SEA 499-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18. (a) Except as provided in subsections (b) and (c), ~~the amount of the annual benefit payable to a participant who meets the requirements for disability benefits under section 17 of this chapter becomes~~ **permanently disabled, as described in section 17 of this chapter, is entitled to an annual benefit** equal to the product of:

(1) the annual salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 5	0
5-10	40%
11	41%
12	42%
13	43%
	51%

14	44% 52%
15	45% 53%
16	46% 54%
17	47% 55%
18	48% 56%
19	49% 57%
20	58%
21	59%
20 22 or more	50% 60%

If a participant has a partial year of service in addition to at least ten (10) years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.

(b) Except as provided in subsection (c), benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

(c) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SOURCE: IC 33-39-7-19; (13)HE1057.1.8. --> SECTION 8. IC 33-39-7-19, AS AMENDED BY P.L.33-2006, SECTION 3, AND SEA 499-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. **(a) A participant may designate the participant's surviving spouse or one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section upon the death of the participant. A participant may designate a trust or a custodian account under IC 30-2-8.5 that is established for one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section instead of designating one (1) or more of the participant's surviving dependent children to receive the benefit directly.**

- ~~(a)~~ **(b) The surviving spouse of If a participant: who:**
- (1) dies; and
 - (2) on the date of death:
 - (A) was receiving benefits under this chapter;

(B) was in service in a position described in section 8 of this chapter and had completed at least eight (8) years of service in a position described in section 8 of this chapter; or

(C) met the requirements for had a permanent disability benefits under as described in section 17 of this chapter; or

(D) was not in service in a position described in section 8 of this chapter, had completed at least eight (8) years of service in a position described in section 8 of this

chapter, and was entitled to a future benefit;

the participant's beneficiary designated under subsection (a) is entitled, regardless of the participant's age, to the benefit prescribed by subsection ~~(b)~~, (c), **(e)**, or ~~(d)~~. **(f)**.

~~(b)~~ **(c)** The ~~surviving spouse~~ **amount of the annual benefit payable to a beneficiary to whom subsection (b) applies** is entitled to a benefit for life equal to the greater of:

(1) ~~seven~~ **twelve** thousand dollars ~~(\$7,000)~~; **(\$12,000)**; or

(2) fifty percent (50%) of the amount of retirement benefit:

(A) the participant was drawing at the time of death; or

(B) to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death. ~~with~~

~~reductions as necessary under~~ **However, the reduction described in section 16(e) 16(d) of this chapter does not apply to the calculation of a survivor benefit under this clause.**

(d) A benefit payable under this section is subject to the following:

(1) A surviving spouse designated as the beneficiary under subsection (a) is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.

(3) If there is more than one (1) child designated by the participant, the children are entitled to share the benefit in equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share the benefit equally. If the surviving spouse of the participant is

surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit is payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by the participant survives or survive the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

~~(e)~~ **(e)** Except as provided in subsection ~~(d)~~, **(f)**, benefits payable to a ~~surviving spouse~~ **designated beneficiary** under this section are reduced by the amount, if any, that is payable to the surviving spouse **or the surviving dependent children** from the public employees' retirement fund as a result of the participant's death after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.

~~(d)~~ **(f)** This subsection applies to a surviving spouse of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a surviving spouse of a participant under this section are reduced by the pension portion of the retirement benefit, if any, that

would be payable to the spouse from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SOURCE: IC 33-39-7-20; (13)HE1057.1.9. --> SECTION 9. IC 33-39-7-20, AS AMENDED BY SEA 499-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 20. (a) If:

(1) a participant's spouse does not survive the participant; **and**
(2) **the participant did not designate one (1) or more of the participant's surviving dependent child of a participant is, children to receive the benefit provided by section 19 of this chapter;**
the participant's surviving dependent children are, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 19 of this chapter.

(b) If a surviving spouse of a decedent participant dies and a

dependent child of the surviving spouse and the decedent participant survives them, that dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 19 of this chapter.

(c) If there is more than one (1) dependent child, the dependent children are entitled to share the benefit equally.

(d) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(e) Except as provided in subsection (f), benefits payable to a dependent child are reduced by the amount, if any, that is payable to the dependent child from the public employees' retirement fund after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.

(f) This subsection applies to a dependent child of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a dependent child of a participant under this section are reduced by the actuarial equivalent of the pension portion of the retirement benefit, if any, that would be payable to the spouse (assuming the spouse would have had the same birth date as the participant) from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SOURCE: IC 33-39-7-21; (13)HE1057.1.10. --> SECTION 10. IC 33-39-7-21, AS AMENDED BY P.L.16-2011, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. (a) If benefits are not payable to the survivors of a

participant who dies, and if a withdrawal application is filed with the board by the survivors or the participant's estate, the total of the participant's contributions, plus interest at a rate specified by rule by the board and minus any payments made to the participant, shall be paid to:

(1) the surviving spouse of the participant **or the children of the participant, as designated by the participant;**

(2) any ~~dependent or~~ dependents of the participant, if a spouse **or designated child** does not survive; or

(3) the participant's estate, if a spouse, **designated child,** or **other** dependent does not survive.

(b) The amount owed a spouse, ~~dependent or~~ **designated children, other** dependents, or estate under subsection (a) is payable not later than sixty (60) days after the date of receipt of the withdrawal application, **or in monthly installments, as the recipient elects.**

HEA 1057 _ Concur

SENATE ENROLLED ACT No. 499

AN ACT to amend the Indiana Code concerning pensions.

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

SOURCE: IC 5-10.3-8-14; (13)SE0499.1.1. -->

SECTION 1. IC 5-10.3-8-14, AS AMENDED BY P.L.35-2012, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. (a) **Except as provided in subsection (c)**, this section applies to employees of the state (as defined in IC 5-10.3-7-1(d)) who are:

- (1) members of the fund; **and**
- (2) **paid by the auditor of state by salary warrants.**

(b) Except as provided in subsection (c), this section does not apply to the employees of the state (as defined in IC 5-10.3-7-1(d)) employed by:

- (1) **a body corporate and politic of the state created by state statute; or**
- (2) **a state educational institution (as defined in IC 21-7-13-32).**

(c) The chief executive officer of a body or institution described in subsection (b) may elect to have this section apply to the employees of the state (as defined in IC 5-10.3-7-1(d)) employed by the body or institution by submitting a written notice of the election to the director. An election under this subsection is effective on the later of:

- (1) **the date the notice of the election is received by the director; or**

(2) July 1, 2013.

~~(b)~~ **(d)** The board shall adopt provisions to establish a retirement medical benefits account within the fund under Section 401(h) or as a separate fund under another applicable section of the Internal Revenue Code for the purpose of converting unused excess accrued leave to a monetary contribution for an employee of the state to fund on a pretax basis benefits for sickness, accident, hospitalization, and medical expenses for the employee and the spouse and dependents of the employee after the employee's retirement. The state may match all or a portion of an employee's contributions to the retirement medical benefits account established under this section.

~~(c)~~ **(e)** The board is the trustee of the account described in subsection ~~(b)~~ **(d)**. The account must be qualified, as determined by the Internal Revenue Service, as a separate account within the fund whose benefits are subordinate to the retirement benefits provided by the fund.

~~(d)~~ **(f)** The board may adopt rules under IC 5-10.5-4-2 that it considers appropriate or necessary to implement this section after consulting with the state personnel department. The rules adopted by the board under this section must:

- (1) be consistent with the federal and state law that applies to:
 - (A) the account described in subsection ~~(b)~~ **(d)**; and
 - (B) the fund; and

- (2) include provisions concerning:
 - (A) the type and amount of leave that may be converted to a monetary contribution;
 - (B) the conversion formula for valuing any leave that is converted;
 - (C) the manner of employee selection of leave conversion; and
 - (D) the vesting schedule for any leave that is converted.
- ~~(e)~~ (g) The board may adopt the following:
 - (1) Account provisions governing:
 - (A) the investment of amounts in the account; and
 - (B) the accounting for converted leave.
 - (2) Any other provisions that are necessary or appropriate for operation of the account.
- ~~(f)~~ (h) The account described in subsection ~~(b)~~ (d) may be implemented only if the board has received from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate.
- ~~(g)~~ (i) To the extent allowed by:
 - (1) the Internal Revenue Code; and

- (2) rules adopted by:
 - (A) the board under this section; and
 - (B) the state personnel department under IC 5-10-1.1-7.5;
- employees of the state may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10-1.1-7.5.
- ~~(h)~~ (j) To the extent allowed by the Internal Revenue Code, the account described in subsection ~~(b)~~ (d) must include provisions that:
 - (1) require an employee of the state to convert to a monetary contribution to the account at retirement the balance, but not more than thirty (30) days, of unused vacation leave for which the state would otherwise pay an employee in good standing at separation from service (as determined by state personnel department rule); and
 - (2) allow the state to contribute to the account on the employee's behalf an amount not to exceed two (2) times the amount of the employee's contribution under subdivision (1).

SOURCE: IC 5-10.3-12-1; (13)SE0499.1.2. --> SECTION 2. IC 5-10.3-12-1, AS ADDED BY P.L.22-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) **Except as provided in subsection (c)**, this chapter applies to an individual who, on or after the effective date of the plan:

- (1) becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)):
 - (A) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and
 - (B) **who is paid by the auditor of state by salary warrants; and**
- (2) makes the election described in section 20 of this chapter to become a member of the plan.

(b) Except as provided in subsection (c), this chapter does not apply to an individual who, on or after the effective date of the plan:

(1) becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(2) is employed by:

(A) a body corporate and politic of the state created by state statute; or

(B) a state educational institution (as defined in IC 21-7-13-32).

(c) The chief executive officer of a body or institution described

in subsection (b) may elect, by submitting a written notice of the election to the director, to have this chapter apply to individuals who, as employees of the body or institution, become for the first time full-time employees of the state (as defined in IC 5-10.3-7-1(d)) in positions that would otherwise be eligible for membership in the fund under IC 5-10.3-7. An election under this subsection is effective on the later of:

(1) the date the notice of the election is received by the director; or

(2) March 1, 2013.

(d) This chapter does not apply to an individual who:

(1) before the effective date of the plan, is or was a member (as defined in IC 5-10.3-1-5) of the fund; or

(2) on or after the effective date of the plan:

(A) except as provided in subsection (c), becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)):

(i) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(ii) who is not paid by the auditor of state by salary warrants; or

(B) does not elect to participate in the plan.

SOURCE: IC 33-39-7-13; (13)SE0499.1.3. --> SECTION 3. IC 33-39-7-13, AS AMENDED BY P.L.16-2011, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) A participant who:

(1) ceases service in a position described in section 8 of this chapter, other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon withdrawal the participant is entitled to receive the total sum contributed plus interest at a rate specified by rule by the board, payable not later than sixty (60) days from the date of the withdrawal application.

(b) Notwithstanding section 8 of this chapter, a participant who withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for years of service before the withdrawal, unless the participant pays into the fund the full amount received by the participant when the participant withdrew from the fund, plus interest at a rate

specified by rule by the board. The board shall grant a participant service credit for years of service by the participant before the participant's withdrawal from the fund if the participant makes the repayment required by this subsection in a lump sum or a series of payments determined by the board, not exceeding five (5) annual installments.

SOURCE: IC 33-39-7-16; (13)SE0499.1.4. --> SECTION 4. IC 33-39-7-16, AS AMENDED BY P.L.16-2011, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) This section does not apply to a participant who meets the requirements for disability benefits under section 17 of this chapter.

(b) Except as provided in subsections (c), ~~and~~ (d), **and (e)**, the amount of the annual retirement benefit to which a participant who applies for a retirement benefit and who is at least sixty-five (65) years of age is entitled equals the product of:

(1) the highest annual salary that was paid to the participant before separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

(c) If a participant who applies for a retirement benefit is not at least sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

(d) **Except as provided in subsection (e)**, benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section

are not reduced by annuity payments made to the participant from the public employees' retirement fund.

(e) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant:

(1) had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan; and

(2) had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund.

(e) (f) If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at a rate specified by rule by the board.

SOURCE: IC 33-39-7-18; (13)SE0499.1.5. --> SECTION 5. IC 33-39-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, the amount of the annual benefit payable to a participant who meets the requirements for disability benefits under section 17 of this chapter is equal to the product of:

(1) the annual salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
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Less than 5	0
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5-10	40%
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11	41%
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12	42%
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13	43%
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14	44%
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15	45%
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16	46%
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17	47%
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18	48%
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19	49%
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20 or more	50%
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(b) Except as provided in subsection (c), benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

(c) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the

participant from the public employees' retirement fund if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SOURCE: IC 33-39-7-19; (13)SE0499.1.6. --> SECTION 6. IC 33-39-7-19, AS AMENDED BY P.L.33-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. (a) The surviving spouse of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service in a position described in section 8 of this chapter; or

(C) met the requirements for disability benefits under section 17 of this chapter; is entitled, regardless of the participant's age, to the benefit prescribed by subsection (b), (c), or (d).

(b) The surviving spouse is entitled to a benefit for life equal to the greater of:

(1) seven thousand dollars (\$7,000); or

(2) fifty percent (50%) of the amount of retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 16(c) of this chapter.

(c) **Except as provided in subsection (d)**, benefits payable to a surviving spouse under this section are reduced by the ~~amounts~~,

amount, if any, that ~~are~~ is payable to the surviving spouse from the public employees' retirement fund as a result of the participant's death **after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.**

(d) This subsection applies to a surviving spouse of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a surviving spouse of a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the spouse from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SOURCE: IC 33-39-7-20; (13)SE0499.1.7. --> SECTION 7. IC 33-39-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 20. (a) If a participant's spouse does not survive the participant, the dependent child of a participant is, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 19 of this chapter.

(b) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, that dependent child is

entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 19 of this chapter.

(c) If there is more than one (1) dependent child, the dependent children are entitled to share the benefit equally.

(d) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(e) **Except as provided in subsection (f),** benefits payable to a dependent child are reduced by the ~~amounts,~~ **amount,** if any, that ~~are~~ **is** payable to the dependent child from the public employees' retirement fund **after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.**

(f) **This subsection applies to a dependent child of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18.**

Benefits payable to a dependent child of a participant under this section are reduced by the actuarial equivalent of the pension portion of the retirement benefit, if any, that would be payable to the spouse (assuming the spouse would have had the same birth date as the participant) from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SOURCE: ; (13)SE0499.1.8. --> SECTION 8. **An emergency is declared for this act.**

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