
ENGROSSED HOUSE BILL No. 1162

DIGEST OF HB 1162 (Updated February 23, 1998 8:41 pm - DI 73)

Citations Affected: IC 5-10; IC 36-8.

Synopsis: Police, firefighters, and public safety officers' death benefits. Increases the death benefit from \$6,000 to \$9,000 for members of the 1925 police pension fund, the 1937 firefighters' pension fund, the 1953 police pension fund, and the 1977 police officers' and firefighters' pension and disability fund who die after December 31, 1998. Increases the line of duty death benefit from \$75,000 to \$150,000 for members of the 1925 police pension fund, the 1937 firefighters' pension fund, the 1953 police pension fund, and the 1977 police officers' and firefighters' pension and disability fund who die after December 31, 1997. Increases the line of duty death benefit paid from the state special death benefit fund to state police officers, county sheriffs, county police officers, correctional officers, excise police officers, county police reserve officers, city police reserve officers, conservation enforcement officers, town marshals, deputy town marshals, and state university police officers from \$75,000 to \$150,000 who die after December 31, 1997.
(Continued next page)

Effective: See text of bill.

T. Adams

(SENATE SPONSORS — CRAYCRAFT, HARRISON)

January 8, 1998, read first time and referred to Committee on Ways and Means.
January 27, 1998, amended, reported — Do Pass.
February 2, 1998, read second time, ordered engrossed. Engrossed.
February 3, 1998, read third time, passed. Yeas 99, nays 0.

SENATE ACTION

February 9, 1998, read first time and referred to Committee on Pensions and Labor.
February 19, 1998, amended, reported favorably — Do Pass.
February 23, 1998, read second time, amended, ordered engrossed.

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Provides that for certain members of the 1977 fund, credit will be given in the 1977 fund for one-third of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.

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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.

HOUSE ENROLLED ACT No. 1162

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 5-10-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:
Sec. 6. (a) Except as provided in subsection (b), a special death benefit of seventy-five thousand dollars (\$75,000) **for a public safety officer who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars (\$150,000) for a public safety officer who dies in the line of duty after December 31, 1997**, shall be paid in a lump sum from the fund to the following relative of a public safety officer who dies in the line of duty:

- (1) To the surviving spouse.
- (2) If there is no surviving spouse, to the surviving children (to be shared equally).
- (3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(b) If the fund would be reduced below two hundred fifty thousand dollars (\$250,000) by payment in full of all claims that become final in any month, the board shall proceed as follows:

- (1) The board shall suspend payment of the claims that become final during that month and the following two (2) months.

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(2) At the end of the suspension period, the board shall pay all suspended claims. If the fund would be exhausted by payment in full of all suspended claims, the amount paid to each claimant shall be prorated.

SECTION 2. IC 36-8-6-9.8, AS AMENDED BY P.L.40-1997, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 9.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1925 fund shall be used to pay funeral benefits to the heirs or estate of an active or a retired member of the police department who has died from any cause, in an amount fixed by ordinance, but at least:

- (1) one thousand five hundred dollars (\$1,500) for a member who dies before September 1, 1984;
- (2) three thousand dollars (\$3,000) for a member who dies after August 31, 1984, and before July 1, 1994; ~~and~~
- (3) six thousand dollars (\$6,000) for a member who dies after June 30, 1994, **and before January 1, 1999; and**
- (4) nine thousand dollars (\$9,000) for a member who dies after December 31, 1998.**

(c) In addition, a payment shall be made to the surviving spouse of a deceased member, in an amount fixed by ordinance, but at least the following:

- (1) To the surviving spouse of a member who dies before January 1, 1989, an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. 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.
- (2) To the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to the greater of:
 - (A) thirty percent (30%) of the monthly pay of a first class patrolman; or
 - (B) 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.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under clause (B), the member's benefit shall be considered to be fifty percent

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(50%) of the monthly salary of a first class patrolman. The amount provided for in this subdivision is subject to adjustment as provided in subsection (f).

(d) A payment shall also be made to each child of a deceased member under the age of eighteen (18) years, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

- (1) until the child reaches the age of eighteen (18);
- (2) 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; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (c) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (d) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of his death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances makes this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased.

SECTION 3. IC 36-8-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:
 Sec. 20. **(a) As used in this section, "dies in the line of duty" has the meaning set forth in section 10.1 of this chapter.**

~~(a)~~ **(b) A special death benefit of seventy-five thousand dollars (\$75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars (\$150,000) for a fund member who dies in the line of duty after December 31,**



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1997, shall be paid in a lump sum by the public employees' retirement fund from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty: ~~(as defined in section 10.1 of this chapter):~~

- (1) To the surviving spouse.
- (2) If there is no surviving spouse, to the surviving children (to be shared equally).
- (3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

~~(b)~~ (c) The benefit provided by this section is in addition to any other benefits provided under this chapter.

SECTION 4. IC 36-8-7-13, AS AMENDED BY P.L.169-1994, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 13. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) Upon the death of a disabled, retired, or discharged member of the fire department who was receiving or entitled to receive a pension at the time of his death, or upon the death of a member in active service at the time of his death, the local board shall authorize and pay out of the 1937 fund at least:

- (1) one thousand five hundred dollars (\$1,500) for a member who dies before September 1, 1984;
- (2) three thousand dollars (\$3,000) for a member who dies after August 31, 1984, and before July 1, 1994; ~~and~~
- (3) six thousand dollars (\$6,000) for a member who dies after June 30, 1994, **and before January 1, 1999; and**
- (4) nine thousand dollars (\$9,000) for a member who dies after December 31, 1998;**

as death benefits.

(c) The death benefit described under this section shall be paid to the following:

- (1) to the surviving spouse;
- (2) if there is no surviving spouse, to the surviving children; and
- (3) if there is no surviving spouse, and if there are no surviving children, to the estate;

of the deceased member and is in addition to other benefits paid to a member or survivor under this chapter.

SECTION 5. IC 36-8-7-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 26. (a) **As used in this section, "dies in the line of duty" has the meaning set forth in section 12.1 of this chapter.**

~~(a)~~ (b) A special death benefit of seventy-five thousand dollars

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(\$75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars (\$150,000) for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the public employees' retirement fund from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty: ~~(as defined in section 12.1 of this chapter):~~

- (1) To the surviving spouse.
- (2) If there is no surviving spouse, to the surviving children (to be shared equally).
- (3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

~~(b)~~ (c) The benefit provided by this section is in addition to any other benefits provided under this chapter.

SECTION 6. IC 36-8-7.5-13.8, AS AMENDED BY P.L.40-1997, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 13.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to pay to the beneficiary or estate of a member of the fund, active or retired, who:

- (1) dies from any cause after having served for one (1) year or more as an active member of the police department; or
- (2) dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department;

fifteen hundred dollars (\$1,500) for a member who died before September 1, 1984, three thousand dollars (\$3,000) for a member who dies after August 31, 1984, and before July 1, 1994, ~~and~~ six thousand dollars (\$6,000) for a member who dies after June 30, 1994, ~~and~~ **before January 1, 1999, and nine thousand dollars (\$9,000) for a member who dies after December 31, 1998.** Any member of the fund may name a beneficiary to receive the amount provided for upon his death by designating in writing in such form as is prescribed by the local board and delivered to the board. The beneficiary may be changed from time to time by the member by canceling the designation and delivering a new designation to the local board. If the member makes no designation of beneficiary, the sum provided for shall be paid to the member's estate.

(c) In addition, the 1953 fund shall be used to pay an annuity, computed under subsection (h) and payable in monthly installments, to the surviving spouse of a member of the fund who:

- (1) dies from any cause after having served for one (1) year or



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more; or

(2) dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department.

The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department died in the line of duty and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause after having served for one (1) year or more as an active member of the police department or dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department. The pension to each child continues:

- (1) until the child attains the age of eighteen (18) years;
- (2) until the child becomes 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; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (d) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who:

- (1) dies from any cause after having served for one (1) year or more as an active member of the police department; or

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(2) dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department.

The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased.

(h) The annuity payable under subsection (c) equals one (1) of the following:

(1) For the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a first class patrolman.

(2) For the surviving spouse of a member who dies after December 31, 1988, an amount per month during the spouse's life equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

(B) 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.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under clause (B) the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided for in this subdivision is subject to adjustment as provided in subsection (g).

SECTION 7. IC 36-8-7.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:
Sec. 22. (a) **As used in this section, "dies in the line of duty" has the meaning set forth in section 14.1 of this chapter.**

(a) **(b) A special death benefit of seventy-five thousand dollars (\$75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars (\$150,000)**

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for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the public employees' retirement fund from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty: ~~(as defined in section 14.1 of this chapter):~~

- (1) To the surviving spouse.
- (2) If there is no surviving spouse, to the surviving children (to be shared equally).
- (3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

~~(b)~~ (c) The benefit provided by this section is in addition to any other benefits provided under this chapter.

SECTION 8. IC 36-8-8-16, AS AMENDED BY P.L.169-1994, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 16. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) The heirs or estate of a fund member is entitled to receive at least:

- (1) one thousand five hundred dollars (\$1,500) upon the fund member's death before September 1, 1984;
- (2) three thousand dollars (\$3,000) upon the fund member's death after August 31, 1984, and before July 1, 1994; ~~and~~
- (3) six thousand dollars (\$6,000) upon the fund member's death after June 30, 1994, **and before January 1, 1999; and**
- (4) **nine thousand dollars (\$9,000) upon the fund member's death after December 31, 1998.**

SECTION 9. IC 36-8-8-18, AS AMENDED BY SEA 190-1998, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 18. (a) Except as provided in subsection (b), if a unit becomes a participant in the 1977 fund, credit for prior service by police officers (including prior service as a full-time, fully paid town marshal or full-time, fully paid deputy town marshal by a police officer employed by a metropolitan board of police commissioners) or by firefighters before the date of participation may be given by the PERF board only if:

- (1) the unit contributes to the 1977 fund the amount necessary to amortize prior service liability over a period of not more than forty (40) years, the amount and period to be determined by the PERF board; and
- (2) the police officers or firefighters pay, either in a lump sum or in a series of payments determined by the PERF board, the amount that they would have contributed if they had been



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members of the 1977 fund during their prior service.

If the requirements of subdivisions (1) and (2) are not met, a fund member is entitled to credit only for years of service after the date of participation.

(b) If a unit becomes a participant in the 1977 fund under section 3(c) of this chapter, or if a firefighter becomes a member of the 1977 fund under section 7(g) of this chapter, credit for prior service before the date of participation or membership ~~may~~ **shall** be given by the PERF board ~~only if the following requirements are met:~~ **as follows:**

(1) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.

(2) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, such prior service shall be given only if:

(†) (A) The unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a period of not more than ten (10) years. The amount of contributions must be based on the actual salary earned by a first class firefighter at the time the unit becomes a participant in the 1977 fund, or the firefighter becomes a member of the 1977 fund, or if no such salary designation exists, the actual salary earned by the firefighter. However, credit for prior service is limited to the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter reaches ~~fifty-five (55) years of age:~~ **the earliest retirement age under the 1977 fund at the time of the member's date of participation in the 1977 fund.** The limit on credit for prior service does not apply if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to



full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter.

~~(2)~~ **(B)** The amount the firefighter would have contributed if the firefighter had been a member of the 1977 fund during the firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section.

~~(3)~~ **(C)** Any amortization schedule for contributions paid under ~~subdivision (1)~~ **clause (A)** and contributions to be paid under ~~subdivision (2)~~ **clause (B)** must include interest at a rate determined by the PERF board.

(c) This subsection applies to a unit that:

- (1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and
- (2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes fifty-five (55) years of age, whichever is less.

(d) The unit shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection (c), amortized over a period not to exceed ten (10) years with interest at a rate determined by the PERF board.

(e) If the township or municipality has accumulated money in its 1937 fund, any amount accumulated that exceeds the present value of all projected future benefits from the 1937 plan shall be paid by the township or municipality to the unit for the sole purpose of making the contributions determined in subsection (d).

SECTION 10. IC 36-8-8-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:
Sec. 20. (a) As used in this section, "dies in the line of duty" has the meaning set forth in section 14.1 of this chapter.

~~(a)~~ **(b)** Benefits paid under this section are subject to section 2.5 of this chapter.

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~~(b)~~ (c) A special death benefit of seventy-five thousand dollars (\$75,000) **for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars (\$150,000) for a fund member who dies in the line of duty after December 31, 1997**, shall be paid in a lump sum by the public employees' retirement fund from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty: ~~(as defined in section 14.1 of this chapter):~~

- (1) To the surviving spouse.
- (2) If there is no surviving spouse, to the surviving children (to be shared equally).
- (3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

~~(c)~~ (d) The benefit provided by this section is in addition to any other benefits provided under this chapter.

SECTION 11. An emergency is declared for this act.

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