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# ENGROSSED SENATE BILL No. 190

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DIGEST OF SB0190 (Updated February 17, 1998 12:53 pm - DI 94)

**Citations Affected:** IC 36-8.

**Synopsis:** Board of metropolitan police commissioners. Provides that when a town establishes a board of metropolitan police commissioners, or when a town becomes a city, a police officer employed by the municipality is a member of the 1977 fund unless the police officer elects to continue as a member of PERF. Permits a town board to abolish the office of town marshal and establish a board of metropolitan police commissioners by adopting an ordinance. (Current law requires approval at a referendum before adoption of the ordinance.) Eliminates the requirement that not more than one-half of the members of the police department of a town be members of the  
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**Effective:** Upon passage.

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(HOUSE SPONSORS — ALEVIZOS, RICHARDSON, LYTLE)

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January 6, 1998, read first time and referred to Committee on Pensions and Labor.  
January 15, 1998, amended, reported favorably — Do Pass.  
January 20, 1998, read second time, ordered engrossed. Engrossed.  
January 27, 1998, read third time, passed. Yeas 50, nays 0.

#### HOUSE ACTION

January 29, 1998, read first time and referred to Committee on Local Government.  
February 17, 1998, reported — Do Pass.

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same political party. Permits the board of trustees of the public employees' retirement fund to grant service credit in the 1977 police officers' and firefighters' pension and disability fund to former full-time, fully paid town marshals and deputy town marshals who become employees of a board of metropolitan police commissioners.

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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.

## SENATE ENROLLED ACT No. 190

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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 36-8-8-3, AS AMENDED BY P.L.236-1996, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE AUGUST 1, 1996 (RETROACTIVE)]: Sec. 3. (a) If a town establishes a board of metropolitan police commissioners, or if a town becomes a city, the municipality shall participate in the 1977 fund. However, if a police officer is a member of the public employees' retirement fund, he may continue as a member of that fund instead of the 1977 fund. **A police officer employed by a municipality at the time the municipality enters the 1977 fund under this section shall be a member of the 1977 fund unless the police officer elects to continue as a member of the public employees' retirement fund.**

(b) If a unit did not establish a 1937 fund for its firefighters, the unit may participate in the public employees' retirement fund or it may participate in the 1977 fund. If a unit established a 1937 fund for its firefighters, the unit is and shall remain a participant in the 1977 fund.

(c) A unit that:

- (1) has not established a pension fund for its firefighters; or
- (2) is participating in the public employees' retirement fund under

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subsection (b);  
 may participate in the 1977 fund upon approval by the fiscal body, notwithstanding IC 5-10.3-6-8. A unit that participates in the 1977 fund under this subsection must comply with section 21 of this chapter. However, if a firefighter is a member of the public employees' retirement fund, the firefighter may continue as a member of that fund instead of the 1977 fund.

SECTION 2. IC 36-8-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 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 be given by the PERF board only if the following requirements are met:

- (1) 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

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fifty-five (55) years of age. 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) 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) Any amortization schedule for contributions paid under subdivision (1) and contributions to be paid under subdivision (2) 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

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contributions determined in subsection (d).

**SECTION 3. IC 36-8-8-18.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.1. (a) As used in this section, "police officer" includes a former full-time, fully paid town marshal or full-time, fully paid deputy town marshal who is employed as a police officer by a metropolitan board of police commissioners.**

(b) If a unit becomes a participant in the 1977 fund and the unit previously covered police officers, firefighters, or emergency medical technicians in PERF, or if the employees of the unit become members of the 1977 fund under section 7(g) of this chapter, the following provisions apply:

(1) A minimum benefit applies to members electing to transfer or being transferred to the 1977 fund from PERF. The minimum benefit, payable at age fifty-five (55), for such a member 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;

(B) the average of the annual compensation; and

(C) the amount credited to the annuity savings account; of the transferring member as of the day before the transfer under IC 5-10.2 and IC 5-10.3.

(2) The PERF board shall transfer from PERF to the 1977 fund the amount credited to the annuity savings accounts and the present value of the retirement benefits payable at age sixty-five (65) attributable to the transferring members.

(3) The amount the unit and the member must contribute to the 1977 fund under section 18 of this chapter, if any service credit is to be given under that section, will be reduced by the amounts transferred to the 1977 fund by the PERF board under subdivision (2).

(4) Credit for prior service in PERF of a member as a police officer, a firefighter, or an emergency medical technician is waived in PERF. Any credit for that service under the 1977 fund shall only be given in accordance with section 18 of this chapter.

(5) Credit for prior service in PERF of a member, other than as a police officer, a firefighter, or an emergency medical technician, remains in PERF and may not be credited under the 1977 fund.

**SECTION 4. IC 36-8-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) ~~Whenever~~ The legislative body of a town ~~adopts a resolution providing for the abolition of~~ **may****

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**by ordinance:**

(1) **abolish** the office of town marshal; and ~~the establishment of~~  
 (2) **establish** a board of metropolitan police commissioners (referred to as "the board" in this chapter). ~~the following question shall be certified to the county election board under IC 3-10-9-3 and submitted to the voters of the town at the next general or primary town election:~~

~~"Shall a board of metropolitan police commissioners be established and the office of town marshal be abolished?"~~.

~~This question shall be printed on the ballot prepared for the election in the form prescribed by IC 3-10-9-4.~~

(b) ~~The vote on the question shall be canvassed by the county election board and the result certified to the town legislative body. If a majority of the voters of the town voting on the question favor the establishment of a board of metropolitan police commissioners, the legislative body shall by ordinance establish the board.~~

SECTION 5. IC 36-8-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The board may appoint, subject to the ~~approval of~~ **qualifications for employment determined by the board and approved by** the town legislative body, as many persons as necessary to serve in the police department of the town. One (1) person shall be appointed to serve as the police chief. ~~No more than one-half (1/2) of the persons appointed may be members of the same political party, as long as the prerequisites of employment as determined by the board are observed.~~ The board may also appoint other employees that are necessary to carry on the work of the police department:

(b) The board may recommend and the town legislative body shall determine the compensation to be paid to members of the police department in amounts that are just and reasonable.

(c) All persons appointed must be of good moral character and serve only during good behavior. The board constitutes the safety board of the town for purposes of the suspension, demotion, or dismissal of any member of the police department. Proceedings for the suspension, demotion, or dismissal of any member of the police department shall be conducted in the manner prescribed by IC 36-8-3-4. The disciplinary provisions of IC 36-8-3-4.1 also apply to the safety board and the police chief.

(d) The board may make general and special rules for the government and discipline of the police department and may make special and general orders to the department through the police chief, who is the executive head of the department.

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(e) Members of the police department must:

- (1) reside within the county in which the town is located;
- (2) reside within fifteen (15) miles of the corporate boundaries of the town;
- (3) have adequate means of transportation into the town; and
- (4) maintain in their residence telephone service with the town.

**SECTION 6. An emergency is declared for this act.**

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