

# SENATE BILL No. 43

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-13-8-2.

**Synopsis:** Pension benefits of magistrates. Includes full-time magistrates in the definition of judge for purposes of the judges' retirement fund. Removes full-time magistrates from the public employees' retirement fund. (Current law provides that full-time magistrates are covered by the public employees' retirement fund.)

**Effective:** Upon passage; July 1, 1998.

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Randolph

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January 6, 1998, read first time and referred to Committee on Pensions and Labor.

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Introduced

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.

## SENATE BILL No. 43

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

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

1 SECTION 1. IC 33-13-8-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. The following words  
3 and phrases as used in this chapter, unless different meanings are plainly  
4 indicated by their context, shall have the following respective meanings:  
5 "Americans with Disabilities Act" refers to the Americans with  
6 Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and  
7 regulations related to the Act.  
8 "His" and "widow" means "her" and "widower" in the event the  
9 participant is a woman.  
10 "Fund" means the Indiana judges' retirement fund, the fund created by  
11 this chapter.  
12 "Board" means the board of trustees of the public employees'  
13 retirement fund.  
14 "Employer" means the state of Indiana.  
15 "Judge" means any person who has served, is serving, or shall serve  
16 as a regular judge **or full-time magistrate** of any of the following courts:  
17 Supreme court of the state of Indiana.

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- 1 Court of appeals of the state of Indiana.  
 2 Circuit court of any judicial circuit.  
 3 Superior court of any county or counties.  
 4 Criminal court of any county having a separate criminal court.  
 5 Probate court of any county having a separate probate court.  
 6 Juvenile court of any county having a separate juvenile court.  
 7 Municipal court of any county.  
 8 County court of any county or counties.  
 9 "Participant" means any judge participating in the fund.  
 10 "Services" means the period beginning on the first day upon which any  
 11 person first became a judge, whether such date is prior or subsequent to  
 12 March 11, 1953, and ending on the date under consideration, including all  
 13 intervening employment as a judge, following resignation or expiration of  
 14 any term of election or appointment. Services in any fraction of a month  
 15 shall be considered as a month of service. However, no more than one (1)  
 16 month shall be credited for services in any one (1) calendar month. If a  
 17 judge is elected or appointed and serves one (1) or more terms or part of  
 18 a term, then retires from office, but at a later period, or periods, is  
 19 appointed or elected and serves as judge, the judge shall pay into said fund  
 20 during all the periods served as judge, except as otherwise provided in this  
 21 chapter, whether said periods be a connected period or disconnected  
 22 period, but shall not be required to pay into said fund at any time when the  
 23 judge is not serving as judge, or during any period of service as a senior  
 24 judge under IC 33-4-8, except as otherwise provided in this chapter.  
 25 "Fiscal year" means the period beginning on July 1, in any year, and  
 26 ending on June 30 of the succeeding year.  
 27 "Salary" means the total salary paid to any participant by the state of  
 28 Indiana and by a county or counties, determined without regard to any  
 29 salary reduction agreement established under Section 125 of the Internal  
 30 Revenue Code.  
 31 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this  
 32 SECTION, "board" refers to the board of trustees of the public  
 33 employees' retirement fund.  
 34 (b) Before July 1, 1998, the board shall do the following:  
 35 (1) Effective July 1, 1998, remove full-time magistrates from  
 36 membership in the public employees' retirement fund.  
 37 (2) For a full-time magistrate, credit to the judges' retirement  
 38 fund the amount of contributions that:  
 39 (A) the magistrate has made to the public employees'  
 40 retirement fund; and  
 41 (B) the employer of the magistrate has made to the public  
 42 employees' retirement fund on behalf of the full-time



1                   magistrate.

2           (c) When a full-time magistrate becomes a participant in the  
3 judges' retirement fund, credit for prior service before the date of  
4 participation or membership may be given by the board only if the  
5 amount the full-time magistrate would have contributed if the  
6 magistrate had been a member of the judges' retirement fund during  
7 the magistrate's prior service is:

8                   (1) fully paid; and

9                   (2) based on the magistrate's actual salary earned during that  
10 period.

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

13           (d) When a full-time magistrate becomes a participant in the  
14 judges' retirement fund, the following provisions apply:

15                   (1) A minimum benefit applies to a full-time magistrate who  
16 transfers to the judges' retirement fund from the public  
17 employees' retirement fund. The minimum benefit, payable at  
18 sixty-two (62) years of age, for such a member equals the  
19 actuarial equivalent of the vested retirement benefit payable to  
20 the member upon normal retirement under IC 5-10.2-4-1 as of  
21 the day before the transfer, based solely on:

22                           (A) creditable service; and

23                           (B) the average of the annual compensation;  
24 of the transferring member as of the day before the transfer.

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

29                   (3) The amount the member must contribute to the judges'  
30 retirement fund will be reduced by the amounts transferred to  
31 the judges' retirement fund by the board under subdivision (2).

32                   (4) Credit for prior service in the public employees' retirement  
33 fund of a member as a full-time magistrate is waived in the  
34 public employees' retirement fund. Any credit for that service  
35 under the judges' retirement fund shall be given only in  
36 accordance with subsection (c).

37                   (5) Credit for prior service in the public employees' retirement  
38 fund of a member, other than as a full-time magistrate, remains  
39 in the public employees' retirement fund and may not be  
40 credited under the judges' retirement fund.

41           (e) A full-time magistrate shall be treated as having been a  
42 member of the judges' retirement fund from the date of employment



1     **for all purposes, including the calculation of benefits and eligibility**  
2     **for benefits.**

3         **(f) This SECTION expires July 1, 1999.**

4         **SECTION 3. [EFFECTIVE JULY 1, 1998] IC 33-13-8-2, as**  
5     **amended by this act, applies to a person serving as a full-time**  
6     **magistrate on and after June 30, 1998.**

7         **SECTION 4. An emergency is declared for this act.**

