February 18, 1998

ENGROSSED
SENATE BILL No. 120

DIGEST OF SB 120 (Updated February 17, 1998 2:36 pm - DI 73)

Citations Affected: IC 5-10; IC 5-10.2; IC 5-10.3; IC 21-6.1; IC 36-8; noncode.

Synopsis: Police and firefighters' retirement. Provides that a member of the 1977 police officers' and firefighters' pension and disability fund is eligible to retire at 52 years of age. Provides that a member may receive reduced benefits if the member retires at 50 years of age. Creates a formula specifying the benefits to be received if the member retires after 50 years of age but before 52 years of age. Provides that a member of a 1925, 1937, or 1953 fund who has converted to the 1977 fund who retires or becomes disabled on or before June 30, 1998, shall be treated as a member of the 1977 fund for purposes of payment of

(Continued next page)

Effective: April 1, 1998; July 1, 1998.

Harrison, Lawson, Dempsey, Randolph

(HOUSE SPONSORS — KROMKOWSKI, BUELL, KEELER, KERSEY)

January 6, 1998, read first time and referred to Committee on Rules and Legislative Procedure.
January 20, 1998, amended, reported favorably; reassigned to Committee on Pensions and Labor.
January 29, 1998, amended, reported favorably — Do Pass.
February 2, 1998, read second time, ordered engrossed. Engrossed.
February 3, 1998, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Ways and Means.
February 17, 1998, amended, reported — Do Pass.

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benefits. Provides that if a retired legislator's spouse pays the amount the retired legislator would have been required to pay for group health insurance coverage, the spouse's eligibility to continue group health insurance coverage is not affected by the retired legislator's eligibility for Medicare. Permits a person to claim service credit in the public employees' retirement fund (PERF) if the person was erroneously enrolled in PERF and was subsequently denied all or part of the service credit for a position that would otherwise be covered by PERF because the person also occupies (or previously occupied) a position covered by a police officers' or firefighters' pension fund. Provides that the person claiming the service credit and the governmental unit that employed the person must make contributions to PERF equal to the amount that the person and the governmental unit would have paid to PERF for the period during which PERF service credit was denied and must agree to continue making such contributions for any continuing service in the position covered by PERF. Allows a municipal park ranger in Evansville to become a member of the 1977 police officers' and firefighters' pension fund (instead of the public employees' retirement fund) if the park ranger completed the number of weeks of training at the Indiana law enforcement training academy that were required at the time the park ranger attended the academy. (Current law requires the park ranger to have completed 12 weeks of training.) Provides for service credit in the 1977 fund for prior service in a PERF-covered position for such a park ranger. Requires the pension management oversight commission to study the creation of a separate pension system for town marshals. Makes the following changes to the public retirement funds: (1) Removes the deadlines on time available to purchase certain types of service credit in the public employees' retirement fund (PERF) and the Indiana state teachers' retirement fund (TRF). (2) Adds a claim period for death in service benefits in PERF and TRF. (3) Allows transfer of partial service in PERF and TRF. (4) Specifies disability payments procedures for PERF and TRF. (5) Provides the TRF board with the authority to review records of public entities that contribute to TRF. (6) Allows the TRF board to impose a penalty for late reports and payments. (7) Allows a surviving spouse or a surviving dependent of a member of PERF or TRF who is entitled to a survivor benefit to elect to receive a lump sum payment or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. (8) Provides that a member of TRF may purchase substitute teaching service credit under certain conditions. (9) Excludes from TRF substitute teachers who do not have an associate or baccalaureate degree. (10) In the 1977 police officers' and firefighters' pension and disability fund (the 1977 fund), changes the appeal process for the degree of impairment to be similar to the process of the determination of disability. (11) Provides that contracts entered into by the PERF board or TRF board may be for a term of not more than five years, with an ability to renew.

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February 18, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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ENGROSSED
SENATE BILL No. 120

A BILL FOR AN ACT concerning local government.

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

SECTION 1. IC 5-10-8-8.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8.1. (a) This section applies only to the state and former legislators, instead of section 8 of this chapter.

(b) As used in this section, "legislator" means a member of the general assembly.

(c) After June 30, 1988, the state shall provide to each retired legislator:

(1) whose retirement date is after June 30, 1988;

(2) who will have reached fifty-five (55) years of age on or before the legislator's retirement date but who is not participating in a group health insurance coverage plan:

(A) including Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; but

(B) not including a group health insurance plan provided by the state;

(3) who served as a legislator for at least:

(A) fifteen (15) years; and

(B) ten (10) years immediately preceding the legislator's retirement date; and

(4) who participated in a group health insurance plan provided by the state on the legislator's retirement date;

a group health insurance program that is equal to that offered active employees.

(d) A retired legislator who qualifies under subsection (c) may participate in the group health insurance program if the retired legislator:

(1) pays an amount equal to the employer's and employee's premium for the group health insurance for an active employee; and

(2) within ninety (90) days after the legislator's retirement date files a written request for insurance coverage with the employer.

(e) A retired legislator's eligibility to continue insurance under this section ends when the member becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program.

(f) A retired legislator who is eligible for insurance coverage under this section may elect to have the legislator's spouse covered under the health insurance program at the time the legislator retires. If a retired legislator's spouse pays the amount the retired legislator would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired legislator **and is not affected by the retired legislator's eligibility for Medicare.** The ~~surviving~~ spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) The date of the spouse's remarriage.

(g) The surviving spouse of a legislator who dies or has died in office may elect to participate in the group health insurance program if all of the following apply:

(1) The deceased legislator would have been eligible to participate in the group health insurance program under this section had the legislator retired on the day of the legislator's death.

(2) The surviving spouse files a written request for insurance coverage with the employer.

(3) The surviving spouse pays an amount equal to the employer's

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and employee's premium for the group health insurance for an active employee.

(h) The eligibility of the surviving spouse of a legislator to purchase group health insurance under subsection (g) ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) The date of the spouse's remarriage.

(3) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

SECTION 2. IC 5-10.2-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Each member's creditable service, for the purpose of computing benefits under this article, consists of all service in a position covered by a retirement fund plus all other service for which the retirement fund law gives credit.

(b) No member may be required to pay any contributions for service before he is covered by this article as a condition precedent to receiving benefits under this article. However, he must furnish proof of the service to the board of the fund under which he claims service.

(c) A member who has past service as an employee of the state or a participating political subdivision in a position which was not covered by the retirement fund is entitled to credit for this service if the position becomes covered before January 1, 1985, by the Indiana state teachers' retirement fund, the public employees' retirement fund, or the retirement fund for the state board of accounts and if he submits proof of the service to the secretary of the fund in which he claims service.

(d) A member who has past service in a position that was not covered by the retirement fund is entitled to credit for this service if the position becomes covered after December 31, 1984, by a fund while he holds that position or another position with the same employer and if he submits proof of the service to the director of the fund in which he claims service.

(e) The proof required by this section must:

(1) be submitted in a form approved by the director;

(2) contain dates and nature of service and other information required by the director; and

(3) be certified by the governing body or its agent.

(f) A member who is a state employee is entitled to service credit for the time the member is receiving disability benefits under a disability plan established under IC 5-10-8-7.

(g) If a participant in the legislators' defined benefit plan does not become entitled to a benefit from that plan, the PERF board or the TRF board shall include the participant's service in the general assembly in

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the determination of eligibility for, and computation of, benefits under PERF or TRF at the time the participant would be eligible to receive benefits under PERF or TRF. After benefits commence under PERF or TRF with the general assembly service included, the participant's general assembly service may not be used for the computation of benefits under IC 2-3.5-4.

(h) A member may receive service credit for all or a part of the member's creditable service in another governmental retirement plan under IC 5-10.3-7-4.5 and IC 21-6.1-4-4.5. A member may not receive credit for service for which the member receives service credit in another retirement plan maintained by a state, a political subdivision, or an instrumentality of the state for service that PERF or TRF would otherwise give credit.

(i) A member may use all or a part of the member's creditable service under PERF or TRF in another governmental retirement plan under the terms of the other plan. Creditable service used under the other governmental retirement plan may not be used in PERF or TRF.

SECTION 3. IC 5-10.2-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. Suspension of Membership. (a) A member who is not eligible for retirement or disability retirement may suspend his membership if he terminates employment. After five (5) continuous years in which he performs no service, his membership shall be automatically suspended by the board unless he is vested status. The board may establish ~~rule~~ **rules** for deferring the effective date of a suspension of membership. The deferral may not be for more than six (6) months.

(b) On resuming service the member may claim as creditable service the period of employment before the suspension of membership, **but only to the extent that the same period of employment is not being used by another governmental plan for purposes of the member's benefit in the other governmental plan.**

SECTION 4. IC 5-10.2-3-7.5, AS AMENDED BY P.L.35-1996, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7.5. (a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

(1) the member dies after March 31, 1990;

(2) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the

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member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

(3) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (b) or (c).

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections (e) and (g).

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent is permanently and totally disabled (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly benefit is payable until the date the dependent is no longer disabled (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (e)

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and (g).

(d) Except as provided in subsections (e) and (h), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the **total** amount credited to the member in the member's annuity savings account **or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986.** A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter **to the extent of the lump sum payment.**

(e) If a member described in subsection (a) or section 7.6(a) of this chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit.

(f) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this

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chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 5. IC 5-10.2-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 6. (a) A member who becomes disabled while ~~in active service~~ **receiving a salary or employer provided income protection benefits or who is on leave under the Family and Medical Leave Act** may retire for the duration of his disability if:

(1) the member has at least five (5) years of creditable service **before the:**

(A) termination of a salary or employer provided income protection benefits or Family and Medical Leave Act leave; or

(B) exhaustion of all worker's compensation benefits;

(2) the member 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 member reaches age sixty-five

(65) a representative of the board verifies the continued disability.

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

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(b) ~~The month following the date of~~ **Benefits for** disability ~~the member is entitled to receive a benefit under this section.~~ **shall be paid beginning with the month following the onset of disability as determined by the Social Security Administration.** The benefit is the retirement benefit specified in section 4 of this chapter with the pension computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. However, the monthly disability retirement benefit may not be less than one hundred dollars ($100).

(c) The member may have his benefit paid under any of the retirement benefit options specified in section 7 of this chapter, **except that the member may not choose to have the member's disability retirement benefit paid under the method specified under section 7(b)(3) of this chapter.**

(d) This section applies to:

(1) a member of the public employees' retirement fund who became disabled after June 30, 1973; and

(2) a member of the Indiana state teachers' retirement fund who becomes disabled after June 30, 1984, and who chooses disability retirement under this section.

(e) To the extent required by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations to the Act, the transcripts, records, and other material compiled to determine the existence of a disability shall be:

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

(2) treated as confidential medical records.

(f) A member may continue to receive disability benefits from the public employees' retirement fund or the Indiana state teachers' retirement fund so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under the Social Security guidelines. However, during a period of trial employment or rehabilitation, service credit may not be granted under the public employees' retirement fund or the Indiana state teachers' retirement fund.

SECTION 6. IC 5-10.3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) The board may:

(1) establish rules and regulations for the administration of the fund;

(2) make contracts and sue and be sued as the board of trustees of the public employees' retirement fund of Indiana;

(3) delegate duties to its employees;

(4) enter into agreements with one (1) or more insurance

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companies to provide life, hospitalization, surgical, medical, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired members of the fund, and, upon authorization of the respective member, deduct premium payments for such policies from the members' retirement benefits and remit the payments to the insurance companies;

(5) enter into agreements with one (1) or more insurance companies to provide annuities for retired members of the fund, and, upon a member's authorization, transfer the amount credited to the member in the annuity savings account to the insurance companies;

(6) whenever the fund's membership is sufficiently large for actuarial valuation, establish an employer's contribution rate for all employers, including employers with special benefit provisions for certain employees;

(7) amortize prior service liability over a period of forty (40) years or less; and

(8) recover payments made under false or fraudulent representation.

(b) An agreement under subsection (a)(4) may be for a duration of three (3) years.

(c) A contract under subsection (a)(2) may be for a term of not more than five (5) years, with an ability to renew thereafter.

SECTION 7. IC 5-10.3-7-4.5, AS ADDED BY P.L.5-1997, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4.5. (a) As used in this section, "out-of-state service" means service in another state in a comparable position that would be creditable service if performed in Indiana.

(b) Subject to subsections (c) through (f), a member may purchase out-of-state service credit if the member meets the following requirements:

(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to

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result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(c) Out-of-state years that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) At least ten (10) years of service in Indiana is required before a member may receive a benefit based on out-of-state service credits.

(e) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(f) The following apply to the purchase of service credit under this section:

~~(1) A member may purchase service credit not later than:~~

~~(A) July 1, 1998; or~~

~~(B) four (4) years after the member becomes eligible to purchase the service credit;~~

~~whichever is later.~~

~~(2)~~ **(1)** The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

~~(3)~~ **(2)** The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

~~(4)~~ **(3)** A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

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SECTION 8. IC 5-10.3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. The following employees may not be members of the fund:

(1) Officials of a political subdivision elected by vote of the people, unless the governing body specifically provides for the participation of locally elected officials.

(2) Employees occupying positions normally requiring performance of service of less than six hundred (600) hours during a year who:

(A) were hired before July 1, 1982; or

(B) are employed by a participating school corporation.

(3) Independent contractors or officers or employees paid wholly on a fee basis.

(4) **Except as provided in section 4.2 of this chapter**, employees who occupy positions that are covered by other pension or retirement funds or plans, maintained in whole or in part by appropriations by the state or a political subdivision, except:

(A) the federal Social Security program; and

(B) the prosecuting attorneys retirement fund created by IC 33-14-9.

(5) Managers or employees of a license branch of the bureau of motor vehicles commission, except those persons who may be included as members under IC 9-16-4.

(6) Employees, except employees of a participating school corporation, hired after June 30, 1982, occupying positions normally requiring performance of service of less than one thousand (1,000) hours during a year.

(7) Persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are covered by the federal Social Security program as federal employees under 42 U.S.C. 410.

(8) Members and employees of the state lottery commission.

SECTION 9. IC 5-10.3-7-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 4.2. (a) As used in this section, "police officers' or firefighters' fund" includes the 1925 fund established by IC 36-8-6, the 1937 fund established by IC 36-8-7, the 1953 fund established by IC 36-8-7.5, and the 1977 fund established by IC 36-8-8.**

(b) This section applies to an individual who:

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(1) began service as a police officer or firefighter and became a member of a police officers' or firefighters' fund before 1980;

(2) began service in another position (referred to in this section as the "PERF position") and was enrolled erroneously as a contributing member of the public employees' retirement fund with respect to the PERF position before 1980;

(3) made contributions to the public employees' retirement fund with respect to the PERF position as if the individual had been legally enrolled in that fund; and

(4) after 1991 was denied service credit in the public employees' retirement fund with respect to all or part of the individual's service in the PERF position because of the individual's service in the police officer or firefighter position described in subdivision (1).

(c) Notwithstanding section 2(4) of this chapter, an individual described in subsection (b) may elect to claim service credit in the public employees' retirement fund with respect to all of the individual's service in the PERF position if:

(1) the individual pays into the public employees' retirement fund an amount equal to:

(A) any amount refunded to the individual as a result of the denial of service credit; and

(B) any additional amount that the individual would have contributed with respect to the PERF position if the individual had been a member of the public employees' retirement fund during the period for which service credit has been denied;

(2) the individual agrees to continue making contributions to the public employees' retirement fund with respect to the PERF position as required by this article for continuing service, if any, in the PERF position;

(3) the unit that employed the individual in the PERF position agrees to pay into the public employees' retirement fund an amount equal to:

(A) any amount refunded or credited to the employer as a result of the denial of service credit with respect to the individual's service in the PERF position; and

(B) any additional amount that the employer would have contributed with respect to the individual's service in the PERF position if the individual had been a member of that fund during the period for which service credit has been

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denied; and

(4) the unit that employed the individual in the PERF position agrees to continue making contributions to the public employees' retirement fund with respect to the PERF position as required by this article for continuing service, if any, by the individual in the PERF position.

(d) An individual is entitled to membership in the public employees' retirement fund and service credit in that fund for all service in the PERF position if:

(1) the individual makes the election permitted by subsection (c);

(2) the individual makes the contributions required by subsection (c)(1) and (c)(2);

(3) the unit that employed the individual in the PERF position makes the contributions required by subsection (c)(3) and (c)(4); and

(4) the individual meets all other requirements of this article for membership in the public employees' retirement fund with respect to the PERF position.

However, the individual is not entitled to service credit or benefits under the public employees' retirement fund with respect to any service in a police officer or firefighter position described in subsection (b)(1).

(e) The board of trustees of the public employees' retirement fund may allow:

(1) an individual who is entitled to service credit under this section; and

(2) the unit that employed the individual in the PERF position;

to make periodic payments of the contributions required for the purchase of service credit under this section. The board shall determine the length of the period during which the payments must be made.

SECTION 10. IC 21-6.1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) The board may:

(1) adopt and enforce bylaws regarding the department's administration and the control and investment of the fund;

(2) employ staff, who are not trustees, to perform clerical work needed by the board;

(3) bond employees for the fund's protection;

(4) receive from the federal government the state's share of the cost of the pension contribution for a member on leave of absence

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to work in a federally supported educational project;

(5) sue and be sued as the board of trustees of the Indiana state teachers' retirement fund;

(6) summon and examine witnesses when adjusting claims;

(7) require, when adjusting disability claims, medical examinations by doctors approved or appointed by the board; however, not more than two (2) examinations may be conducted in one (1) year;

(8) conduct investigations to help determine the merit of a claim;

(9) meet any emergency which may arise in the administration of its trust;

(10) determine other matters regarding its trust which are not specified;

(11) enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired teachers, and, upon authorization of the respective retired teacher, deduct premium payments for such policies from the teachers' retirement benefits and remit the payments to the insurance companies; and

(12) enter into agreements with one (1) or more insurance companies to provide annuities for retired teachers and upon a member's authorization transfer the amount credited to the member in the annuity savings account to the insurance companies.

(b) An agreement under subsection (a)(11) may be for a duration of three (3) years.

(c) This subsection does not apply to an agreement under subsection (a)(11). A contract that the board enters into under section 9(b) of this chapter or any other provision may be for a term of not more than five (5) years, with an ability to renew thereafter.

SECTION 11. IC 21-6.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) The members of the fund include:

(1) legally qualified and regularly employed teachers in the public schools;

(2) persons employed by a governing body, who were qualified before their election or appointment;

(3) legally qualified and regularly employed teachers at Ball State University, Indiana State University, University of Southern Indiana, or Vincennes University;

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(4) legally qualified and regularly employed teachers in a state educational institution supported wholly by public money and whose teachers devote their entire time to teaching;

(5) legally qualified and regularly employed teachers in state benevolent, charitable, or correctional institutions;

(6) legally qualified and regularly employed teachers in an experimental school in a state university who teach elementary or high school students;

(7) as determined by the board, certain instructors serving in a university extension division not covered by a state retirement law;

(8) employees and officers of the department of education and of the fund who were qualified before their election or appointment; and

(9) a person:

(A) who is employed as a nurse appointed under IC 20-8.1-7-5 by a school corporation located in a city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000); and

(B) who participated in the fund before December 31, 1991, in the position described in clause (A).

(b) Teachers in any state institution who accept the benefits of a state supported retirement benefit system comparable to the fund's benefits may not come under the fund unless permitted by law or the rules of the board.

(c) The members of the fund do not include substitute teachers who have not obtained an associate degree or a baccalaureate degree.

SECTION 12. IC 21-6.1-4-4.5, AS AMENDED BY P.L.25-1994, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4.5. (a) "Out-of-state service" means service in any state in a comparable position which would be creditable service if performed in Indiana. The term includes comparable service performed on a United States military installation, in a federal prison, or at an educational facility operated or supervised by the Bureau of Indian Affairs.

(b) In computing the service credit for each member who began teaching in Indiana before July 1, 1981, and who has served as a public school teacher out of state, the board may include the greater of eight (8) years or one (1) year of out-of-state service for every four (4) years of in-state service; however, this out-of-state service may be included only if rendered before July 1, 1981.

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(c) In addition, a member may purchase out-of-state service credit which has not been claimed under subsection (b) ~~of this section,~~ subject to the limitations of subsections (d) and (e) ~~of this section,~~ if he:

(1) has at least one (1) year of creditable service in the teachers' retirement fund;

(2) makes contributions, before he retires, to the teachers' retirement fund:

(A) which are equal to the product of the following:

(i) the member's salary when the member first becomes a member of the teachers' retirement fund, for service credit purchased before January 1, 1994, or the member's salary at the time the member actually makes a contribution for the service credit, for service credit purchased after December 31, 1993;

(ii) normal cost, as determined by the actuary of the teachers' retirement fund (For purposes of this chapter, "normal cost" means the value of the annual amount required to fund the prospective benefits promised an employee for the work he has performed.) for service credit purchased before January 1, 1994, or a percentage rate, as determined by the actuary of the teachers' retirement fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased, for service credit purchased after December 31, 1993; and

(iii) the number of years of out-of-state service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary for the teachers' retirement fund, for the period from the member's initial membership in the teachers' retirement fund to the date payment is made by the member; and

(3) has received verification from the teachers' retirement fund that the out-of-state service is, as of that date, valid.

(d) Out-of-state years which qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(e) After April 1, 1965, at least ten (10) years of in-state service is required before a member may claim any out-of-state service credits.

(f) A member who:

(1) terminates employment before satisfying the eligibility

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requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting a properly completed application for a refund to the teachers' retirement fund.

(g) The following apply to the purchase of service credit under this section after July 1, ~~1993:~~ **1998:**

~~(1) A member may purchase service credit not later than the later of:~~

~~(A) July 1, 1998; or~~

~~(B) four (4) years after the member becomes eligible to purchase the service credit.~~

~~(2)~~ **(1)** The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

~~(3)~~ **(2)** The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

~~(4)~~ **(3)** A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

(h) Contributions received after July 1, 1993, for the purchase of service credit under this section must be applied against the unfunded accrued liability of the fund.

SECTION 13. IC 21-6.1-4-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 4.6. (a) As used in this section, "substitute teaching service" means service in Indiana as a substitute teacher that is not covered under section 1(c) of this chapter, but is served by a person who has other service that is covered under section 1(a) of this chapter.**

(b) A member may purchase substitute teaching service if:

(1) the member has at least one (1) year of creditable service in the fund;

(2) the member makes contributions, before the member retires, to the fund:

(A) that are equal to the product of the following:

(i) the member's salary at the time the member actually

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makes a contribution for the service credit;

(ii) a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of substitute teaching service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member; and

(3) the fund receives verification from the school corporation that the substitute teaching service occurred.

(c) Service for years of substitute teaching that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 14. IC 21-6.1-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) On or before

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January 15, April 15, July 15, and October 15 of each year, the treasurer of each school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make an employer report **as provided in section 8 of this chapter,** on a form furnished by the board, to the board and accompany it with a warrant in payment of:

(1) total net contributions made for or by the members in the preceding three (3) months for the fund; and

(2) employer contributions as required by section 12 of this chapter.

Amendatory reports to correct errors or omissions may be required and made.

(b) As used in this section, "net contributions" means the gross amount of a member's contributions minus any refund paid or due a teacher.

SECTION 15. IC 21-6.1-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) ~~Before or on July 31~~ **On or before January 15, April 15, July 15, and October 15** of each year, the treasurer of each school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make a report to the board on a form furnished by the board **and within the time set by the board.** Amendatory reports to correct errors or omissions may be required and made.

(b) The report required by subsection (a) must include:

(1) the name of each member employed in the preceding ~~school year,~~ **reporting period,** except substitute teachers; ~~employed without a contract;~~

(2) the total salary and other compensation paid for personal services to each member in the ~~school year;~~ **reporting period;**

(3) the sum of contributions made for or by each member and the sum of employer contributions made by the school corporation or other institution;

(4) the number of days each member received salary or other compensation for teaching services; ~~under contract;~~ and

(5) any other information which the board finds necessary for the effective management of the fund.

(c) As often as the board determines necessary, the board may review or cause to be reviewed the pertinent records of any public entity contributing to the fund under IC 21-6.1.

SECTION 16. IC 21-6.1-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. If the treasurer of a school corporation, the township trustee, or the appropriate officer of

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any other institution covered by the fund fails to make the reports **and payments** as required in section 7 or 8 of this chapter:

(1) the officer has an additional thirty (30) days to make the reports and payments without a penalty;

(2) after thirty (30) days have passed since the deadlines required under section 7 or 8 of this chapter, the board may fine the school corporation or institution that the officer serves one hundred dollars ($100) for each additional day that the reports and payments are late; and

(3) if the officer is habitually late as determined by the board, the school corporation or institution which that officer serves is ineligible to receive any distribution of money from the state for school purposes until the reports and payments are received and approved by the board.

SECTION 17. IC 36-8-8-1, AS AMENDED BY P.L.43-1997, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996; and

(4) a park ranger who:

(A) completed at least ~~twelve (12)~~ **the number of** weeks of training at the Indiana law enforcement academy **that were required at the time the park ranger attended the Indiana law enforcement academy;**

(B) graduated from the Indiana law enforcement academy; and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

except as provided by section 7 of this chapter.

SECTION 18. IC 36-8-8-7, AS AMENDED BY P.L.43-1997, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), and (h):

(1) a police officer; or

(2) a firefighter;

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who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires him chooses to contribute to the 1977 fund the amount necessary to amortize his prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for his prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if he:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if he:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if he:

(1) was hired by the police or fire department of a unit before May 1, 1977;

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(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, he is entitled to receive credit for all his years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least ~~twelve (12)~~ **the number of** weeks of training at the Indiana law enforcement academy **that were required at the time the park ranger attended the Indiana law enforcement academy;**

(2) graduated from the Indiana law enforcement academy; and

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(3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

SECTION 19. IC 36-8-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. (a) This section applies to all police officers and firefighters who converted their benefits under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981).

(b) A police officer or firefighter who converted his benefits from a 1925, 1937, or 1953 fund to the benefits and conditions of this chapter is not entitled to receive any benefits from the original fund. **However, he is entitled to credit for all years of service for which he would have received credit before his conversion in that original fund.**

(c) A police officer or firefighter who:

(1) converted his benefits from a 1925, 1937, or 1953 fund;

(2) retired or became disabled on or before June 30, 1998; and

(3) is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

shall be treated as a member of this fund for purposes of paying his benefits from the 1977 fund effective for benefits paid on or after October 1, 1998. Prior to October 1, 1998, he remains a member of the original fund entitled to receive only the benefits provided under this chapter based on the eligibility requirements of this chapter.

(d) A police officer or firefighter who:

(1) converted his benefits from a 1925, 1937 or 1953 fund;

(2) who did not retire or become disabled on or before June 30, 1998; and

(3) who is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

remains a member of that original fund but is entitled to receive only the benefits provided under this chapter and based on the eligibility requirements of this chapter. ~~He also is entitled to credit for all years of service for which he would have received credit before his conversion in that original fund.~~

~~(c)~~ **(e)** A police officer or firefighter who converted shall contribute six percent (6%) of the salary of a first class patrolman or firefighter to the 1925, 1937, or 1953 fund. This amount shall be deducted from his salary each pay period by the disbursing officer of the employer. Contributions under this subsection may not be refunded.

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SECTION 20. IC 36-8-8-10, AS AMENDED BY P.L.232-1997, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) A fund member is eligible for retirement after he has completed twenty (20) years of active service.

(b) **Unless the member is receiving benefits under subsection (c), unreduced** benefits to a retired fund member begin the date:

(1) the fund member becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age; or

(2) on which the fund member retires;

whichever is later. Benefit payments to a retired fund member **under this subsection** begin on the first day of the month on or after the date he reaches ~~fifty-five (55)~~ **fifty-two (52)** years of age or on which he retires, whichever is later.

(c) A retired member may elect to receive actuarially reduced benefits that begin the date:

(1) the fund member becomes fifty (50) years of age; or

(2) on which the fund member retires;

whichever is later. Benefit payments to a retired fund member under this subsection begin on the first day of the month on or after the day the member reaches fifty (50) years of age or on which the member retires, whichever is later.

~~(c)~~ **(d)** If a fund member:

(1) becomes ~~fifty-five (55)~~ **fifty-two (52) years of age in the case of unreduced benefits or fifty (50)** years of age **in the case of reduced benefits;** or

(2) retires on a date other than on the first day of the month;

the amount due the fund member for the initial partial monthly benefit is payable together with the regular monthly benefit on the first of the month following the date the fund member becomes ~~fifty-five (55)~~ **fifty-two (52) or fifty (50)** years of age**, respectively,** or retires, whichever is later.

SECTION 21. IC 36-8-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) Each fund member who qualifies for a retirement benefit payment under section 10**(b)** of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended his active service plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each full year of active service; or

(2) for a member who retires after December 31, 1985, one

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percent (1%) of that salary for each six (6) months of active service;

over twenty (20) years, to a maximum of twelve (12) years.

(c) Each fund member who qualifies for a retirement benefit payment under section 10(c) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended his active service plus one percent (1%) of that salary for each six (6) months of active service over twenty (20) years, to a maximum of twelve (12) years, all actuarially reduced for each month (if any) of benefit payments prior to fifty-two (52) years of age, by a factor established by the fund's actuary from time to time.

SECTION 22. IC 36-8-8-12, AS AMENDED BY P.L.213-1995, SECTION 8, IS AMENDED TO READ AS FOLLOWS[EFFECTIVE JULY 1, 1999]: Sec. 12. (a) Benefits paid under this section are subject to sections 2.5 and 2.6 of this chapter.

(b) If an active fund member has a covered impairment, as determined under sections 12.3 through 13.1 of this chapter, the member is entitled to receive the benefit prescribed by section 13.3 or 13.5 of this chapter. A member who has had a covered impairment and returns to active duty with the department shall not be treated as a new applicant seeking to become a member of the 1977 fund.

(c) If a retired fund member who has not yet reached the member's ~~fifty-fifth~~ **fifty-second** birthday is found by the PERF board to be permanently or temporarily unable to perform all suitable work for which the member is or may be capable of becoming qualified, the member is entitled to receive during the disability the retirement benefit payments payable at ~~fifty-five (55)~~ **fifty-two (52)** years of age. During a reasonable period in which a disabled fund member is becoming qualified for suitable work, the member may continue to receive disability benefit payments. However, benefits payable for disability under this subsection are reduced by amounts for which the fund member is eligible from:

(1) a plan or policy of insurance providing benefits for loss of time because of disability;

(2) a plan, fund, or other arrangement to which the fund member's employer has contributed or for which the fund member's employer has made payroll deductions, including a group life policy providing installment payments for disability, a group annuity contract, or a pension or retirement annuity plan other than the fund established by this chapter;

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(3) the federal Social Security Act (42 U.S.C. 401 et seq.), the Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States Department of Veterans Affairs, or another federal, state, local, or other governmental agency;

(4) worker's compensation payable under IC 22-3; and

(5) a salary or wage, including overtime and bonus pay and extra or additional remuneration of any kind, the fund member receives or is entitled to receive from the member's employer.

For the purposes of this subsection, a retired fund member is considered eligible for benefits from subdivisions (1) through (5) whether or not the member has made application for the benefits.

(d) Notwithstanding any other law, a plan, policy of insurance, fund, or other arrangement:

(1) delivered, issued for delivery, amended, or renewed after April 9, 1979; and

(2) described in subsection (c)(1) or (c)(2);

may not provide for a reduction or alteration of benefits as a result of benefits for which a fund member may be eligible from the 1977 fund under subsection (c).

(e) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the fund member has a total of twenty (20) years of service.

SECTION 23. IC 36-8-8-12.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12.7. (a) This section applies to hearings conducted by local boards concerning determinations of impairment under this chapter or of disability under IC 36-8-5-2(g), IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

(b) At least five (5) days before the hearing, the local board shall give notice to the fund member and the safety board of the time, date, and place of the hearing.

(c) At the hearing, the local board shall permit the fund member and the safety board to:

(1) be represented by any individual;

(2) through witnesses and documents, present evidence;

(3) conduct cross-examination; and

(4) present arguments.

(d) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board.

(e) The local board shall, at the request of the fund member or the safety board, issue:

(1) subpoenas;

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(2) discovery orders; and

(3) protective orders;

in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(f) The local board shall have the hearing recorded so that a transcript may be made of the proceedings.

(g) After the hearing, the local board shall make its determinations, including findings of fact, in writing and shall provide copies of its determinations to the fund member and the safety board.

(h) The local board may on its own motion issue:

(1) subpoenas;

(2) discovery orders; and

(3) protective orders;

in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(i) At the hearing, the local board may exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on the basis of evidentiary privilege recognized by the courts.

(j) At the hearing, the local board may request the testimony of witnesses and the production of documents.

(k) If a subpoena or order is issued under this section, the party seeking the subpoena or order shall serve it in accordance with the Indiana Rules of Trial Procedure. However, if the subpoena or order is on the local board's own motion, the sheriff of the county in which the subpoena or order is to be served shall serve it. A subpoena or order under this section may be enforced in the circuit or superior court of the county in which the subpoena or order is served.

(l) With respect to a hearing conducted for purposes of determining disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5, the determination of the local board after a hearing is final and may be appealed to the court.

(m) With respect to a hearing conducted for purposes of determining impairment **or class of impairment** under this chapter, the fund member may appeal the local board's determinations. ~~if the local board determines that a covered impairment does not exist.~~ An appeal under this subsection:

(1) must be made in writing;

(2) must state the class of impairment and the degree of impairment that is claimed by the fund member;

(3) must include a written determination by the chief of the police or fire department stating that there is no suitable and available work; and

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(4) must be filed with the local board and the PERF board's director no later than thirty (30) days after the date on which the fund member received a copy of the local board's determinations.

(n) To the extent required by the Americans with Disabilities Act, the transcripts, records, reports, and other materials generated as a result of a hearing, review, or appeal conducted to determine an impairment under this chapter or a disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5 must be:

(1) retained in the separate medical file created for the member; and

(2) treated as a confidential medical record.

SECTION 24. IC 36-8-8-13.3, AS AMENDED BY P.L.213-1995, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13.3. (a) This section applies only to a fund member who:

(1) is hired for the first time before January 1, 1990; and

(2) does not choose coverage by sections 12.5 and 13.5 of this chapter under section 12.4 of this chapter.

This section does not apply to a fund member described in section 12.3(c)(2) of this chapter.

(b) A fund member who is determined to have a covered impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the disabled fund member does not have at least twenty (20) years of service or is not at least ~~fifty-five (55)~~ **fifty-two (52)** years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was ~~fifty-five (55)~~ **fifty-two (52)** years of age.

(c) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that except for section 12.3 of this chapter would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is

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entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 25. IC 36-8-8-13.5, AS AMENDED BY P.L.213-1995, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13.5. (a) This section applies only to a fund member who:

(1) is hired for the first time after December 31, 1989;

(2) chooses coverage by this section and section 12.5 of this chapter under section 12.4 of this chapter; or

(3) is described in section 12.3(c)(2) of this chapter.

(b) A fund member who is determined to have a Class 1 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(c) A fund member who is determined to have a Class 2 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to twenty-two percent (22%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service.

(d) For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(e) For applicants hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the

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Americans with Disabilities Act, is entitled to the following benefits instead of benefits provided under subsection (d):

(1) If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(2) Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;

(B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and

(C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(3) Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment occurs before the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment is related in any manner to the Class 3 excludable condition.

(5) If, during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's

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Class 3 excludable condition;

the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the PERF board for a final determination by the PERF board or the PERF board's designee.

(f) If a fund member is entitled to a monthly base benefit under subsection (b), (c), (d), or (e), the fund member is also entitled to a monthly amount that is no less than ten percent (10%) and no greater than forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment. The additional monthly amount shall be determined by the PERF medical authority based on the degree of impairment.

(g) Benefits for a Class 1 impairment are payable until the fund member becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age. Benefits for a Class 2 and a Class 3 impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) until the member becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age if the member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(h) Upon becoming ~~fifty-five (55)~~ **fifty-two (52)** years of age, a fund member with a Class 1 or Class 2 impairment is entitled to receive the retirement benefit payable to a fund member with:

(1) twenty (20) years of service; or

(2) the total years of service and salary, as of the year the member becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age, that the fund member would have earned if the fund member had remained in active service until becoming ~~fifty-five (55)~~ **fifty-two (52)** years of age;

whichever is greater.

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(i) Upon becoming ~~fifty-five (55)~~ **fifty-two (52)** years of age, a fund member who is receiving or has received a Class 3 impairment benefit that is:

(1) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(2) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service;

is entitled to receive the retirement benefit payable to a fund member with twenty (20) years of service.

(j) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that, except for section 12.3(b)(3) of this chapter, would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 26. IC 36-8-8-14.1, AS AMENDED BY P.L.40-1997, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child reaches eighteen (18) years of age; or

(B) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least

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eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (1)(B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(c) If a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents, are entitled to receive a monthly benefit determined under subsection (b). If the fund member did not have at least twenty (20) years of service or was not at least ~~fifty-five (55)~~ **fifty-two (52)** years old, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was ~~fifty-five (55)~~ **fifty-two (52)** years of age.

(d) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to an additional monthly benefit during the spouse's lifetime, equal to the difference between the benefit payable under subsection (b)(2) and the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at ~~fifty-five (55)~~ **fifty-two (52)** years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date

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of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. For purposes of this subsection, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from:

(1) any action that the member, in the member's capacity as a police officer, is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of controlling or reducing crime or enforcing the criminal law; or

(2) any action that the member, in the member's capacity as a firefighter, is obligated or authorized by rule, regulation, condition of employment or service, or law to perform while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

SECTION 27. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board" refers to the board of trustees of the public employees' retirement fund.**

(b) Before November 1, 1998, the board shall do the following:

(1) Effective January 1, 1999, remove park rangers described in IC 36-8-8-1(4), as amended by this act, from membership in the public employees' retirement fund.

(2) For a park ranger described in IC 36-8-8-1(4), as amended by this act, credit to the 1977 fund the amount of contributions that:

(A) the park ranger has made to the public employees' retirement fund; and

(B) the employer of the park ranger has made to the public employees' retirement fund on behalf of the park ranger.

(c) If a park ranger described in IC 36-8-8-1(4), as amended by this act, becomes a participant in the 1977 fund, credit for prior service before the date of participation or membership may be given by the board only if the following occur:

(1) The amount the park ranger would have contributed if the park ranger had been a member of the 1977 fund during the park ranger's prior service is:

(A) fully paid; and

(B) based on the park ranger's actual salary earned during that period.

However, the board may accept payment over a period not greater than five (5) years at a rate of interest determined by the board.

(2) If the park ranger has prior service in the 1977 fund, the

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unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over not more than ten (10) years.

(d) If a park ranger becomes a participant in the 1977 fund, the following provisions apply:

(1) A minimum benefit applies to a park ranger who transfers to the 1977 fund from the public employees' retirement fund. The minimum benefit for such a member, payable at fifty-five (55) years of age, equals the actuarial equivalent of the vested retirement benefit payable to the member upon normal retirement under IC 5-10.2-4-1 as of the day before the transfer, based solely on:

(A) creditable service; and

(B) the average of the annual compensation;

of the transferring member as of the day before the transfer.

(2) The board shall transfer from the public employees' retirement fund to the 1977 fund the present value of the retirement benefits payable at sixty-five (65) years of age attributable to the transferring member.

(3) The amount the member and the unit must contribute to the 1977 fund shall be reduced by the amounts transferred to the 1977 fund by the board under subdivision (2).

(4) Credit for prior service in the public employees' retirement fund of a member as a park ranger is waived in the public employees' retirement fund. Any credit for that service under the 1977 fund shall be given only in accordance with subsection (c).

(5) Credit for prior service in the public employees' retirement fund of a member, other than as a park ranger, remains in the public employees' retirement fund and may not be credited under the 1977 fund.

(e) A park ranger described in IC 36-8-8-1(4), as amended by this act, shall be treated as having been a member of the appropriate fund from the date of employment for all purposes, including the calculation of benefits and eligibility for benefits.

(f) This SECTION expires July 1, 1998.

SECTION 28. [EFFECTIVE UPON PASSAGE] **(a) The pension management oversight commission established by IC 2-5-12 shall study the creation of a pension system for town marshals to be effective July 1, 1999.**

(b) The pension management oversight commission shall make recommendations to the general assembly before November 2,

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1998, concerning the results of the study described in subsection (a).

(c) This SECTION expires December 31, 1998.

SECTION 29. [EFFECTIVE APRIL 1, 1998] **The PERF board (as defined in IC 2-3.5-2-9) may consider a claim for benefits under IC 5-10.2-4-6(a), as amended by this act, even if the disability of the member making the claim arose from events occurring after March 31, 1994, and before April 2, 1998. A benefit claim approved by the PERF board under this SECTION is payable after the later of April 1, 1998, or the date of the member's claim.**

SECTION 30. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 120, 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:

Delete the title and insert the following:

"A BILL FOR AN ACT concerning local government."

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Pensions and Labor.

(Reference is to Senate Bill 120 as introduced.)

GARTON, Chairperson

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COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill 120, 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, line 7, delete "the" and insert "this".

Page 1, line 12, delete "(i)" and insert "**(1)**".

Page 1, line 12, after "fund" delete "," and insert "**;**".

Page 1, line 13, delete "(ii) who" and insert "**(2)**".

Page 1, line 14, after "1998" delete "," and insert "**;**".

Page 1, line 15, delete "(iii) who" and insert "**(3)**".

Page 1, line 16, after "this chapter" insert "**;**".

Page 2, line 6, delete "(i)" and insert "**(1)**".

Page 2, line 6, after "fund" delete "," and insert "**;**".

Page 2, line 7, delete "(ii) who" and insert "**(2)**".

Page 2, line 8, after "1998" delete "," and insert "**; and**".

Page 2, line 9, delete "(iii) who" and insert "**(3)**".

Page 2, line 10, after "this chapter" insert "**;**".

Page 2, line 13, delete "ot" and insert "~~to~~".

Page 2, line 21, after "IC 36-8-8-10" insert ", AS AMENDED BY P.L.232-1997, SECTION 1,".

Page 2, line 25, delete "Unreduced Benefits benefits" and insert "**Unless the member is receiving benefits under subsection (c), unreduced** benefits".

Page 2, line 34, delete "Actuarially" and insert "**A retired member may elect to receive actuarially**".

Page 2, line 34, delete "to a retired fund member **may**" and insert "**that**".

Page 2, line 39, delete "whichever of the following dates the" and insert "**the first day of the month on or after the day the member reaches fifty (50) years of age or on which the member retires, whichever is later.**".

Page 2, delete lines 40 through 42.

Page 3, delete lines 1 through 2.

Page 3, line 4, after "(52)" insert "**years of age in the case of unreduced benefits**".

Page 3, line 5, delete ";" and insert "**in the case of reduced benefits;**".

Page 3, line 10, after "age" insert ", **respectively,**".

Page 3, line 31, delete ";" and insert ",".

Page 3, line 32, delete "age 52" and insert "**fifty-two (52) years of**

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age".

Page 4, after line 42, begin a new paragraph and insert:

"SECTION 5. IC 36-8-8-13.3, AS AMENDED BY P.L.213-1995, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 13.3. (a) This section applies only to a fund member who:

(1) is hired for the first time before January 1, 1990; and

(2) does not choose coverage by sections 12.5 and 13.5 of this chapter under section 12.4 of this chapter.

This section does not apply to a fund member described in section 12.3(c)(2) of this chapter.

(b) A fund member who is determined to have a covered impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the disabled fund member does not have at least twenty (20) years of service or is not at least ~~fifty-five (55)~~ **fifty-two (52)** years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was ~~fifty-five (55)~~ **fifty-two (52)** years of age.

(c) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that except for section 12.3 of this chapter would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 6. IC 36-8-8-13.5, AS AMENDED BY P.L.213-1995, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 13.5. (a) This section applies only to a fund member who:

(1) is hired for the first time after December 31, 1989;

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(2) chooses coverage by this section and section 12.5 of this chapter under section 12.4 of this chapter; or

(3) is described in section 12.3(c)(2) of this chapter.

(b) A fund member who is determined to have a Class 1 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(c) A fund member who is determined to have a Class 2 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to twenty-two percent (22%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service.

(d) For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(e) For applicants hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to the following benefits instead of benefits provided under subsection (d):

(1) If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's

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determination of impairment.

(2) Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;

(B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and

(C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(3) Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment occurs before the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment is related in any manner to the Class 3 excludable condition.

(5) If, during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's Class 3 excludable condition;

the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the PERF board for a final determination by the PERF board or the PERF board's designee.

(f) If a fund member is entitled to a monthly base benefit under

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subsection (b), (c), (d), or (e), the fund member is also entitled to a monthly amount that is no less than ten percent (10%) and no greater than forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment. The additional monthly amount shall be determined by the PERF medical authority based on the degree of impairment.

(g) Benefits for a Class 1 impairment are payable until the fund member becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age. Benefits for a Class 2 and a Class 3 impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) until the member becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age if the member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(h) Upon becoming ~~fifty-five (55)~~ **fifty-two (52)** years of age, a fund member with a Class 1 or Class 2 impairment is entitled to receive the retirement benefit payable to a fund member with:

(1) twenty (20) years of service; or

(2) the total years of service and salary, as of the year the member becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age, that the fund member would have earned if the fund member had remained in active service until becoming ~~fifty-five (55)~~ **fifty-two (52)** years of age;

whichever is greater.

(i) Upon becoming ~~fifty-five (55)~~ **fifty-two (52)** years of age, a fund member who is receiving or has received a Class 3 impairment benefit that is:

(1) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(2) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4)

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years of service;

is entitled to receive the retirement benefit payable to a fund member with twenty (20) years of service.

(j) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that, except for section 12.3(b)(3) of this chapter, would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 7. IC 36-8-8-14.1, AS AMENDED BY P.L.40-1997, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child reaches eighteen (18) years of age; or

(B) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (1)(B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the

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surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(c) If a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents, are entitled to receive a monthly benefit determined under subsection (b). If the fund member did not have at least twenty (20) years of service or was not at least ~~fifty-five (55)~~ **fifty-two (52)** years old, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was ~~fifty-five (55)~~ **fifty-two (52)** years of age.

(d) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to an additional monthly benefit during the spouse's lifetime, equal to the difference between the benefit payable under subsection (b)(2) and the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at ~~fifty-five (55)~~ **fifty-two (52)** years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. For purposes of this subsection, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from:

(1) any action that the member, in the member's capacity as a police officer, is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of controlling or reducing crime or enforcing the criminal law; or

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(2) any action that the member, in the member's capacity as a firefighter, is obligated or authorized by rule, regulation, condition of employment or service, or law to perform while on the scene of an emergency run (including false alarms) or on the way to or from the scene.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 120 as printed January 21, 1998.)

HARRISON, Chairperson

Committee Vote: Yeas 6, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Lawson be added as second author and Senators Dempsey and Randolph be added as coauthors of Senate bill 120.

HARRISON

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 120, 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:

Replace the effective dates in SECTIONS 2 through 7 with "[EFFECTIVE JULY 1, 1999]".

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

"SECTION 1. IC 5-10-8-8.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8.1. (a) This section applies only to the state and former legislators, instead of section 8 of this chapter.

(b) As used in this section, "legislator" means a member of the general assembly.

(c) After June 30, 1988, the state shall provide to each retired legislator:

(1) whose retirement date is after June 30, 1988;

(2) who will have reached fifty-five (55) years of age on or before the legislator's retirement date but who is not participating in a group health insurance coverage plan:

(A) including Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; but

(B) not including a group health insurance plan provided by the state;

(3) who served as a legislator for at least:

(A) fifteen (15) years; and

(B) ten (10) years immediately preceding the legislator's retirement date; and

(4) who participated in a group health insurance plan provided by the state on the legislator's retirement date;

a group health insurance program that is equal to that offered active employees.

(d) A retired legislator who qualifies under subsection (c) may participate in the group health insurance program if the retired legislator:

(1) pays an amount equal to the employer's and employee's premium for the group health insurance for an active employee; and

(2) within ninety (90) days after the legislator's retirement date files a written request for insurance coverage with the employer.

(e) A retired legislator's eligibility to continue insurance under this

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section ends when the member becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program.

(f) A retired legislator who is eligible for insurance coverage under this section may elect to have the legislator's spouse covered under the health insurance program at the time the legislator retires. If a retired legislator's spouse pays the amount the retired legislator would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired legislator **and is not affected by the retired legislator's eligibility for Medicare.** The ~~surviving~~ spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) The date of the spouse's remarriage.

(g) The surviving spouse of a legislator who dies or has died in office may elect to participate in the group health insurance program if all of the following apply:

(1) The deceased legislator would have been eligible to participate in the group health insurance program under this section had the legislator retired on the day of the legislator's death.

(2) The surviving spouse files a written request for insurance coverage with the employer.

(3) The surviving spouse pays an amount equal to the employer's and employee's premium for the group health insurance for an active employee.

(h) The eligibility of the surviving spouse of a legislator to purchase group health insurance under subsection (g) ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) The date of the spouse's remarriage.

(3) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

SECTION 2. IC 5-10.2-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Each member's creditable service, for the purpose of computing benefits under this article, consists of all service in a position covered by a retirement fund plus all other service for which the retirement fund law gives credit.

(b) No member may be required to pay any contributions for service before he is covered by this article as a condition precedent to receiving

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benefits under this article. However, he must furnish proof of the service to the board of the fund under which he claims service.

(c) A member who has past service as an employee of the state or a participating political subdivision in a position which was not covered by the retirement fund is entitled to credit for this service if the position becomes covered before January 1, 1985, by the Indiana state teachers' retirement fund, the public employees' retirement fund, or the retirement fund for the state board of accounts and if he submits proof of the service to the secretary of the fund in which he claims service.

(d) A member who has past service in a position that was not covered by the retirement fund is entitled to credit for this service if the position becomes covered after December 31, 1984, by a fund while he holds that position or another position with the same employer and if he submits proof of the service to the director of the fund in which he claims service.

(e) The proof required by this section must:

(1) be submitted in a form approved by the director;

(2) contain dates and nature of service and other information required by the director; and

(3) be certified by the governing body or its agent.

(f) A member who is a state employee is entitled to service credit for the time the member is receiving disability benefits under a disability plan established under IC 5-10-8-7.

(g) If a participant in the legislators' defined benefit plan does not become entitled to a benefit from that plan, the PERF board or the TRF board shall include the participant's service in the general assembly in the determination of eligibility for, and computation of, benefits under PERF or TRF at the time the participant would be eligible to receive benefits under PERF or TRF. After benefits commence under PERF or TRF with the general assembly service included, the participant's general assembly service may not be used for the computation of benefits under IC 2-3.5-4.

(h) A member may receive service credit for all or a part of the member's creditable service in another governmental retirement plan under IC 5-10.3-7-4.5 and IC 21-6.1-4-4.5. A member may not receive credit for service for which the member receives service credit in another retirement plan maintained by a state, a political subdivision, or an instrumentality of the state for service that PERF or TRF would otherwise give credit.

(i) A member may use all or a part of the member's creditable service under PERF or TRF in another governmental retirement plan under the terms of the other plan. Creditable service used

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under the other governmental retirement plan may not be used in PERF or TRF.

SECTION 3. IC 5-10.2-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. Suspension of Membership. (a) A member who is not eligible for retirement or disability retirement may suspend his membership if he terminates employment. After five (5) continuous years in which he performs no service, his membership shall be automatically suspended by the board unless he is vested status. The board may establish ~~rule~~ **rules** for deferring the effective date of a suspension of membership. The deferral may not be for more than six (6) months.

(b) On resuming service the member may claim as creditable service the period of employment before the suspension of membership, **but only to the extent that the same period of employment is not being used by another governmental plan for purposes of the member's benefit in the other governmental plan.**

SECTION 4. IC 5-10.2-3-7.5, AS AMENDED BY P.L.35-1996, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7.5. (a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

(1) the member dies after March 31, 1990;

(2) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

(3) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (b) or (c).

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

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(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections (e) and (g).

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent is permanently and totally disabled (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly benefit is payable until the date the dependent is no longer disabled (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (e) and (g).

(d) Except as provided in subsections (e) and (h), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the **total** amount credited to the member in the member's annuity savings account **or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986.** A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter **to the extent of the lump sum payment.**

(e) If a member described in subsection (a) or section 7.6(a) of this chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the following

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provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit.

(f) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other

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extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 5. IC 5-10.2-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 6. (a) A member who becomes disabled while ~~in active service~~ **receiving a salary or employer provided income protection benefits or who is on leave under the Family and Medical Leave Act** may retire for the duration of his disability if:

(1) the member has at least five (5) years of creditable service **before the:**

(A) termination of a salary or employer provided income protection benefits or Family and Medical Leave Act leave; or

(B) exhaustion of all worker's compensation benefits;

(2) the member 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 member reaches age sixty-five (65) a representative of the board verifies the continued disability.

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

(b) ~~The month following the date of~~ **Benefits for** disability ~~the member is entitled to receive a benefit under this section.~~ **shall be paid beginning with the month following the onset of disability as determined by the Social Security Administration.** The benefit is the retirement benefit specified in section 4 of this chapter with the pension computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. However, the monthly disability retirement benefit may not be less than one hundred dollars ($100).

(c) The member may have his benefit paid under any of the retirement benefit options specified in section 7 of this chapter, **except that the member may not choose to have the member's disability retirement benefit paid under the method specified under section 7(b)(3) of this chapter.**

(d) This section applies to:

(1) a member of the public employees' retirement fund who

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became disabled after June 30, 1973; and

(2) a member of the Indiana state teachers' retirement fund who becomes disabled after June 30, 1984, and who chooses disability retirement under this section.

(e) To the extent required by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations to the Act, the transcripts, records, and other material compiled to determine the existence of a disability shall be:

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

(2) treated as confidential medical records.

(f) A member may continue to receive disability benefits from the public employees' retirement fund or the Indiana state teachers' retirement fund so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under the Social Security guidelines. However, during a period of trial employment or rehabilitation, service credit may not be granted under the public employees' retirement fund or the Indiana state teachers' retirement fund.

SECTION 6. IC 5-10.3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) The board may:

(1) establish rules and regulations for the administration of the fund;

(2) make contracts and sue and be sued as the board of trustees of the public employees' retirement fund of Indiana;

(3) delegate duties to its employees;

(4) enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired members of the fund, and, upon authorization of the respective member, deduct premium payments for such policies from the members' retirement benefits and remit the payments to the insurance companies;

(5) enter into agreements with one (1) or more insurance companies to provide annuities for retired members of the fund, and, upon a member's authorization, transfer the amount credited to the member in the annuity savings account to the insurance companies;

(6) whenever the fund's membership is sufficiently large for actuarial valuation, establish an employer's contribution rate for all employers, including employers with special benefit provisions for certain employees;

(7) amortize prior service liability over a period of forty (40) years

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or less; and

(8) recover payments made under false or fraudulent representation.

(b) An agreement under subsection (a)(4) may be for a duration of three (3) years.

(c) A contract under subsection (a)(2) may be for a term of not more than five (5) years, with an ability to renew thereafter.

SECTION 7. IC 5-10.3-7-4.5, AS ADDED BY P.L.5-1997, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4.5. (a) As used in this section, "out-of-state service" means service in another state in a comparable position that would be creditable service if performed in Indiana.

(b) Subject to subsections (c) through (f), a member may purchase out-of-state service credit if the member meets the following requirements:

(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(c) Out-of-state years that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) At least ten (10) years of service in Indiana is required before a member may receive a benefit based on out-of-state service credits.

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(e) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(f) The following apply to the purchase of service credit under this section:

~~(1) A member may purchase service credit not later than:~~

~~(A) July 1, 1998; or~~

~~(B) four (4) years after the member becomes eligible to purchase the service credit;~~

~~whichever is later.~~

~~(2)~~ **(1)** The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

~~(3)~~ **(2)** The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

~~(4)~~ **(3)** A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 8. IC 5-10.3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. The following employees may not be members of the fund:

(1) Officials of a political subdivision elected by vote of the people, unless the governing body specifically provides for the participation of locally elected officials.

(2) Employees occupying positions normally requiring performance of service of less than six hundred (600) hours during a year who:

(A) were hired before July 1, 1982; or

(B) are employed by a participating school corporation.

(3) Independent contractors or officers or employees paid wholly on a fee basis.

(4) **Except as provided in section 4.2 of this chapter**, employees who occupy positions that are covered by other pension or retirement funds or plans, maintained in whole or in part by

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appropriations by the state or a political subdivision, except:

(A) the federal Social Security program; and

(B) the prosecuting attorneys retirement fund created by IC 33-14-9.

(5) Managers or employees of a license branch of the bureau of motor vehicles commission, except those persons who may be included as members under IC 9-16-4.

(6) Employees, except employees of a participating school corporation, hired after June 30, 1982, occupying positions normally requiring performance of service of less than one thousand (1,000) hours during a year.

(7) Persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are covered by the federal Social Security program as federal employees under 42 U.S.C. 410.

(8) Members and employees of the state lottery commission.

SECTION 9. IC 5-10.3-7-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 4.2. (a) As used in this section, "police officers' or firefighters' fund" includes the 1925 fund established by IC 36-8-6, the 1937 fund established by IC 36-8-7, the 1953 fund established by IC 36-8-7.5, and the 1977 fund established by IC 36-8-8.**

(b) This section applies to an individual who:

(1) began service as a police officer or firefighter and became a member of a police officers' or firefighters' fund before 1980;

(2) began service in another position (referred to in this section as the "PERF position") and was enrolled erroneously as a contributing member of the public employees' retirement fund with respect to the PERF position before 1980;

(3) made contributions to the public employees' retirement fund with respect to the PERF position as if the individual had been legally enrolled in that fund; and

(4) after 1991 was denied service credit in the public employees' retirement fund with respect to all or part of the individual's service in the PERF position because of the individual's service in the police officer or firefighter position described in subdivision (1).

(c) Notwithstanding section 2(4) of this chapter, an individual

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described in subsection (b) may elect to claim service credit in the public employees' retirement fund with respect to all of the individual's service in the PERF position if:

(1) the individual pays into the public employees' retirement fund an amount equal to:

(A) any amount refunded to the individual as a result of the denial of service credit; and

(B) any additional amount that the individual would have contributed with respect to the PERF position if the individual had been a member of the public employees' retirement fund during the period for which service credit has been denied;

(2) the individual agrees to continue making contributions to the public employees' retirement fund with respect to the PERF position as required by this article for continuing service, if any, in the PERF position;

(3) the unit that employed the individual in the PERF position agrees to pay into the public employees' retirement fund an amount equal to:

(A) any amount refunded or credited to the employer as a result of the denial of service credit with respect to the individual's service in the PERF position; and

(B) any additional amount that the employer would have contributed with respect to the individual's service in the PERF position if the individual had been a member of that fund during the period for which service credit has been denied; and

(4) the unit that employed the individual in the PERF position agrees to continue making contributions to the public employees' retirement fund with respect to the PERF position as required by this article for continuing service, if any, by the individual in the PERF position.

(d) An individual is entitled to membership in the public employees' retirement fund and service credit in that fund for all service in the PERF position if:

(1) the individual makes the election permitted by subsection (c);

(2) the individual makes the contributions required by subsection (c)(1) and (c)(2);

(3) the unit that employed the individual in the PERF position makes the contributions required by subsection (c)(3) and (c)(4); and

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(4) the individual meets all other requirements of this article for membership in the public employees' retirement fund with respect to the PERF position.

However, the individual is not entitled to service credit or benefits under the public employees' retirement fund with respect to any service in a police officer or firefighter position described in subsection (b)(1).

(e) The board of trustees of the public employees' retirement fund may allow:

(1) an individual who is entitled to service credit under this section; and

(2) the unit that employed the individual in the PERF position;

to make periodic payments of the contributions required for the purchase of service credit under this section. The board shall determine the length of the period during which the payments must be made.

SECTION 10. IC 21-6.1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) The board may:

(1) adopt and enforce bylaws regarding the department's administration and the control and investment of the fund;

(2) employ staff, who are not trustees, to perform clerical work needed by the board;

(3) bond employees for the fund's protection;

(4) receive from the federal government the state's share of the cost of the pension contribution for a member on leave of absence to work in a federally supported educational project;

(5) sue and be sued as the board of trustees of the Indiana state teachers' retirement fund;

(6) summon and examine witnesses when adjusting claims;

(7) require, when adjusting disability claims, medical examinations by doctors approved or appointed by the board; however, not more than two (2) examinations may be conducted in one (1) year;

(8) conduct investigations to help determine the merit of a claim;

(9) meet any emergency which may arise in the administration of its trust;

(10) determine other matters regarding its trust which are not specified;

(11) enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, or supplemental Medicare insurance, utilizing individual or group

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insurance policies for retired teachers, and, upon authorization of the respective retired teacher, deduct premium payments for such policies from the teachers' retirement benefits and remit the payments to the insurance companies; and

(12) enter into agreements with one (1) or more insurance companies to provide annuities for retired teachers and upon a member's authorization transfer the amount credited to the member in the annuity savings account to the insurance companies.

(b) An agreement under subsection (a)(11) may be for a duration of three (3) years.

(c) This subsection does not apply to an agreement under subsection (a)(11). A contract that the board enters into under section 9(b) of this chapter or any other provision may be for a term of not more than five (5) years, with an ability to renew thereafter.

SECTION 11. IC 21-6.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) The members of the fund include:

(1) legally qualified and regularly employed teachers in the public schools;

(2) persons employed by a governing body, who were qualified before their election or appointment;

(3) legally qualified and regularly employed teachers at Ball State University, Indiana State University, University of Southern Indiana, or Vincennes University;

(4) legally qualified and regularly employed teachers in a state educational institution supported wholly by public money and whose teachers devote their entire time to teaching;

(5) legally qualified and regularly employed teachers in state benevolent, charitable, or correctional institutions;

(6) legally qualified and regularly employed teachers in an experimental school in a state university who teach elementary or high school students;

(7) as determined by the board, certain instructors serving in a university extension division not covered by a state retirement law;

(8) employees and officers of the department of education and of the fund who were qualified before their election or appointment; and

(9) a person:

(A) who is employed as a nurse appointed under IC 20-8.1-7-5

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by a school corporation located in a city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000); and

(B) who participated in the fund before December 31, 1991, in the position described in clause (A).

(b) Teachers in any state institution who accept the benefits of a state supported retirement benefit system comparable to the fund's benefits may not come under the fund unless permitted by law or the rules of the board.

(c) The members of the fund do not include substitute teachers who have not obtained an associate degree or a baccalaureate degree.

SECTION 12. IC 21-6.1-4-4.5, AS AMENDED BY P.L.25-1994, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4.5. (a) "Out-of-state service" means service in any state in a comparable position which would be creditable service if performed in Indiana. The term includes comparable service performed on a United States military installation, in a federal prison, or at an educational facility operated or supervised by the Bureau of Indian Affairs.

(b) In computing the service credit for each member who began teaching in Indiana before July 1, 1981, and who has served as a public school teacher out of state, the board may include the greater of eight (8) years or one (1) year of out-of-state service for every four (4) years of in-state service; however, this out-of-state service may be included only if rendered before July 1, 1981.

(c) In addition, a member may purchase out-of-state service credit which has not been claimed under subsection (b) ~~of this section,~~ subject to the limitations of subsections (d) and (e) ~~of this section,~~ if he:

(1) has at least one (1) year of creditable service in the teachers' retirement fund;

(2) makes contributions, before he retires, to the teachers' retirement fund:

(A) which are equal to the product of the following:

(i) the member's salary when the member first becomes a member of the teachers' retirement fund, for service credit purchased before January 1, 1994, or the member's salary at the time the member actually makes a contribution for the service credit, for service credit purchased after December 31, 1993;

(ii) normal cost, as determined by the actuary of the teachers' retirement fund (For purposes of this chapter, "normal cost"

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means the value of the annual amount required to fund the prospective benefits promised an employee for the work he has performed.) for service credit purchased before January 1, 1994, or a percentage rate, as determined by the actuary of the teachers' retirement fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased, for service credit purchased after December 31, 1993; and

(iii) the number of years of out-of-state service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary for the teachers' retirement fund, for the period from the member's initial membership in the teachers' retirement fund to the date payment is made by the member; and

(3) has received verification from the teachers' retirement fund that the out-of-state service is, as of that date, valid.

(d) Out-of-state years which qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(e) After April 1, 1965, at least ten (10) years of in-state service is required before a member may claim any out-of-state service credits.

(f) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting a properly completed application for a refund to the teachers' retirement fund.

(g) The following apply to the purchase of service credit under this section after July 1, ~~1993:~~ **1998:**

~~(1) A member may purchase service credit not later than the later of:~~

~~(A) July 1, 1998; or~~

~~(B) four (4) years after the member becomes eligible to purchase the service credit.~~

~~(2)~~ **(1)** The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit.

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The board shall determine the length of the period during which the payments must be made.

~~(3)~~ **(2)** The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

~~(4)~~ **(3)** A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

(h) Contributions received after July 1, 1993, for the purchase of service credit under this section must be applied against the unfunded accrued liability of the fund.

SECTION 13. IC 21-6.1-4-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 4.6. (a) As used in this section, "substitute teaching service" means service in Indiana as a substitute teacher that is not covered under section 1(c) of this chapter, but is served by a person who has other service that is covered under section 1(a) of this chapter.**

(b) A member may purchase substitute teaching service if:

(1) the member has at least one (1) year of creditable service in the fund;

(2) the member makes contributions, before the member retires, to the fund:

(A) that are equal to the product of the following:

(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of substitute teaching service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member; and

(3) the fund receives verification from the school corporation that the substitute teaching service occurred.

(c) Service for years of substitute teaching that qualify a

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member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 14. IC 21-6.1-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) On or before January 15, April 15, July 15, and October 15 of each year, the treasurer of each school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make an employer report **as provided in section 8 of this chapter,** on a form furnished by the board, to the board and accompany it with a warrant in payment of:

(1) total net contributions made for or by the members in the preceding three (3) months for the fund; and

(2) employer contributions as required by section 12 of this chapter.

Amendatory reports to correct errors or omissions may be required and made.

(b) As used in this section, "net contributions" means the gross amount of a member's contributions minus any refund paid or due a teacher.

SECTION 15. IC 21-6.1-7-8 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) ~~Before or on July 31~~ **On or before January 15, April 15, July 15, and October 15** of each year, the treasurer of each school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make a report to the board on a form furnished by the board **and within the time set by the board.** Amendatory reports to correct errors or omissions may be required and made.

(b) The report required by subsection (a) must include:

(1) the name of each member employed in the preceding ~~school year,~~ **reporting period,** except substitute teachers; ~~employed without a contract;~~

(2) the total salary and other compensation paid for personal services to each member in the ~~school year;~~ **reporting period;**

(3) the sum of contributions made for or by each member and the sum of employer contributions made by the school corporation or other institution;

(4) the number of days each member received salary or other compensation for teaching services; ~~under contract;~~ and

(5) any other information which the board finds necessary for the effective management of the fund.

(c) As often as the board determines necessary, the board may review or cause to be reviewed the pertinent records of any public entity contributing to the fund under IC 21-6.1.

SECTION 16. IC 21-6.1-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. If the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund fails to make the reports **and payments** as required in section 7 or 8 of this chapter:

(1) the officer has an additional thirty (30) days to make the reports and payments without a penalty;

(2) after thirty (30) days have passed since the deadlines required under section 7 or 8 of this chapter, the board may fine the school corporation or institution that the officer serves one hundred dollars ($100) for each additional day that the reports and payments are late; and

(3) if the officer is habitually late as determined by the board, the school corporation or institution which that officer serves is ineligible to receive any distribution of money from the state for school purposes until the reports and payments are received and approved by the board.

SECTION 17. IC 36-8-8-1, AS AMENDED BY P.L.43-1997, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996; and

(4) a park ranger who:

(A) completed at least ~~twelve (12)~~ **the number of** weeks of training at the Indiana law enforcement academy **that were required at the time the park ranger attended the Indiana law enforcement academy;**

(B) graduated from the Indiana law enforcement academy; and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

except as provided by section 7 of this chapter.

SECTION 18. IC 36-8-8-7, AS AMENDED BY P.L.43-1997, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), and (h):

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires him chooses to contribute to the 1977 fund the amount necessary to amortize his prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for his prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is

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entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if he:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if he:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if he:

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, he is entitled to receive credit for all his years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's

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jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least ~~twelve (12)~~ **the number of** weeks of training at the Indiana law enforcement academy **that were required at the time the park ranger attended the Indiana law enforcement academy;**

(2) graduated from the Indiana law enforcement academy; and

(3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.".

Page 4, after line 42, begin a new paragraph and insert:

"SECTION 23. IC 36-8-8-12.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12.7. (a) This section applies to hearings conducted by local boards concerning determinations of impairment under this chapter or of disability under IC 36-8-5-2(g), IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

(b) At least five (5) days before the hearing, the local board shall give notice to the fund member and the safety board of the time, date, and place of the hearing.

(c) At the hearing, the local board shall permit the fund member and the safety board to:

(1) be represented by any individual;

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(2) through witnesses and documents, present evidence;
(3) conduct cross-examination; and
(4) present arguments.

(d) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board.

(e) The local board shall, at the request of the fund member or the safety board, issue:
(1) subpoenas;
(2) discovery orders; and
(3) protective orders;
in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(f) The local board shall have the hearing recorded so that a transcript may be made of the proceedings.

(g) After the hearing, the local board shall make its determinations, including findings of fact, in writing and shall provide copies of its determinations to the fund member and the safety board.

(h) The local board may on its own motion issue:
(1) subpoenas;
(2) discovery orders; and
(3) protective orders;
in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(i) At the hearing, the local board may exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on the basis of evidentiary privilege recognized by the courts.

(j) At the hearing, the local board may request the testimony of witnesses and the production of documents.

(k) If a subpoena or order is issued under this section, the party seeking the subpoena or order shall serve it in accordance with the Indiana Rules of Trial Procedure. However, if the subpoena or order is on the local board's own motion, the sheriff of the county in which the subpoena or order is to be served shall serve it. A subpoena or order under this section may be enforced in the circuit or superior court of the county in which the subpoena or order is served.

(l) With respect to a hearing conducted for purposes of determining disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5, the determination of the local board after a hearing is final and may be appealed to the court.

(m) With respect to a hearing conducted for purposes of determining impairment **or class of impairment** under this chapter, the

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fund member may appeal the local board's determinations. ~~if the local board determines that a covered impairment does not exist.~~ An appeal under this subsection:

(1) must be made in writing;

(2) must state the class of impairment and the degree of impairment that is claimed by the fund member;

(3) must include a written determination by the chief of the police or fire department stating that there is no suitable and available work; and

(4) must be filed with the local board and the PERF board's director no later than thirty (30) days after the date on which the fund member received a copy of the local board's determinations.

(n) To the extent required by the Americans with Disabilities Act, the transcripts, records, reports, and other materials generated as a result of a hearing, review, or appeal conducted to determine an impairment under this chapter or a disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5 must be:

(1) retained in the separate medical file created for the member; and

(2) treated as a confidential medical record.".

Page 11, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 27. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board" refers to the board of trustees of the public employees' retirement fund.**

(b) Before November 1, 1998, the board shall do the following:

(1) Effective January 1, 1999, remove park rangers described in IC 36-8-8-1(4), as amended by this act, from membership in the public employees' retirement fund.

(2) For a park ranger described in IC 36-8-8-1(4), as amended by this act, credit to the 1977 fund the amount of contributions that:

(A) the park ranger has made to the public employees' retirement fund; and

(B) the employer of the park ranger has made to the public employees' retirement fund on behalf of the park ranger.

(c) If a park ranger described in IC 36-8-8-1(4), as amended by this act, becomes a participant in the 1977 fund, credit for prior service before the date of participation or membership may be given by the board only if the following occur:

(1) The amount the park ranger would have contributed if the park ranger had been a member of the 1977 fund during the park ranger's prior service is:

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(A) fully paid; and

(B) based on the park ranger's actual salary earned during that period.

However, the board may accept payment over a period not greater than five (5) years at a rate of interest determined by the board.

(2) If the park ranger has prior service in the 1977 fund, the unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over not more than ten (10) years.

(d) If a park ranger becomes a participant in the 1977 fund, the following provisions apply:

(1) A minimum benefit applies to a park ranger who transfers to the 1977 fund from the public employees' retirement fund. The minimum benefit for such a member, payable at fifty-five (55) years of age, equals the actuarial equivalent of the vested retirement benefit payable to the member upon normal retirement under IC 5-10.2-4-1 as of the day before the transfer, based solely on:

(A) creditable service; and

(B) the average of the annual compensation;

of the transferring member as of the day before the transfer.

(2) The board shall transfer from the public employees' retirement fund to the 1977 fund the present value of the retirement benefits payable at sixty-five (65) years of age attributable to the transferring member.

(3) The amount the member and the unit must contribute to the 1977 fund shall be reduced by the amounts transferred to the 1977 fund by the board under subdivision (2).

(4) Credit for prior service in the public employees' retirement fund of a member as a park ranger is waived in the public employees' retirement fund. Any credit for that service under the 1977 fund shall be given only in accordance with subsection (c).

(5) Credit for prior service in the public employees' retirement fund of a member, other than as a park ranger, remains in the public employees' retirement fund and may not be credited under the 1977 fund.

(e) A park ranger described in IC 36-8-8-1(4), as amended by this act, shall be treated as having been a member of the appropriate fund from the date of employment for all purposes, including the calculation of benefits and eligibility for benefits.

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(f) This SECTION expires July 1, 1998.

SECTION 28. [EFFECTIVE UPON PASSAGE] **(a) The pension management oversight commission established by IC 2-5-12 shall study the creation of a pension system for town marshals to be effective July 1, 1999.**

(b) The pension management oversight commission shall make recommendations to the general assembly before November 2, 1998, concerning the results of the study described in subsection (a).

(c) This SECTION expires December 31, 1998.

SECTION 29. [EFFECTIVE APRIL 1, 1998] **The PERF board (as defined in IC 2-3.5-2-9) may consider a claim for benefits under IC 5-10.2-4-6(a), as amended by this act, even if the disability of the member making the claim arose from events occurring after March 31, 1994, and before April 2, 1998. A benefit claim approved by the PERF board under this SECTION is payable after the later of April 1, 1998, or the date of the member's claim.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 120 as printed January 30, 1998.)

BAUER, Chair

Committee Vote: yeas 18, nays 5.

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