



Reprinted
March 31, 1999

ENGROSSED HOUSE BILL No. 1077

DIGEST OF HB 1077 (Updated March 30, 1999 5:01 pm - DI 96)

Citations Affected: IC 33-4; IC 33-13.

Synopsis: Judges' pension issues. Provides that a person who serves as a full-time magistrate in an Indiana court after June 30, 1999, shall participate in the judge's retirement fund. Provides that a participant in the judges' 1977 benefit system or a participant in the judges' 1985 benefit system is eligible for normal retirement benefits if the participant is at least 55 years of age and the participant's age in years plus years of service is at least 85. Allows participants in the judges' retirement system to purchase service credit at full actuarial cost for prior service in PERF covered positions other than full-time commissioner, magistrate, or referee. (The introduced version of this bill was prepared by the pension management oversight committee.)

Effective: July 1, 1999.

Kromkowski, Buell, Ulmer

(SENATE SPONSORS — HARRISON, CRAYCRAFT, WASHINGTON)

January 6, 1999, read first time and referred to Committee on Ways and Means.
February 25, 1999, amended, reported — Do Pass.
March 1, 1999, read second time, ordered engrossed. Engrossed.
March 2, 1999, read third time. Call withdrawn.
March 8, 1999, reread third time, passed. Yeas 78, nays 13.

SENATE ACTION

March 11, 1999, read first time and referred to Committee on Pensions and Labor.
March 25, 1999, amended, reported favorably — Do Pass.
March 30, 1999, read second time, amended, ordered engrossed.

EH 1077—LS 6373/DI 96+



C
O
P
Y

Reprinted
March 31, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1077

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 33-4-7-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) **Except as**
3 **provided in subsection (b)**, a magistrate may:

4 (1) participate in the public employees' retirement fund as
5 provided in IC 5-10.3; or

6 (2) elect to remain in the judges' retirement system under
7 IC 33-13 if the magistrate had previously participated in the
8 system.

9 **(b) A person who serves as a full-time magistrate in an Indiana**
10 **court after June 30, 1999, shall participate in the judges'**
11 **retirement fund under IC 33-13-10.1.**

12 SECTION 2. IC 33-13-8-2 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The following words
14 and phrases as used in this chapter, unless different meanings are
15 plainly indicated by their context, shall have the following respective

EH 1077—LS 6373/DI 96+



C
O
P
Y

1 meanings:

2 "Americans with Disabilities Act" refers to the Americans with
3 Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and
4 regulations related to the Act.

5 "His" and "widow" means "her" and "widower" in the event the
6 participant is a woman.

7 "Fund" means the Indiana judges' retirement fund, the fund created
8 by this chapter.

9 "Board" means the board of trustees of the public employees'
10 retirement fund.

11 "Employer" means the state of Indiana.

12 "Judge" means any person who has served, is serving, or shall serve
13 as a regular judge of any of the following courts:

14 Supreme court of the state of Indiana.

15 Court of appeals of the state of Indiana.

16 Circuit court of any judicial circuit.

17 Superior court of any county or counties.

18 Criminal court of any county having a separate criminal court.

19 Probate court of any county having a separate probate court.

20 Juvenile court of any county having a separate juvenile court.

21 Municipal court of any county.

22 County court of any county or counties.

23 "Participant" means any judge participating in the fund, **or for**
24 **purposes of IC 33-13-10.1, any judge or full-time magistrate**
25 **participating in the fund.**

26 "Services" means the period beginning on the first day upon which
27 any person first became a judge, whether such date is prior or
28 subsequent to March 11, 1953, and ending on the date under
29 consideration, including all intervening employment as a judge,
30 following resignation or expiration of any term of election or
31 appointment. Services in any fraction of a month shall be considered
32 as a month of service. However, no more than one (1) month shall be
33 credited for services in any one (1) calendar month. If a judge is elected
34 or appointed and serves one (1) or more terms or part of a term, then
35 retires from office, but at a later period, or periods, is appointed or
36 elected and serves as judge, the judge shall pay into said fund during
37 all the periods served as judge, except as otherwise provided in this
38 chapter, whether said periods be a connected period or disconnected
39 period, but shall not be required to pay into said fund at any time when
40 the judge is not serving as judge, or during any period of service as a
41 senior judge under IC 33-4-8, except as otherwise provided in this
42 chapter.



C
O
P
Y

1 "Fiscal year" means the period beginning on July 1, in any year, and
2 ending on June 30 of the succeeding year.

3 "Salary" means the total salary paid to any participant by the state
4 of Indiana and by a county or counties, determined without regard to
5 any salary reduction agreement established under Section 125 of the
6 Internal Revenue Code.

7 SECTION 3. IC 33-13-9.1-4 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Benefits provided
9 under this section are subject to IC 33-13-8-3.5 and section 9 of this
10 chapter.

11 (b) Any participant whose employment as judge by the employer is
12 terminated, regardless of cause, shall be entitled to a retirement annuity
13 beginning on the date specified by such participant in a written
14 application therefor, if all the following conditions are met:

15 (1) The date upon which the annuity begins is not prior to the date
16 of final termination of employment of such participant, or the date
17 thirty (30) days prior to the receipt of such application by the
18 board.

19 (2) The participant:

20 (A) has attained at least the age of sixty-two (62) and has at
21 least eight (8) years of service credit; ~~or~~

22 **(B) is at least fifty-five (55) years of age and the**
23 **participant's age in years plus the participant's years of**
24 **service is at least eighty-five (85); or**

25 ~~(B)~~ (C) has become permanently disabled.

26 (3) The participant is not receiving any salary from the state for
27 services currently performed, except for services rendered in the
28 capacity of judge pro tempore or senior judge.

29 (c) The amount of the annual retirement benefit to which a
30 participant who elects to accept retirement after June 30, 1977, and
31 who ~~has attained~~ is at least ~~age~~ sixty-five (65) years ~~of age or a~~
32 **participant who elects to accept retirement after June 30, 1999, and**
33 **who is at least fifty-five (55) years of age and meets the**
34 **requirements under subsection (b)(2)(B)** is entitled equals the
35 product of:

36 (1) the salary being paid for the office which the participant held
37 at the time of the participant's separation from service; multiplied
38 by

39 (2) the percentage prescribed in the following table:

C
O
P
Y



TABLE A

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service. The amount of the annual retirement benefit to which a participant who elects to accept retirement before July 1, 1977, is entitled equals the average of the benefit computed under this subsection and the benefit the participant would have received under IC 33-13-8 as in effect on June 30, 1977.

(d) If the annual retirement benefit of a participant who began service as a judge before July 1, 1977, as computed under subsection (c), is less than the amount the participant would have received under IC 33-13-8 as in effect on June 30, 1977, the participant is entitled to receive that greater amount as the participant's annual retirement benefit instead of the benefit computed under subsection (c).

(e) **Except as provided in subsection (b)(2)(B) and subsection (c)**, if a participant who elects to accept retirement after June 30, 1977, has not attained age sixty-five (65) years, the participant is entitled to receive a reduced annual retirement benefit which equals the benefit which would be payable if the participant were age sixty-five (65) reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

- (1) participants who are separated from service because of permanent disability;

C
O
P
Y

1 (2) survivors of participants who die while in service after August
2 1, 1992; or

3 (3) survivors of participants who die while not in service but
4 while entitled to a future benefit.

5 (f) The amount of the annual benefit to which a participant who has
6 become permanently disabled is entitled equals the product of:

7 (1) the salary being paid for the office which the participant held
8 at the time of separation from service; multiplied by

9 (2) the percentage prescribed in the following table:

10 TABLE B

11 Participant's Years 12 of Service	Percentage
13 0-12	50%
14 13	51%
15 14	52%
16 15	53%
17 16	54%
18 17	55%
19 18	56%
20 19	57%
21 20	58%
22 21	59%
23 22 or more	60%

24 If a participant has a partial year of service in addition to at least eight
25 (8) full years of service, an additional percentage shall be calculated by
26 prorating between the applicable percentages, based on the number of
27 months in the partial year of service.

28 (g) The surviving spouse or surviving child or children, as
29 designated by the participant, of any participant who has qualified
30 before July 1, 1977, to receive the retirement annuity under the
31 provisions of this chapter, either by length of service or by being
32 permanently disabled, shall, upon the death of such participant, be
33 entitled to an annuity in an amount equal to the greater of:

34 (1) the sum of:

35 (A) two thousand dollars (\$2,000); plus

36 (B) fifty percent (50%) of the amount of retirement annuity the
37 participant was drawing at the time of the participant's death,
38 or to which the participant would have been entitled had the
39 participant retired and begun receiving retirement annuity
40 benefits prior to the participant's death; or

41 (2) the amount determined under the following table:

C
O
P
Y



TABLE C

Year	Amount
July 1, 1995, to June 30, 1996	\$10,000
July 1, 1996, to June 30, 1997	\$11,000
July 1, 1997, and thereafter	\$12,000

(h) If a participant who qualifies after June 30, 1977, and before July 1, 1983, to receive a retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, dies, the participant's surviving spouse or surviving child or children, as designated by the participant, is entitled to an annuity in an amount equal to the greater of:

- (1) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits before death; or
- (2) the amount determined under TABLE C in subsection (g)(2).

(i) If a participant:

- (1) dies after June 30, 1983; and
- (2) on the date of the participant's death:
 - (A) was receiving benefits under this chapter;
 - (B) had completed at least eight (8) years of service and was in service as a judge;
 - (C) was permanently disabled; or
 - (D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

the participant's surviving spouse or surviving child or children, as designated by the participant, is entitled, regardless of the participant's age, to an annuity in an amount equal to the greater of the amount determined under TABLE C in subsection (g)(2) or fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits on the participant's date of death, with reductions as necessary under subsection (e).

(j) Notwithstanding subsection (i), if a participant:

- (1) died after June 30, 1983, and before July 1, 1985; and
- (2) was serving as a judge at the time of death;

the surviving spouse is entitled to the same retirement annuity as the surviving spouse of a permanently disabled participant entitled to

C
O
P
Y



1 benefits under subsection (h).

2 (k) The annuity payable to a surviving child or children under
3 subsection (g), (h), or (i) is subject to the following:

4 (1) The total monthly benefit payable to a surviving child or
5 children is equal to the same monthly annuity that was to have
6 been payable to the surviving spouse.

7 (2) If there is more than one (1) child designated by the
8 participant, then the children are entitled to share the annuity in
9 equal monthly amounts.

10 (3) Each child entitled to an annuity shall receive that child's
11 share until the child becomes eighteen (18) years of age or during
12 the entire period of the child's physical or mental disability,
13 whichever period is longer.

14 (4) Upon the cessation of payments to one (1) designated child,
15 if there is at least one (1) other child then surviving and still
16 entitled to payments, the remaining child or children shall share
17 equally the annuity. If the surviving spouse of the participant is
18 surviving upon the cessation of payments to all designated
19 children, the surviving spouse will then receive the annuity for the
20 remainder of the spouse's life.

21 (5) The annuity shall be payable to the participant's surviving
22 spouse if any of the following occur:

23 (A) No child named as a beneficiary by a participant survives
24 the participant.

25 (B) No children designated by the participant are entitled to an
26 annuity due to their age at the time of death of the participant.

27 (C) A designation is not made.

28 (6) An annuity payable to a surviving child or children may be
29 paid to a trust or a custodian account under IC 30-2-8.5,
30 established for the surviving child or children as designated by the
31 participant.

32 SECTION 4. IC 33-13-9.1-5 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Benefits provided
34 under this section are subject to IC 33-13-8-3.5.

35 (b) A participant shall be considered permanently disabled if the
36 board has received a written certificate by at least two (2) licensed and
37 practicing physicians, appointed by the board, indicating that the
38 participant is totally incapacitated, by reason of physical or mental
39 infirmities, from earning a livelihood and that such condition is likely
40 to be permanent. Such participant shall be reexamined by at least two
41 (2) physicians appointed by the board, periodically at such times as the
42 board shall designate but at intervals of not to exceed one (1) year. If



C
O
P
Y

1 in the opinion of these physicians, the participant has recovered from
 2 the participant's disability, then benefits shall cease to be payable as of
 3 the date of such examination unless, on that date, the participant ~~shall~~
 4 ~~have reached the age of~~ **is at least** sixty-five (65) years of age or **is at**
 5 **least fifty-five (55) years of age and meets the requirements under**
 6 **section 4(b)(2)(B) of this chapter.**

7 (c) To the extent required by the Americans with Disabilities Act,
 8 the transcripts, reports, records, and other material generated by the
 9 initial and periodic examinations and reviews to determine eligibility
 10 for disability benefits under this section shall be:

- 11 (1) kept in separate medical files for each member; and
- 12 (2) treated as confidential medical records.

13 SECTION 5. IC 33-13-9.1-10.5 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. (a) This section applies only**
 16 **to a person who:**

- 17 (1) **is a judge participating under this chapter;**
- 18 (2) **before becoming a judge was a member of an Indiana**
 19 **public employees' retirement fund;**
- 20 (3) **received credited service under an Indiana public**
 21 **employees' retirement fund for the employment described in**
 22 **subdivision (2), and the credited service is not eligible for**
 23 **prior service credit under section 10 of this chapter; and**
- 24 (4) **has not attained vested status under an Indiana public**
 25 **employees' retirement fund for the employment described in**
 26 **subdivision (2).**

27 (b) **If a person becomes a participant in the judges' 1977 benefit**
 28 **system under this chapter, credit for service described in**
 29 **subsection (a) shall be granted under this chapter by the board if:**

- 30 (1) **the prior service was credited under an Indiana public**
 31 **employees' retirement fund; and**
- 32 (2) **the judge pays in a lump sum or in a series of payments**
 33 **determined by the board, not exceeding five (5) annual**
 34 **payments, the amount determined by the actuary for the 1977**
 35 **benefit system as the total actual cost of the service.**

36 (c) **If the requirements of subsection (b) are not satisfied, a**
 37 **participant is entitled to credit only for years of service after the**
 38 **date of participation in the 1977 benefit system.**

39 (d) **An amortization schedule for contributions paid under this**
 40 **section must include interest at a rate determined by the board.**

41 (e) **If the requirements of subsection (b) are satisfied, the board**
 42 **shall transfer from the Indiana public employees' retirement fund**



C
O
P
Y

1 to the judges' 1977 benefit system the amount credited to the
 2 judge's annuity savings account and the present value of the
 3 retirement benefit payable at sixty-five (65) years of age that is
 4 attributable to the transferring participant.

5 (f) The amount a participant must contribute to the judges' 1977
 6 benefit system under subsection (b) shall be reduced by the amount
 7 transferred to the judges' 1977 benefit system by the board under
 8 subsection (e).

9 (g) If the requirements of subsection (b) are satisfied, credit for
 10 prior service in an Indiana public employees' retirement fund is
 11 waived.

12 SECTION 6. IC 33-13-10.1-3 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Each person who:

- 14 (1) begins service as a judge after August 31, 1985; and
 15 (2) is then not a participant;

16 shall become a participant in the fund.

17 (b) A person who serves as a full-time magistrate in an Indiana
 18 court after June 30, 1999, is a participant in the fund.

19 SECTION 7. IC 33-13-10.1-6 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. Any participant
 21 whose employment as judge is terminated is entitled to a retirement
 22 benefit computed under section 7 of this chapter, beginning on the date
 23 specified by the participant in a written application, if all of the
 24 following conditions are met:

- 25 (1) The date upon which the benefit begins is not before the date
 26 of final termination of employment of the participant or the date
 27 thirty (30) days before the receipt of the application by the board.
 28 (2) The participant:
 29 (A) has attained at least the age of sixty-two (62) and has at
 30 least eight (8) years of service credit; ~~or~~
 31 (B) is at least fifty-five (55) years of age and the
 32 participant's age in years plus the participant's years of
 33 service is at least eighty-five (85); or
 34 ~~(B)~~ (C) has become permanently disabled.

- 35 (3) The participant is not receiving any salary from the state for
 36 services currently performed, except for services rendered in the
 37 capacity of judge pro tempore or senior judge.

38 SECTION 8. IC 33-13-10.1-7 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Benefits provided
 40 under this section are subject to IC 33-13-8-3.5 and section 13 of this
 41 chapter.

42 (b) The amount of the annual retirement benefit to which a

C
O
P
Y



1 participant who applies for a retirement benefit and who ~~has attained~~
2 ~~is at least age~~ sixty-five (65) years of age or is at least fifty-five (55)
3 years of age and meets the requirements under section 6(2)(B) of
4 this chapter is entitled equals the product of:

- 5 (1) the salary that was paid to the participant at the time of
- 6 separation from service; multiplied by
- 7 (2) the percentage prescribed in the following table:

8 TABLE

9 Participant's Years	Percentage
10 of Service	
11 8	24%
12 9	27%
13 10	30%
14 11	33%
15 12	50%
16 13	51%
17 14	52%
18 15	53%
19 16	54%
20 17	55%
21 18	56%
22 19	57%
23 20	58%
24 21	59%
25 22 or more	60%

26 If a participant has a partial year of service in addition to at least eight
27 (8) full years of service, an additional percentage shall be calculated by
28 prorating between the applicable percentages, based on the number of
29 months in the partial year of service.

30 (c) **Except as provided in section 6(2)(B) of this chapter and**
31 **subsection (b)**, if a participant who applies for a retirement benefit has
32 not attained age sixty-five (65) years, the participant is entitled to
33 receive a reduced annual retirement benefit that equals the benefit that
34 would be payable if the participant were age sixty-five (65) reduced by
35 one-tenth percent (0.1%) for each month that the participant's age at
36 retirement precedes the participant's sixty-fifth birthday. This reduction
37 does not apply to:

- 38 (1) participants who are separated from service because of
- 39 permanent disability;
- 40 (2) survivors of participants who die while in service after August
- 41 1, 1992; or
- 42 (3) survivors of participants who die while not in service but



C
o
p
y

1 while entitled to a future benefit.

2 SECTION 9. IC 33-13-10.1-8 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) A participant
4 shall be considered permanently disabled if the board has received a
5 written certification by at least two (2) licensed and practicing
6 physicians, appointed by the board, that:

- 7 (1) the participant is totally incapacitated, by reason of physical
8 or mental infirmities, from earning a livelihood; and
9 (2) the condition is likely to be permanent.

10 The participant shall be reexamined by at least two (2) physicians
11 appointed by the board, at such times as the board may designate but
12 at intervals of not to exceed one (1) year. If in the opinion of these
13 physicians, the participant has recovered from the participant's
14 disability, then benefits shall cease to be payable as of the date of such
15 examination unless, on that date, the participant ~~has reached the age of~~
16 **is at least sixty-five (65) years of age or is at least fifty-five (55)**
17 **years of age and meets the requirements under section 6(2)(B) of**
18 **this chapter.**

19 (b) To the extent required by the Americans with Disabilities Act,
20 the transcripts, reports, records, and other material generated by the
21 initial and periodic examinations and reviews to determine eligibility
22 for disability benefits under this section shall be:

- 23 (1) kept in separate medical files for each member; and
24 (2) treated as confidential medical records.

25 SECTION 10. IC 33-13-10.1-14 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) This section
27 applies to a person who:

- 28 (1) is a judge **or a full-time magistrate** participating under this
29 chapter;
30 (2) before becoming a judge **or a full-time magistrate** was
31 appointed by a court to serve as a full-time referee, full-time
32 commissioner, or full-time magistrate;
33 (3) was a member of the public employees' retirement fund during
34 the employment described in subdivision (2); and
35 (4) received credited service under the public employees'
36 retirement fund for the employment described in subdivision (2).

37 (b) If a person becomes a participant in the judges' 1985 benefit
38 system under ~~IC 33-13-10.1-1~~ **section 1 or section 3(b) of this**
39 **chapter**, credit for prior service by the **full-time magistrate or the**
40 judge as a full-time referee, full-time commissioner, or full-time
41 magistrate shall be granted under this chapter by the board if:

- 42 (1) the prior service was credited under the public employees'

C
O
P
Y



- 1 retirement fund;
- 2 (2) the state contributes to the judges' 1985 benefit system the
- 3 amount the board determines necessary to amortize the prior
- 4 service liability over a period determined by the board, but not
- 5 more than ten (10) years; and
- 6 (3) the judge **or full-time magistrate** pays in a lump sum or in a
- 7 series of payments determined by the board, not exceeding five
- 8 (5) annual payments, the amount the judge **or full-time**
- 9 **magistrate** would have contributed if the judge **or full-time**
- 10 **magistrate** had been a member of the judges' 1985 benefit system
- 11 during the prior service.
- 12 (c) If the requirements of subsection (b)(2) and (b)(3) are not
- 13 satisfied, a participant is entitled to credit only for years of service after
- 14 the date of participation in the 1985 benefit system.
- 15 (d) An amortization schedule for contributions paid under
- 16 subsection (b)(2) or (b)(3) must include interest at a rate determined by
- 17 the board.
- 18 (e) The following provisions apply to a person described in
- 19 subsection (a):
- 20 (1) A minimum benefit applies to participants receiving credit in
- 21 the judges' 1985 benefit system from service covered by the
- 22 public employees' retirement fund. The minimum benefit is
- 23 payable at sixty-five (65) years of age **or when the participant**
- 24 **is at least fifty-five (55) years of age and meets the**
- 25 **requirements under section 6(2)(B) of this chapter** and equals
- 26 the actuarial equivalent of the vested retirement benefit that is:
- 27 (A) payable to the member at normal retirement under
- 28 IC 5-10.2-4-1 as of the day before the transfer; and
- 29 (B) based solely on:
- 30 (i) creditable service;
- 31 (ii) the average of the annual compensation; and
- 32 (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to
- 33 the annuity savings account of the transferring member as of
- 34 the day before the transfer.
- 35 (2) If the requirements of subsection (b)(2) and (b)(3) are
- 36 satisfied, the board shall transfer from the public employees'
- 37 retirement fund to the judges' 1985 benefit system the amount
- 38 credited to the annuity savings account and the present value of
- 39 the retirement benefit payable at sixty-five (65) years of age **or at**
- 40 **least fifty-five (55) years of age under section 6(2)(B) of this**
- 41 **chapter** that is attributable to the transferring participant.
- 42 (3) The amount the state and the participant must contribute to the

C
O
P
Y

1 judges' 1985 benefit system under subsection (b) shall be reduced
 2 by the amount transferred to the judges' 1985 benefit system by
 3 the board under subdivision (2).

4 (4) If the requirements of subsection (b)(2) and (b)(3) are
 5 satisfied, credit for prior service in the public employees'
 6 retirement fund as a full-time referee, full-time commissioner, or
 7 full-time magistrate is waived. Any credit for the prior service
 8 under the judges' 1985 benefit system may be granted only under
 9 subsection (b).

10 (5) Credit for prior service in the public employees' retirement
 11 fund for service other than as a full-time referee, full-time
 12 commissioner, or full-time magistrate remains under the public
 13 employees' retirement fund and may not be credited under the
 14 judges' 1985 benefit system.

15 SECTION 11. IC 33-13-10.1-14.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 1999]: **Sec. 14.5. (a) This section applies only**
 18 **to a person who:**

- 19 (1) is a judge participating under this chapter;
 20 (2) before becoming a judge was a member of an Indiana
 21 public employees' retirement fund;
 22 (3) received credited service under an Indiana public
 23 employees' retirement fund for the employment described in
 24 subdivision (2), and the credited service is not eligible for
 25 prior service credit under section 14 of this chapter; and
 26 (4) has not attained vested status under an Indiana public
 27 employees' retirement fund for the employment described in
 28 subdivision (2).

29 (b) If a person becomes a participant in the judges' 1985 benefit
 30 system under this chapter, credit for service described in
 31 subsection (a) shall be granted under this chapter by the board if:

- 32 (1) the prior service was credited under an Indiana public
 33 employees' retirement fund; and
 34 (2) the judge pays in a lump sum or in a series of payments
 35 determined by the board, not exceeding five (5) annual
 36 payments, the amount determined by the actuary for the 1985
 37 benefit system as the total cost of the service.

38 (c) If the requirements of subsection (b) are not satisfied, a
 39 participant is entitled to credit only for years of service after the
 40 date of participation in the 1985 benefit system.

41 (d) An amortization schedule for contributions paid under this
 42 section must include interest at a rate determined by the board.



C
O
P
Y

1 **(e) If the requirements of subsection (b) are satisfied, the board**
2 **shall transfer from the Indiana public employees' retirement fund**
3 **to the judges' 1985 benefit system the amount credited to the**
4 **judges' annuity savings account and the present value of the**
5 **retirement benefit payable at sixty-five (65) years of age that is**
6 **attributable to the transferring participant.**
7 **(f) The amount a participant must contribute to the judges' 1985**
8 **benefit system under subsection (b) shall be reduced by the amount**
9 **transferred to the judges' 1985 benefit system by the board under**
10 **subsection (e).**
11 **(g) If the requirements of subsection (b) are satisfied, credit for**
12 **prior service in an Indiana public employees' retirement fund is**
13 **waived.**

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1077, 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:

- Page 1, delete lines 1 through 15.
- Delete page 2.
- Page 3, delete lines 1 through 6.
- Page 9, delete lines 12 through 18.
- Page 11, line 28, delete "or a full-time magistrate".
- Page 11, line 30, delete "or a full-time magistrate".
- Page 11, line 38, delete "or section 3(b)".
- Page 11, line 39, delete "full-time magistrate or the".
- Page 12, line 6, delete "or full-time magistrate".
- Page 12, line 8, delete "or full-time".
- Page 12, line 9, delete "magistrate".
- Page 12, line 9, delete "or full-time".
- Page 12, line 10, delete "magistrate".
- Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1077 as introduced.)

BAUER, Chair

Committee Vote: yeas 20, nays 0.

C
O
P
Y



COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1077, 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 12, delete lines 22 through 30.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1077 as printed February 26, 1999.)

HARRISON, Chairperson

Committee Vote: Yeas 8, Nays 0.

C
o
p
y



SENATE MOTION

Mr. President: I move that Engrossed House Bill 1077 be amended to read as follows:

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

“SECTION 1. IC 33-4-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) **Except as provided in subsection (b)**, a magistrate may:

- (1) participate in the public employees' retirement fund as provided in IC 5-10.3; or
- (2) elect to remain in the judges' retirement system under IC 33-13 if the magistrate had previously participated in the system.

(b) A person who serves as a full-time magistrate in an Indiana court after June 30, 1999, shall participate in the judges' retirement fund under IC 33-13-10.1.

SECTION 2. IC 33-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The following words and phrases as used in this chapter, unless different meanings are plainly indicated by their context, shall have the following respective meanings:

"Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

"His" and "widow" means "her" and "widower" in the event the participant is a woman.

"Fund" means the Indiana judges' retirement fund, the fund created by this chapter.

"Board" means the board of trustees of the public employees' retirement fund.

"Employer" means the state of Indiana.

"Judge" means any person who has served, is serving, or shall serve as a regular judge of any of the following courts:

Supreme court of the state of Indiana.

Court of appeals of the state of Indiana.

Circuit court of any judicial circuit.

Superior court of any county or counties.

Criminal court of any county having a separate criminal court.

Probate court of any county having a separate probate court.

Juvenile court of any county having a separate juvenile court.

Municipal court of any county.

County court of any county or counties.

EH 1077—LS 6373/DI 96+



C
O
P
Y

"Participant" means any judge participating in the fund, **or for purposes of IC 33-13-10.1, any judge or full-time magistrate participating in the fund.**

"Services" means the period beginning on the first day upon which any person first became a judge, whether such date is prior or subsequent to March 11, 1953, and ending on the date under consideration, including all intervening employment as a judge, following resignation or expiration of any term of election or appointment. Services in any fraction of a month shall be considered as a month of service. However, no more than one (1) month shall be credited for services in any one (1) calendar month. If a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office, but at a later period, or periods, is appointed or elected and serves as judge, the judge shall pay into said fund during all the periods served as judge, except as otherwise provided in this chapter, whether said periods be a connected period or disconnected period, but shall not be required to pay into said fund at any time when the judge is not serving as judge, or during any period of service as a senior judge under IC 33-4-8, except as otherwise provided in this chapter.

"Fiscal year" means the period beginning on July 1, in any year, and ending on June 30 of the succeeding year.

"Salary" means the total salary paid to any participant by the state of Indiana and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code."

Page 7, after line 28, begin a new paragraph and insert:

"SECTION 6. IC 33-13-10.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Each person who:

- (1) begins service as a judge after August 31, 1985; and
- (2) is then not a participant;

shall become a participant in the fund.

(b) A person who serves as a full-time magistrate in an Indiana court after June 30, 1999, is a participant in the fund."

Page 9, line 38, after "judge" insert "**or a full-time magistrate**".

Page 9, line 39, after "judge" insert "**or a full-time magistrate**".

Page 10, line 5, after "section 1" insert "**or section 3(b)**".

Page 10, line 6, after "the" insert "**full-time magistrate or the**".

Page 10, line 15, after "judge" insert "**or full-time magistrate**".

Page 10, line 17, after "the amount the judge" insert "**or full-time magistrate**".

Page 10, line 17, after "if the judge" insert "**or full-time**

C
O
P
Y



magistrate".

Re-number all SECTIONS consecutively.

(Reference is to EHB 1077 as printed March 26, 1999.)

HARRISON

C
o
p
y

