

SENATE BILL No. 274

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Police and firefighters' survivors benefits. Increases the minimum survivor's benefit for surviving spouses of deceased members of the 1925 police pension fund, the 1937 firefighters' pension fund, and the 1953 police pension fund. Provides that the minimum survivor's benefit is increased over four years from 30% of the salary of a first class officer to 50% of the salary of a first class officer.

Effective: January 1, 1999.

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January 7, 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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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SENATE BILL No. 274

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

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

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

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

8 (1) one thousand five hundred dollars (\$1,500) for a member who
9 dies before September 1, 1984;

10 (2) three thousand dollars (\$3,000) for a member who dies after
11 August 31, 1984, and before July 1, 1994; and

12 (3) six thousand dollars (\$6,000) for a member who dies after
13 June 30, 1994.

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

17 (1) To the surviving spouse of a member who dies before January



1, 1989, an amount equal to: ~~thirty~~

(A) **thirty-five percent (35%)** of the monthly pay of a first class patrolman per month, **for amounts paid after December 31, 1998, and before January 1, 2000;**

(B) **forty percent (40%)** of the monthly pay of a first class patrolman per month, for amounts paid after December 31, 1999, and before January 1, 2001;

(C) **forty-five percent (45%)** of the monthly pay of a first class patrolman per month, for amounts paid after December 31, 2000, and before January 1, 2002; and

(D) **fifty percent (50%)** of the monthly pay of a first class patrolman per month, for amounts paid after December 31, 2001;

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 **the following:**

(A) ~~thirty~~ **The following percentage of the monthly pay of a first class patrolman:**

(i) **Thirty-five percent (35%)** of the monthly pay of a first class patrolman, ~~or~~ **for amounts paid after December 31, 1998, and before January 1, 2000.**

(ii) **Forty percent (40%)** of the monthly pay of a first class patrolman, for amounts paid after December 31, 1999, and before January 1, 2001.

(iii) **Forty-five percent (45%)** of the monthly pay of a first class patrolman, for amounts paid after December 31, 2000, and before January 1, 2002.

(iv) **Fifty percent (50%)** of the monthly pay of a first class patrolman, for amounts paid after December 31, 2001.

(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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1 (50%) of the monthly salary of a first class patrolman. The
 2 amount provided for in this subdivision is subject to adjustment
 3 as provided in subsection (f).

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

8 (1) until the child reaches the age of eighteen (18);

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

12 (3) during the entire period of the child's physical or mental
 13 disability;

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

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

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

35 SECTION 2. IC 36-8-7-12.1, AS AMENDED BY P.L.40-1997,
 36 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JANUARY 1, 1999]: Sec. 12.1. (a) Benefits paid under this section are
 38 subject to section 2.5 of this chapter.

39 (b) The sum that shall be paid to permanently disabled members and
 40 to the surviving spouses, children, and parents of deceased members is
 41 as follows:

42 (1) Upon retirement with disability during service, a member is

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1 entitled to receive in monthly installments an amount equal to
 2 fifty-five percent (55%) of the salary of a fully paid first class
 3 firefighter in the unit at the time of the payment of the pension.

4 (2) If a member dies while in active service or after retirement:

5 (A) the surviving spouse is entitled to receive an amount fixed
 6 by ordinance but not less than:

7 (i) for the surviving spouse of a member who dies before
 8 January 1, 1989, ~~thirty~~ **thirty-five** percent (~~30%~~) (**35%**) of
 9 the salary of a fully paid first class firefighter in the unit at
 10 the time of the payment of the pension, **for amounts paid**
 11 **after December 31, 1998, and before January 1, 2000;**
 12 **forty percent (40%) of the salary of a fully paid first**
 13 **class firefighter in the unit at the time of the payment of**
 14 **the pension, for amounts paid after December 31, 1999,**
 15 **and before January 1, 2001; forty-five percent (45%) of**
 16 **the salary of a fully paid first class firefighter in the unit**
 17 **at the time of the payment of the pension, for amounts**
 18 **paid after December 31, 2000, and before January 1,**
 19 **2002; and fifty percent (50%) of the salary of a fully paid**
 20 **first class firefighter in the unit at the time of the**
 21 **payment of the pension, for amounts paid after**
 22 **December 31, 2001; and**

23 (ii) for the surviving spouse of a member who dies after
 24 December 31, 1988, an amount per month, during the
 25 spouse's life, equal to the greater of ~~thirty~~ **thirty-five** percent
 26 (~~30%~~) (**35%**) of the monthly pay of a first class firefighter,
 27 **for amounts paid after December 31, 1998, and before**
 28 **January 1, 2000; forty percent (40%) of the monthly pay**
 29 **of a first class firefighter, for amounts paid after**
 30 **December 31, 1999, and before January 1, 2001;**
 31 **forty-five percent (45%) of the monthly pay of a first**
 32 **class firefighter, for amounts paid after December 31,**
 33 **2000, and before January 1, 2002; and fifty percent**
 34 **(50%) of the monthly pay of a first class firefighter, for**
 35 **amounts paid after December 31, 2001; or fifty-five**
 36 **percent (55%) of the monthly benefit the deceased member**
 37 **was receiving or was entitled to receive on the date of the**
 38 **member's death (these amounts shall be proportionately**
 39 **increased or decreased if the salary of a first class firefighter**
 40 **is increased or decreased). However, if the deceased**
 41 **member was not entitled to a benefit because the member**
 42 **had not completed twenty (20) years of service, for the**

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1 purposes of computing the second amount under this item,
 2 the member's benefit shall be considered to be fifty percent
 3 (50%) of the monthly salary of a first class firefighter in the
 4 unit at the time of payment of the pension;

5 (B) the member's children who are:

6 (i) under eighteen (18) years of age; or

7 (ii) less than twenty-three (23) years of age if the children
 8 are enrolled in and regularly attending a secondary school or
 9 are full-time students at an accredited college or university;
 10 are each entitled to receive an amount fixed by ordinance but
 11 not less than twenty percent (20%) of the salary of a fully paid
 12 first class firefighter in the unit at the time of the payment of
 13 the pension; and

14 (C) each parent of a deceased member who was eligible for a
 15 pension is entitled to receive jointly an amount equal to thirty
 16 percent (30%) of the salary of a fully paid first class firefighter
 17 in the unit at the time of the payment of the pension.

18 (3) If a member dies in the line of duty after August 31, 1982, the
 19 surviving spouse is entitled to an additional monthly benefit,
 20 during the spouse's lifetime, equal to the difference between the
 21 benefit to which the member would have been entitled on the date
 22 of the member's death, but not less than fifty percent (50%) of the
 23 monthly wage received by a fully paid first class firefighter and
 24 the amount received by the spouse under subdivision (2)(A). If
 25 the spouse remarried before September 1, 1983, and benefits
 26 ceased on the date of remarriage, the benefits for the surviving
 27 spouse shall be reinstated on July 1, 1997, and continue during
 28 the life of the surviving spouse. The children of a spouse
 29 receiving benefits under this subdivision may not receive more
 30 than a total of thirty percent (30%) of the monthly wage received
 31 by a fully paid first class firefighter. However, this limitation does
 32 not apply to the children of a spouse receiving benefits under this
 33 subdivision who are physically or mentally disabled. For purposes
 34 of this subdivision, "dies in the line of duty" means death that
 35 occurs as a direct result of personal injury or illness resulting from
 36 any action that the member, in the member's capacity as a
 37 firefighter, is obligated or authorized by rule, regulation,
 38 condition of employment or service, or law to perform while on
 39 the scene of an emergency run (including false alarms) or on the
 40 way to or from the scene.

41 If the local board finds upon the submission of satisfactory proof that
 42 a child eighteen (18) years of age or older is mentally or physically

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1 incapacitated, is not a ward of the state, and is not receiving a benefit
2 under subdivision (2)(B)(ii), the child is entitled to receive the same
3 amount as is paid to the surviving spouse of a deceased firefighter, as
4 long as the mental or physical incapacity continues. A sum paid for the
5 benefit of a child or children shall be paid to the remaining parent, if
6 alive, as long as the child or children reside with and are supported by
7 the parent. If the parent dies, the sum shall be paid to the lawful
8 guardian of the child or children.

9 (c) A member who has been in service twenty (20) years, upon
10 making a written application to the fire chief, may be retired from all
11 service with the department without a medical examination or
12 disability. Except as provided in subsection (g), the local board shall
13 authorize the payment to the retired member of fifty percent (50%) of
14 the salary of a fully paid first class firefighter of the unit at the time of
15 the payment of the pension, plus:

16 (1) for a member who retires before January 1, 1986, two percent
17 (2%) of that salary for each year of service; or

18 (2) for a member who retires after December 31, 1985, one
19 percent (1%) of that salary for each six (6) months of service;
20 over twenty (20) years. However, the pension in one (1) year may not
21 exceed an amount greater than seventy-four percent (74%) of the salary
22 of a fully paid first class firefighter. The pension of the dependents of
23 retired members is the same if the member dies after retirement as it is
24 for dependents of members who die in the service or after retirement
25 with disability.

26 (d) A member who is discharged from the fire department after
27 having served at least twenty (20) years is entitled to receive the
28 amount equal to the amount that the member would have received if
29 the member retired voluntarily. If a member dies after retirement and
30 leaves a surviving spouse or dependent child or children, they are
31 entitled to receive the amount provided for the dependents of members
32 who have died in the service of the fire department.

33 (e) All pensions in a class are on an equal basis. The local board
34 may not depart from this chapter in authorizing the payment of
35 pensions.

36 (f) The monthly pension payable to a member or survivor may not
37 be reduced below the amount of the first full monthly pension received
38 by that person.

39 (g) The monthly pension payable to a member who is transferred
40 from disability to regular retirement status may not be reduced below
41 fifty-five percent (55%) of the salary of a fully paid first class
42 firefighter in the unit at the time of the payment of the pension.

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1 (h) A benefit payable under this section shall be paid in not less than
2 twelve (12) monthly installments.

3 SECTION 3. IC 36-8-7.5-13.8, AS AMENDED BY P.L.40-1997,
4 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 1999]: Sec. 13.8. (a) Benefits paid under this section are
6 subject to section 1.5 of this chapter.

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

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

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

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

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

28 (1) dies from any cause after having served for one (1) year or
29 more; or

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

33 The annuity continues during the life of the surviving spouse unless the
34 spouse remarried before September 1, 1983. If the spouse remarried
35 before September 1, 1983, benefits ceased on the date of remarriage.
36 However, if a member of the police department died in the line of duty
37 and the member's surviving spouse remarried before September 1,
38 1983, the benefits for the surviving spouse shall be reinstated on July
39 1, 1995, and continue during the life of the surviving spouse. If a
40 member of the fund died, but not in the line of duty, and the member's
41 surviving spouse remarried before September 1, 1983, the benefits of
42 the surviving spouse shall be reinstated on July 1, 1997, and continue



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1 during the life of the surviving spouse.

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

11 (1) until the child attains the age of eighteen (18) years;

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

15 (3) during the entire period of the child's physical or mental
16 disability;

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

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

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

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

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

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

42 (g) If the salary of a first class patrolman is increased or decreased,

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1 the pension payable under this section shall be proportionately
2 increased or decreased.

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

5 (1) For the surviving spouse of a member who dies before January
6 1, 1989, ~~Thirty~~ **an amount equal to the following:**

7 (A) ~~Thirty-five~~ percent (~~30%~~) (35%) of the salary of a first
8 class patrolman, **for amounts paid after December 31, 1998,**
9 **and before January 1, 2000.**

10 (B) ~~Forty~~ percent (40%) of the salary of a first class
11 patrolman, **for amounts paid after December 31, 1999, and**
12 **before January 1, 2001.**

13 (C) ~~Forty-five~~ percent (45%) of the salary of a first class
14 patrolman, **for amounts paid after December 31, 2000, and**
15 **before January 1, 2002.**

16 (D) ~~Fifty~~ percent (50%) of the salary of a first class
17 patrolman, **for amounts paid after December 31, 2001.**

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

21 (A) ~~Thirty~~ **The following percentage of the monthly pay of**
22 **a first class patrolman:**

23 (i) ~~Thirty-five~~ percent (~~30%~~) (35%) of the monthly pay of
24 a first class patrolman, **or for amounts paid after**
25 **December 31, 1998, and before January 1, 2000.**

26 (ii) ~~Forty~~ percent (40%) of the monthly pay of a first
27 class patrolman, **for amounts paid after December 31,**
28 **1999, and before January 1, 2001.**

29 (iii) ~~Forty-five~~ percent (45%) of the monthly pay of a
30 first class patrolman, **for amounts paid after December**
31 **31, 2000, and before January 1, 2002.**

32 (iv) ~~Fifty~~ percent (50%) of the monthly pay of a first
33 class patrolman, **for amounts paid after December 31,**
34 **2001.**

35 (B) ~~Fifty-five~~ percent (55%) of the monthly benefit the
36 deceased member was receiving or was entitled to receive on
37 the date of the member's death.

38 However, if the deceased member was not entitled to a benefit
39 because the member had not completed twenty (20) years of
40 service, for the purposes of computing the amount under clause
41 (B), the member's benefit shall be considered to be fifty percent
42 (50%) of the monthly salary of a first class patrolman. The



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1 amount provided for in this subdivision is subject to adjustment
2 as provided in subsection (g).

3 SECTION 4. [EFFECTIVE JANUARY 1, 1999] **IC 36-8-6-9.8,**
4 **IC 36-8-7-12.1, and IC 36-8-7.5-13.8, all as amended by this act,**
5 **apply only to benefits payable after December 31, 1998.**

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