



March 19, 1999

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## ENGROSSED HOUSE BILL No. 1093

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DIGEST OF HB 1093 (Updated March 18, 1999 11:33 am - DI 73)

**Citations Affected:** IC 4-3; IC 5-10; IC 5-10.2; IC 5-10.3; IC 21-6.1; IC 33-13; IC 36-8.

**Synopsis:** Public pension funds. Provides that the state, through the budget agency, may adopt a defined contribution plan for the purpose of matching all or a specified portion of state employees' contributions to the state employees' deferred compensation plan. Provides that deferred compensation committee is the trustee of the plan. Provides that the plan shall be administered by the auditor of state. Specifies that the pension of the surviving spouse of a governor who dies after June  
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**Effective:** June 1, 1998 (retroactive); July 1, 1999; July 1, 2000.

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**Kromkowski, Klinker, Buell,  
Behning**

(SENATE SPONSORS — HARRISON, CRAYCRAFT, WASHINGTON)

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January 6, 1999, read first time and referred to Committee on Ways and Means.  
February 10, 1999, amended, reported — Do Pass.  
February 15, 1999, read second time, ordered engrossed. Engrossed.  
February 18, 1999, read third time, passed. Yeas 90, nays 3.

SENATE ACTION

March 3, 1999, read first time and referred to Committee on Pensions and Labor.  
March 18, 1999, amended, reported favorably — Do Pass.

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30, 1998, is equal to the greater of: (1) 50% of the annual retirement benefit that the governor to whom the surviving spouse was married was receiving or was entitled to receive on the date of the governor's death; or (2) \$10,000. Specifies that the pension of the surviving spouse of a governor who died before July 1, 1999, is equal to the greater of: (1) the annual retirement benefit received by the surviving spouse during the year beginning July 1, 1998; or (2) \$10,000. Provides that the valuation of PERF and TRF members' annuity savings accounts that are invested in an alternative investment program must be done at least quarterly. (Current law requires the valuation to be done annually.) Provides that when a member participating in an alternative investment program transfers the amount credited to the member from one alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member is valued at the market value of the member's investment, as of the day before the effective date of the member's selection. (Current law provides that it is valued as of the last day of the preceding quarter.) Provides that when a member participating in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. Provides that annuity savings account contributions to the alternative investment programs: (1) shall be invested as of the last day of the quarter in which the contributions are received; and (2) begin to accumulate interest at the beginning of the quarter after the quarter in which the contributions are received. Provides that contributions to the alternative investment programs shall be invested as of the last day of the quarter in which the contributions are received. Specifies information that a PERF or TRF member must provide when filing an application for retirement benefits. Provides that the PERF board and the TRF board may suspend a person's fund membership and pay the person the annuity savings account if the member has not performed any service in a covered position during the past two years, is not vested, and has a total benefit value of less than \$200. Provides that the PERF or TRF boards may purchase securities issued by a custodian bank or trust company or a subsidiary, parent, or holding company of the custodian. Provides that PERF and TRF members are entitled to service credit for adoption leave of not more than one year. Allows PERF and TRF to pay an estimated retirement benefit to a member under certain circumstances. Provides that after a member's actual retirement benefit is calculated, the fund shall temporarily adjust the member's benefit to reconcile any underpayment or overpayment that resulted from the payment of estimated benefits. Allows a member of PERF or TRF to designate a new beneficiary under certain circumstances. Allows a member of PERF or TRF to elect to begin receiving the member's pension benefit but to leave the member's annuity savings account invested until a later date. Continues to use an earnings limit prepared under federal Social Security laws to determine how much a PERF or TRF member who is receiving benefits may earn in a fund-covered position before the member's benefits are suspended and the member is reinstated into active membership, but specifies the period within which the limit is applied. Provides for an automatic suspension of benefits if a member is reemployed within 90 days of retirement. Requires an employer to submit a PERF member's membership records to the PERF board not more than 30 days after the member is hired. Provides that if an employer does not provide the PERF board with employees' membership records or other reports or payments within 30 days after the records, reports, or payments are due, the PERF board may fine the employer \$100 for each day the records, reports, or payments are late. Allows the auditor of state to

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## Digest Continued

withhold this penalty from money payable by the state to the employer. Allows certain individuals to claim service credit in PERF if the individuals: (1) were erroneously enrolled in PERF before 1980; (2) made contributions to PERF; and (3) were subsequently denied all or part of the service credit for a position that would otherwise be covered by PERF. Allows PERF members to purchase service credit at actuarial cost for their prior service in positions covered by the 1925 fund, the 1937 fund, or the 1953 fund if they did not vest in any of those funds. Provides that TRF members may purchase service credit for private school teaching after one year of credited service in TRF. (Current law provides that the private school service credit may be purchased only after the TRF member has ten years of credited service in TRF.) Provides that a TRF member who purchases service credit for private school teaching may not claim the service credit until the member has at least ten years of credited service in TRF. (These changes would make the provisions concerning purchase of private school service credit consistent with provisions concerning the purchase of other forms of service credit.) Provides that private school teaching credit may be claimed for teaching kindergarten through postsecondary school. Provides that if a member of the 1977 fund requests a hearing concerning a determination of impairment, the local police or firefighter pension board must hold the hearing within 90 days after the member's request and must make a determination within 30 days after the hearing. Allows members of the judges' retirement system to purchase service credit at full actuarial cost for prior service in an Indiana public employees' retirement fund. Provides that a police officer or marshal employed by a town that establishes a board of metropolitan police commissioners or a town that becomes a city may participate in the 1977 fund regardless of the person's age if the person meets certain physical standards. Provides that any prior service credit for such a person may be granted only in accordance with existing law concerning the granting of prior service credit. Provides that for purposes of the 1977 fund provisions concerning line of duty benefits paid to a survivor, the term "line of duty" also includes any action that a fund member, in the member's capacity as a police officer or firefighter, performs: (1) in the course of controlling or reducing crime or enforcing the criminal law; or (2) while on the scene of an emergency run or on the way to or from the scene. (The introduced version of this bill was prepared by the pension management oversight commission.)

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March 19, 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. 1093

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

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

1 SECTION 1. IC 4-3-3-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 1999]: Sec. 2. The surviving spouse of each  
3 individual who serves as governor and who is entitled to a retirement  
4 benefit under section 1.1 of this chapter, is entitled to an annual  
5 pension. The pension shall be paid in equal monthly installments by the  
6 treasurer of state on warrant of the auditor of state after a claim has  
7 been made for the pension to the auditor by the surviving spouse or a  
8 person acting on his behalf. The annual pension under this section is  
9 equal to the **greater of following:**

10 (1) ~~fifty percent (50%) of~~ **For the surviving spouse of a**  
11 **governor who died before July 1, 1998, the greater of:**

12 (A) the annual retirement benefit ~~to which the governor to~~  
13 ~~whom the received by the~~ surviving spouse ~~was married~~  
14 ~~would have been entitled on the date of the governor's death~~  
15 ~~under section 1.1 of this chapter;~~ **during the year beginning**  
16 **July 1, 1998;** or

17 ~~(2)~~ **(B)** ten thousand dollars (\$10,000).

18 **(2) For the surviving spouse of a governor who dies after June**

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1           **30, 1998, the greater of:**

- 2           **(A) fifty percent (50%) of the annual retirement benefit**  
 3           **that the governor to whom the surviving spouse was**  
 4           **married was receiving or was entitled to receive on the**  
 5           **date of the governor's death; or**  
 6           **(B) ten thousand dollars (\$10,000).**

7           The surviving spouse of each individual who serves as governor must  
 8           elect to receive either (1) or (2) above and once any payment has been  
 9           received the election is irrevocable. The surviving spouse is entitled to  
 10          receive the pension for the remainder of his life unless he remarries.  
 11          Notwithstanding any other law to the contrary, the pension under this  
 12          section is in addition to any other retirement benefits a surviving  
 13          spouse is entitled to receive.

14          SECTION 2. IC 5-10-1.1-1.5 IS ADDED TO THE INDIANA  
 15          CODE AS A NEW SECTION TO READ AS FOLLOWS  
 16          [EFFECTIVE JULY 1, 1999]: **Sec. 1.5. (a) The state, through the**  
 17          **budget agency, may adopt a defined contribution plan, under**  
 18          **Section 401(a) of the Internal Revenue Code, for the purpose of**  
 19          **matching all or a specified portion of state employees'**  
 20          **contributions to the state employees' deferred compensation plan.**

21          **(b) The deferred compensation committee shall be the trustee of**  
 22          **a plan established under subsection (a) as described in section 4 of**  
 23          **this chapter. A plan established under subsection (a) shall be**  
 24          **administered by the auditor of state as described in section 5 of this**  
 25          **chapter.**

26          **(c) The deferred compensation committee may approve funding**  
 27          **offerings for a plan established under subsection (a), which may be**  
 28          **the same as offerings for the state employees' deferred**  
 29          **compensation plan. All funds in each plan shall be separately**  
 30          **accounted for, but may be commingled for investment purposes.**

31          **(d) Contributions to a plan established under subsection (a) are**  
 32          **limited to the amount of biennial appropriations made for that**  
 33          **purpose.**

34          **(e) A plan established under subsection (a) must include**  
 35          **appropriate provisions concerning the plan's day to day operation**  
 36          **and any other provisions that are appropriate. Notwithstanding**  
 37          **IC 22-2-6-2, the plan may also include provisions for the use of**  
 38          **automated voice response units and telephonic communications,**  
 39          **on-line activities, and other technology for participant elections,**  
 40          **directions, and services if the technology has sufficient capacity to**  
 41          **record and store the elections and directions.**

42          **(f) The state is obligated at any particular time only for the**

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1 **current market value of the funding previously made to a plan**  
 2 **established under subsection (a).**

3 SECTION 3. IC 5-10.2-2-3 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The annuity  
 5 savings account consists of:

- 6 (1) the members' contributions; and  
 7 (2) the interest credits on these contributions **in the guaranteed**  
 8 **fund or the gain or loss in market value on these contributions**  
 9 **in the alternative investment program**, as specified in section  
 10 4 of this chapter.

11 Each member shall be credited individually with the amount of the  
 12 member's contributions and interest credits.

13 (b) Each board shall maintain the annuity savings account program  
 14 in effect on December 31, 1995 (referred to in this chapter as the  
 15 guaranteed program). In addition, the board of the Indiana state  
 16 teachers' retirement fund shall establish and maintain a guaranteed  
 17 program within the 1996 account. Each board may establish investment  
 18 guidelines and limits on all types of investments (including, but not  
 19 limited to, stocks and bonds) and take other actions necessary to fulfill  
 20 its duty as a fiduciary of the annuity savings account, subject to the  
 21 limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

22 (c) Each board shall establish alternative investment programs  
 23 within the annuity savings account of the public employees' retirement  
 24 fund, the pre-1996 account, and the 1996 account, based on the  
 25 following requirements:

- 26 (1) Each board shall maintain at least one (1) alternative  
 27 investment program that is an indexed stock fund and one (1)  
 28 alternative investment program that is a bond fund.  
 29 (2) The programs should represent a variety of investment  
 30 objectives under IC 5-10.3-5-3.  
 31 (3) No program may permit a member to withdraw money from  
 32 the member's account except as provided in IC 5-10.2-3 and  
 33 IC 5-10.2-4.  
 34 (4) All administrative costs of each alternative program shall be  
 35 paid from the earnings on that program.  
 36 (5) A valuation of each member's account must be completed ~~at~~  
 37 ~~least annually:~~ **as of the last day of each quarter.**

38 (d) The board must prepare, at least annually, an analysis of the  
 39 guaranteed program and each alternative investment program. This  
 40 analysis must:

- 41 (1) include a description of the procedure for selecting a  
 42 alternative investment program;



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- 1 (2) be understandable by the majority of members; and  
 2 (3) include a description of prior investment performance.

3 (e) A member may direct the allocation of the amount credited to  
 4 the member among the guaranteed fund and any available alternative  
 5 investment funds, subject to the following conditions:

6 (1) A member may make a selection or change an existing  
 7 selection at any time, but not more than once in a twelve (12)  
 8 month period.

9 (2) The board shall implement the member's selection beginning  
 10 the first day of the next calendar quarter that begins at least thirty  
 11 (30) days after the selection is received by the board. This date is  
 12 the effective date of the member's selection.

13 (3) A member may select any combination of the guaranteed fund  
 14 or any available alternative investment funds, in ten percent  
 15 (10%) increments.

16 (4) A member's selection remains in effect until a new selection  
 17 is made.

18 (5) On the effective date of a member's selection, the board shall  
 19 reallocate the member's existing balance or balances in  
 20 accordance with the member's direction, based on: ~~the market~~  
 21 ~~value~~

22 (A) for an alternative investment program balance, **the market**  
 23 **value** on the effective date; and **by account balance**

24 (B) for any guaranteed program balance, **the account balance**  
 25 on the effective date.

26 All ~~future~~ contributions to the member's account shall be  
 27 allocated **as of the last day of that quarter** in accordance with  
 28 the member's most recent effective direction. The board shall not  
 29 reallocate the member's account at any other time.

30 (f) When a member who ~~has selected~~ **participates in** an alternative  
 31 investment program ~~retires, dies, suspends membership and withdraws~~  
 32 ~~from the fund, or~~ transfers the amount credited to the member from one

33 (1) alternative investment program to another **alternative investment**  
 34 **program or to the guaranteed program**, the amount credited to the  
 35 member shall be valued at the market value of the member's  
 36 investment, as of the ~~last day of the preceding quarter: before the~~  
 37 **effective date of the member's selection. When a member who**  
 38 **participates in an alternative investment program retires, becomes**  
 39 **disabled, dies, or suspends membership and withdraws from the**  
 40 **fund, the amount credited to the member shall be the market value**  
 41 **of the member's investment as of the last day of the quarter**  
 42 **preceding the member's distribution or annuitization at**



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1 **retirement, disability, death, or suspension and withdrawal, plus**  
 2 **contributions received after that date.**

3 (g) When a member who participates in the guaranteed program  
 4 ~~retires, dies, suspends membership and withdraws from the fund, or~~  
 5 transfers the amount credited to the member to an alternative  
 6 investment program, the amount credited to the member in the  
 7 guaranteed program is computed without regard to market value and is  
 8 based on the balance of the member's account in the guaranteed  
 9 program as of the last day of the ~~preceding~~ quarter **preceding the**  
 10 **effective date of the transfer. When a member who participates in**  
 11 **the guaranteed program retires, becomes disabled, dies, or**  
 12 **suspends membership and withdraws from the fund, the amount**  
 13 **credited to the member shall be computed without regard to**  
 14 **market value and is based on the balance of the member's account**  
 15 **in the guaranteed program as of the last day of the quarter**  
 16 **preceding the member's distribution or annuitization at**  
 17 **retirement, disability, death, or suspension and withdrawal, plus**  
 18 any contributions received since that date **plus interest since that**  
 19 **date.**

20 SECTION 4. IC 5-10.2-2-4 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Interest shall be  
 22 credited and compounded at least annually on all amounts credited to  
 23 the member in the guaranteed program. For the guaranteed program,  
 24 the board shall annually establish an interest credit rate equal to or less  
 25 than the investment income earned.

26 (b) The market value of each alternative investment program shall  
 27 be allocated at least annually to the members participating in that  
 28 program.

29 (c) Contributions to the guaranteed program **and the alternative**  
 30 **investment programs** shall be invested as ~~of the contributions are paid~~  
 31 ~~and last day of the quarter in which the contributions are received.~~  
 32 **Contributions to the guaranteed program** shall begin to accumulate  
 33 interest at the beginning of the quarter after the quarter in which the  
 34 contributions are paid. ~~Contributions to the alternative investment~~  
 35 ~~programs shall be invested as the contributions are paid: received.~~

36 (d) When a member retires or withdraws with a balance in the  
 37 guaranteed program, a proportional interest credit determined by the  
 38 board shall be granted for the period elapsed since the last interest date  
 39 on that balance.

40 SECTION 5. IC 5-10.2-3-5 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Suspension of  
 42 Membership. (a) A member who is not eligible for retirement or

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1 disability retirement may suspend his membership if he terminates  
2 employment.

3 (b) After five (5) continuous years in which he performs no service,  
4 his membership shall be automatically suspended by the board unless  
5 he is vested status.

6 (c) **The board may suspend a member's membership in the fund**  
7 **if:**

8 (1) **the member has not performed any service in a covered**  
9 **position during the past two (2) years;**

10 (2) **the member has not attained vested status in the fund; and**

11 (3) **the value of the member's annuity savings account is not**  
12 **more than two hundred dollars (\$200).**

13 The board may establish rules for deferring the effective date of a  
14 suspension of membership. The deferral may not be for more than six  
15 (6) months.

16 (b) (d) On resuming service the member may claim as creditable  
17 service the period of employment before the suspension of  
18 membership, but only to the extent that the same period of employment  
19 is not being used by another governmental plan for purposes of the  
20 member's benefit in the other governmental plan.

21 SECTION 6. IC 5-10.2-3-6 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) After a member  
23 suspends his membership, he is entitled to withdraw in a lump sum the  
24 amount of his contributions plus interest credited to him.

25 (b) Except as provided in subsection (c), if the member does not  
26 claim his moneys within five (5) years after the suspension, the moneys  
27 shall be credited to the retirement fund. Any reasonable costs of  
28 locating the member or the member's beneficiary may be charged  
29 against the member's or the beneficiary's money. The fund shall retain  
30 the moneys until the member claims them, with no further interest  
31 credits to the member after the moneys are credited to the fund.

32 (c) If a member suspends membership in the fund because the  
33 member is no longer in a covered position but does not separate from  
34 employment with the member's employer, money shall be credited to  
35 the retirement fund only if the member does not claim the member's  
36 money within forty-five (45) years after the suspension.

37 (d) **If a member is suspended under section (5)(c) of this**  
38 **chapter, the board shall pay the member's annuity savings account**  
39 **in a lump sum.**

40 SECTION 7. IC 5-10.2-4-1.3 IS ADDED TO THE INDIANA  
41 CODE AS A NEW SECTION TO READ AS FOLLOWS  
42 [EFFECTIVE JULY 1, 1999]: **Sec. 1.3. (a) A member who files an**

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1 application for retirement benefits must provide the following  
2 information on the application form:

3 (1) The retirement date chosen by the member.

4 (2) Whether the member chooses:

5 (A) an annuity purchased from the amount credited to the  
6 member in the annuity savings account;

7 (B) a total or partial distribution from the annuity savings  
8 account under section 2(b) of this chapter; or

9 (C) a deferral of the payment of any benefits from the  
10 annuity savings account under section 2(c) of this chapter.

11 (3) The name of the beneficiary or beneficiaries designated by  
12 the member with respect to the pension portion of the  
13 member's retirement benefit.

14 (4) The name of the beneficiary or beneficiaries designated by  
15 the member with respect to the annuity portion of the  
16 member's retirement benefit, unless the member chooses total  
17 distribution under section 2 of this chapter.

18 (b) A member's designation of beneficiaries in the application  
19 for retirement benefits supersedes any previous designation of  
20 beneficiaries by the member.

21 (c) A member must indicate the name, address, date of birth,  
22 and Social Security number of each designated beneficiary and  
23 provide proof of birth of each designated beneficiary.

24 (d) Each board shall adopt a form for the application for  
25 retirement benefits that meets the requirements of this section.

26 SECTION 8. IC 5-10.2-4-1.5 IS ADDED TO THE INDIANA  
27 CODE AS A NEW SECTION TO READ AS FOLLOWS  
28 [EFFECTIVE JULY 1, 2000]: Sec. 1.5. (a) A fund may calculate and  
29 pay an estimated retirement benefit of the pension portion to a  
30 member if:

31 (1) the member has applied for a retirement benefit and has  
32 chosen a retirement date on which the retirement benefit is to  
33 begin;

34 (2) the member's membership records are incomplete or have  
35 not been certified; and

36 (3) the member's membership records that have been  
37 submitted to the fund establish that the member is entitled to  
38 a retirement benefit.

39 (b) A fund may calculate an estimated benefit under this section  
40 based on eighty-five percent (85%) of the pension portion of the  
41 benefit determined under the fund's records on service and  
42 compensation information.



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1 (c) If an estimated benefit is paid to a member under this  
 2 section, the fund shall, after all membership records have been  
 3 submitted to the fund and certified, determine the actual  
 4 retirement benefit to which the member is entitled. After  
 5 determining the actual retirement benefit to which the member is  
 6 entitled, the fund shall temporarily adjust the actual retirement  
 7 benefit that is paid to the member to reconcile any underpayment  
 8 or overpayment of benefits to the member that resulted from the  
 9 payment of estimated benefits. The fund may make the temporary  
 10 adjustment to the member's actual retirement benefit over a  
 11 reasonable time, as determined by the board.

12 SECTION 9. IC 5-10.2-4-2 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) **Unless a**  
 14 **member elects otherwise under this section**, the retirement benefit  
 15 for each member consists of the sum of a pension provided by  
 16 employer contributions plus an annuity provided by the amount  
 17 credited to the member in the annuity savings account. ~~However,~~

18 (b) A member may choose at retirement or upon a disability  
 19 retirement to receive a ~~lump sum payment distribution~~ of:

- 20 (1) the entire amount credited to the member in the annuity  
 21 savings account; or  
 22 (2) an amount equal to the member's federal income tax basis in  
 23 the member's annuity savings account balance as it existed on  
 24 December 31, 1986.

25 If the member chooses to receive the ~~lump sum payment distribution~~  
 26 under subdivision (1), the member is not entitled to an annuity as part  
 27 of the retirement or disability benefit. If the member chooses to receive  
 28 the ~~lump sum payment distribution~~ under subdivision (2), the member  
 29 is entitled to an annuity purchasable by the amount remaining in the  
 30 member's annuity savings account after the payment under subdivision  
 31 (2).

32 (c) **Instead of choosing to receive the benefits described in**  
 33 **subsection (a) or (b), a member may choose upon retirement or**  
 34 **upon disability retirement to begin receiving a pension provided by**  
 35 **employer contributions and to defer receiving in any form the**  
 36 **member's annuity savings account. If a member chooses this**  
 37 **option, the member:**

- 38 (1) **is not entitled to an annuity as part of the member's**  
 39 **retirement or disability benefit, and the member's annuity**  
 40 **savings account will continue to be invested according to the**  
 41 **member's direction under IC 5-10.2-2-3; and**  
 42 (2) **may later choose, as of the first day of a month, to receive**

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1           **a distribution of:**

2           **(A) the entire amount credited to the member in the**  
 3           **annuity savings account; or**

4           **(B) an amount equal to the member's federal income tax**  
 5           **basis in the member's annuity savings account balance as**  
 6           **it existed on December 31, 1986.**

7           **If the member chooses to receive the distribution under subdivision**  
 8           **(2)(A), the member is not entitled to an annuity as part of the**  
 9           **member's retirement or disability benefit. If the member chooses**  
 10           **to receive the distribution under subdivision (2)(B), the member is**  
 11           **entitled to an annuity purchasable by the amount remaining in the**  
 12           **member's annuity savings account after the payment under**  
 13           **subdivision (2)(B). If the member does not choose to receive a**  
 14           **distribution under this subsection, the member is entitled to an**  
 15           **annuity purchasable by the entire amount in the member's annuity**  
 16           **savings account, and the form of the annuity shall be as described**  
 17           **in subsection (d) unless the member elects an option described in**  
 18           **section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be**  
 19           **paid under this section shall be determined in the manner**  
 20           **described in IC 5-10.2-2-3, except that it shall be determined as of**  
 21           **the last day of the quarter preceding the member's actual**  
 22           **distribution or annuitization date.**

23           (b) A member who retires is entitled to receive monthly retirement  
 24           benefits, which are guaranteed for five (5) years or until the member's  
 25           death, whichever is later.

26           (c) (d) Retirement benefits must be distributed in a manner that  
 27           complies with Section 401(a)(9) of the Internal Revenue Code, as  
 28           specified in IC 5-10.2-2-1.5.

29           SECTION 10. IC 5-10.2-4-4 IS AMENDED TO READ AS  
 30           FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) The computation  
 31           of benefits under this section is subject to IC 5-10.2-2-1.5.

32           (b) For retirement benefits payable on and after July 1, 1975, for a  
 33           member retired on and after January 1, 1956, the pension (p) is  
 34           computed as follows:

35           STEP ONE: Multiply one and one-tenths percent (1.1%) times the  
 36           average of the annual compensation (aac) and obtain a product.

37           STEP TWO: To obtain the pension, multiply the STEP ONE  
 38           product by the total creditable service (scr) completed by the  
 39           member on his retirement date.

40           Expressed mathematically:

41            $p = (.011) \text{ times } (aac) \text{ times } (scr)$

42           (c) Unless the member has chosen a lump sum payment under

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1 section 2 of this chapter **or elects to defer receiving in any form the**  
 2 **member's annuity savings account under section 2(c) of this**  
 3 **chapter**, the annuity is the amount purchasable on the member's  
 4 retirement date by the amount credited to the member in the annuity  
 5 savings account. The amount purchasable is based on actuarial tables  
 6 adopted by the board under IC 5-10.2-2-10 at an interest rate  
 7 determined by the board. ~~but no greater than the average interest rate~~  
 8 ~~earned during the immediately preceding fiscal year ending June 30 on~~  
 9 ~~bonds held in the investment portfolio of the fund.~~

10 SECTION 11. IC 5-10.2-4-7 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Benefits provided  
 12 under this section are subject to IC 5-10.2-2-1.5.

13 (b) **A member who retires is entitled to receive monthly**  
 14 **retirement benefits, which are guaranteed for five (5) years or until**  
 15 **the member's death, whichever is later.** A member may select in  
 16 writing any of the following nonconflicting options for the payment of  
 17 the member's retirement benefits instead of the **five (5) year**  
 18 **guaranteed retirement benefit payments. specified in section 2 of this**  
 19 **chapter.** The amount of the optional payments shall be determined  
 20 under rules of the board and shall be the actuarial equivalent of the  
 21 benefit payable under sections 4, 5, and 6 of this chapter.

22 (1) Joint and Survivor Option.

23 (A) The member receives a decreased retirement benefit  
 24 during the member's lifetime, and there is a benefit payable  
 25 after the member's death to a designated beneficiary during the  
 26 lifetime of the beneficiary, which benefit equals, at the option  
 27 of the member, either the full decreased retirement benefit or  
 28 two-thirds (2/3) or one-half (1/2) of that benefit.

29 (B) If the member dies before retirement, the designated  
 30 beneficiary may receive only the amount credited to the  
 31 member in the annuity savings account unless the designated  
 32 beneficiary is entitled to survivor benefits under IC 5-10.2-3.

33 (C) If the designated beneficiary dies before the member  
 34 retires, the selection is automatically canceled **and the**  
 35 **member may make a new beneficiary election and may**  
 36 **elect a different form of benefit under this subsection.**

37 (D) If:

38 (i) the designated beneficiary dies while the member is  
 39 receiving benefits; ~~the amount of reduced retirement~~  
 40 ~~benefits is not affected: or~~

41 (ii) **the member is receiving benefits, the member**  
 42 **marries, either for the first time or following the death**



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1           **of the member's spouse, after the member's first benefit**  
 2           **payment is made, and the member's designated**  
 3           **beneficiary is not the member's current spouse or the**  
 4           **member has not designated a beneficiary;**

5           **the member may elect to change the member's designated**  
 6           **beneficiary or form of benefit under this subsection and to**  
 7           **receive an actuarially adjusted and recalculated benefit for**  
 8           **the remainder of the member's life or for the remainder of**  
 9           **the member's life and the life of the newly designated**  
 10           **beneficiary. If the member's new election is the joint and**  
 11           **survivor option, the member shall indicate whether the**  
 12           **designated beneficiary's benefit shall equal, at the option**  
 13           **of the member, either the member's full recalculated**  
 14           **retirement benefit or two-thirds (2/3) or one-half (1/2) of**  
 15           **this benefit. The cost of recalculating the benefit shall be**  
 16           **borne by the member and shall be included in the actuarial**  
 17           **adjustment.**

18           (2) Benefit with No Guarantee. The member receives an increased  
 19           lifetime retirement benefit without the five (5) year guarantee  
 20           specified in ~~section 2 of this chapter:~~ **this subsection.**

21           (3) Integration with Social Security. If the member retires before  
 22           the age of eligibility for Social Security benefits, in order to  
 23           provide a level benefit during the member's retirement the  
 24           member receives an increased retirement benefit until the age of  
 25           Social Security eligibility and decreased retirement benefits after  
 26           that age.

27           (4) Cash Refund Annuity. The member receives a lifetime annuity  
 28           purchasable by the amount credited to the member in the annuity  
 29           savings account, and the member's designated beneficiary  
 30           receives a refund payment equal to:

31                   (A) the total amount used in computing the annuity at the  
 32                   retirement date; minus

33                   (B) the total annuity payments paid and due to the member  
 34                   before the member's death.

35           (c) A selection under subsection (b) may be made or revoked by the  
 36           member on or before:

37                   (1) the retirement date selected under section 1 of this chapter; or

38                   (2) the date on which a retirement date is selected under section  
 39                   1 of this chapter;

40           whichever is later.

41           SECTION 12. IC 5-10.2-4-8 IS AMENDED TO READ AS  
 42           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) As used in this

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1 section, "exempt amount" means ~~twelve (12) times the monthly exempt~~  
 2 ~~amount; the annual earnings limit under the federal Social Security~~  
 3 ~~system at the member's Social Security normal retirement age for~~  
 4 ~~a member entitled to receive unreduced Social Security benefits,~~  
 5 computed for the calendar year in which a retired **public employees'**  
 6 **retirement fund** member begins reemployment, for beneficiaries aged  
 7 sixty-five (65) through sixty-nine (69) in the federal social security  
 8 system by the Secretary of Health and Human Services under 42 U.S.C.  
 9 ~~403~~; **is reemployed and computed for the fiscal year in which a**  
 10 **retired teachers' retirement fund member is reemployed.**

11 (b) If a member who is receiving retirement benefits:

12 (1) becomes reemployed in a position covered by this article; and

13 (2) earns in that position more than the exempt amount;

14 his retirement benefit payments shall stop, and the member shall begin  
 15 making contributions as required in IC 5-10.2-3-2. However, employer  
 16 contributions shall be made throughout the period of reemployment.

17 (c) **If a member who is receiving retirement benefits is**  
 18 **reemployed in a position covered by this article not more than**  
 19 **ninety (90) days after the member's retirement, the member's**  
 20 **retirement benefits shall stop, the member shall begin making**  
 21 **contributions as required by IC 5-10.2-3-2, and employer**  
 22 **contributions shall be made throughout the period of**  
 23 **reemployment.**

24 SECTION 13. IC 5-10.3-5-4 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Securities shall  
 26 be held for the fund by banks or trust companies under a custodial  
 27 agreement. Income, interest, proceeds of sale, materials, redemptions,  
 28 and all other receipts from securities and other investments which the  
 29 board retains for the cash working balance shall be deposited with the  
 30 treasurer of state.

31 (b) ~~The board may not purchase a security or financial interest~~  
 32 ~~issued or owned by a custodian or by a subsidiary, parent corporation,~~  
 33 ~~or holding company of a custodian.~~

34 (c) (b) Subject to IC 5-10.2-2-15, the board may contract with  
 35 investment counsel, trust companies, or banks to assist the board in its  
 36 investment program.

37 SECTION 14. IC 5-10.3-6-7 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. Collection of  
 39 Payments. If the **employer or** political subdivision fails to make  
 40 payments required by this chapter, the amount payable may be  
 41 withheld by the auditor of state from moneys payable to the **employer**  
 42 **or** subdivision and transferred to the fund or recovered in a suit in the



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1 circuit or superior court of the county in which the political subdivision  
 2 is located, which suit shall be an action by the state on the relation of  
 3 the board, prosecuted by the attorney general. **If the employer or  
 4 political subdivision fails to file the reports or records required by  
 5 this chapter or by IC 5-10.3-7-12.5, the auditor of state shall  
 6 withhold the penalty described in IC 5-10.3-7-12.5 from money  
 7 payable to the employer or the political subdivision and shall  
 8 transfer the penalty to the fund.**

9 SECTION 15. IC 5-10.3-7-2.7 IS ADDED TO THE INDIANA  
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 1999]: **Sec. 2.7. (a) This section applies only  
 12 to an individual who:**

13 **(1) began service as a police officer or firefighter and became  
 14 a member of a police officers' pension fund or firefighters'  
 15 pension fund before 1980;**

16 **(2) began service in another position (referred to in this  
 17 section as the "PERF position") and was enrolled erroneously  
 18 as a contributing member of the public employees' retirement  
 19 fund with respect to the PERF position before 1980;**

20 **(3) made contributions to the public employees' retirement  
 21 fund with respect to the PERF position as if the individual had  
 22 been legally enrolled in that fund;**

23 **(4) after 1991 was denied service credit in the public  
 24 employees' retirement fund with respect to all or part of the  
 25 individual's service in the PERF position because of the  
 26 individual's service in the police officer or firefighter position  
 27 described in subdivision (1); and**

28 **(5) claims service credit in PERF and applies for membership  
 29 in PERF before January 1, 2000.**

30 **(b) Notwithstanding the provisions of section 2 of this chapter,  
 31 an individual described in subsection (a) who:**

32 **(1) is not otherwise eligible for membership in the public  
 33 employees' retirement fund; and**

34 **(2) was enrolled erroneously in the public employees'  
 35 retirement fund as a contributing member;**

36 **is eligible for membership in the public employees' retirement fund  
 37 and is entitled to receive the benefits provided by that fund.**

38 SECTION 16. IC 5-10.3-7-4.6 IS ADDED TO THE INDIANA  
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 40 [EFFECTIVE JULY 1, 1999]: **Sec. 4.6. (a) Subject to the provisions  
 41 of this section, a member may purchase service credit for the  
 42 member's prior service in a position covered by the 1925 police**



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1 pension fund under IC 36-8-6, the 1937 firefighters' pension fund  
 2 under IC 36-8-7, or the 1953 police pension fund under IC 36-8-7.5  
 3 if the member meets the following requirements:

4 (1) The member has at least one (1) year of credited service in  
 5 the fund.

6 (2) The member has not attained vested status in and is not an  
 7 active member of the 1925 police pension fund, the 1937  
 8 firefighters' pension fund, or the 1953 police pension fund.

9 (3) Before the member retires, the member makes  
 10 contributions to the fund as follows:

11 (A) Contributions that are equal to the product of the  
 12 following:

13 (i) The member's salary at the time the member actually  
 14 makes a contribution for the service credit.

15 (ii) A rate, determined by the actuary of the fund, based  
 16 on the age of the member at the time the member  
 17 actually makes a contribution for service credit and  
 18 computed to result in a contribution amount that  
 19 approximates the actuarial present value of the benefit  
 20 attributable to the service credit purchased.

21 (iii) The number of years of service credit the member  
 22 intends to purchase.

23 (B) Contributions for any accrued interest, at a rate  
 24 determined by the actuary for the fund, for the period  
 25 from the member's initial membership in the fund to the  
 26 date payment is made by the member.

27 (4) The member has received verification from the fund that  
 28 the service in the 1925 police pension fund, the 1937  
 29 firefighters' pension fund, or the 1953 police pension fund is,  
 30 as of that date, valid.

31 (b) At least ten (10) years of service in Indiana is required  
 32 before a member may receive a benefit based on service credits  
 33 purchased under this section.

34 (c) A member who:

35 (1) terminates employment before satisfying the eligibility  
 36 requirements necessary to receive a monthly allowance; or

37 (2) receives a monthly allowance for the same service from  
 38 another tax supported public employee retirement plan other  
 39 than under the Social Security Act;

40 may withdraw the purchase amount plus accumulated interest  
 41 after submitting a properly completed application for a refund to  
 42 the fund.



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1 (d) The following apply to the purchase of service credit under  
2 this section:

3 (1) The board may allow a member to make periodic  
4 payments of the contributions required for the purchase of  
5 the service credit. The board shall determine the length of the  
6 period during which the payments must be made.

7 (2) The board may deny an application for the purchase of  
8 service credit if the purchase would exceed the limitations  
9 under Section 415 of the Internal Revenue Code.

10 (3) A member may not claim the service credit for purposes  
11 of determining eligibility or computing benefits unless the  
12 member has made all payments required for the purchase of  
13 the service credit.

14 SECTION 17. IC 5-10.3-7-6 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. Leave Service. (a)  
16 A member is entitled to service credit for **adoption leave of not more**  
17 **than one (1) year and for** leaves of absence, granted under rules in  
18 force at the time of the leave, totaling six (6) months or less during any  
19 period of four (4) consecutive years.

20 (b) A member may make contributions during the leave of absence  
21 based on his rate of compensation on the date his leave of absence  
22 began.

23 (c) Notwithstanding any law, this section must be administered in  
24 a manner consistent with the Family and Medical Leave Act of 1993  
25 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies  
26 for the benefits and protections afforded by the Family and Medical  
27 Leave Act is entitled to receive credit for vesting and eligibility  
28 purposes to the extent required by the Family and Medical Leave Act,  
29 but is not entitled to receive credit for service for benefit purposes  
30 unless the leave is described in subsection (a).

31 SECTION 18. IC 5-10.3-7-10 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. ~~Statement~~  
33 ~~Concerning Employees~~. Each department shall submit to the board  
34 certified ~~statements~~ **membership records** containing the names, titles,  
35 rates of compensation, dates of birth, length of service, and other  
36 pertinent information **required by the board** about the department's  
37 employees. **A department must submit the membership record to**  
38 **the board not more than thirty (30) days after the member's date**  
39 **of hire.**

40 SECTION 19. IC 5-10.3-7-12.5 IS ADDED TO THE INDIANA  
41 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
42 [EFFECTIVE JULY 1, 1999]: **Sec. 12.5. An employer or department**

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1 must make the reports, membership records, or payments required  
 2 by IC 5-10.3-6 or by sections 10 through 12 of this chapter not  
 3 more than thirty (30) days after the end of the calendar quarter, if  
 4 applicable, or another due date specified in sections 10 through 12  
 5 of this chapter. If the employer or department does not make the  
 6 reports, records, or payments within that time:

7 (1) the board may fine the employer or department one  
 8 hundred dollars (\$100) for each additional day that the  
 9 reports, records, or payments are late, to be withheld under  
 10 IC 5-10.3-6-7; and

11 (2) if the employer or department is habitually late, as  
 12 determined by the board, the board shall report the employer  
 13 or the department to the auditor of state for additional  
 14 withholding under IC 5-10.3-6-7.

15 SECTION 20. IC 21-6.1-3-18 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. Conflicts of  
 17 Interest. (a) Except as otherwise provided, no trustee or employee of  
 18 the board may have any direct interest in the income of any investment  
 19 made by the board nor may receive any pay or emolument for services  
 20 connected with any investment made by the board. **However, the**  
 21 **board may purchase a security or financial interest issued or**  
 22 **owned by a custodian bank or trust company or by a subsidiary,**  
 23 **parent corporation, or holding company of a custodian bank or**  
 24 **trust company.**

25 (b) No trustee or employee may become in any manner an obligor  
 26 for money loaned by or borrowed from the fund.

27 SECTION 21. IC 21-6.1-4-4.6 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.6. (a) As used in this  
 29 section, "private teaching service" means service in Indiana as a  
 30 teacher in a private school, **kindergarten through postsecondary**, that  
 31 would be creditable service if performed in an accredited public school  
 32 in Indiana.

33 (b) A member may purchase private teaching service ~~if:~~ **credit**  
 34 **subject to the following:**

35 (1) The member ~~has~~ **must have** at least ~~ten (10)~~ **years one (1)**  
 36 **year** of ~~creditable~~ **credited** service in the fund.

37 (2) **The member must have at least ten (10) years of in-state**  
 38 **credited service before the member may claim the service**  
 39 **credit.**

40 (2) (3) The member ~~makes~~ **must make** contributions, before the  
 41 member retires, to the fund:

42 (A) that are equal to the product of the following:

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- 1 (i) the member's salary at the time the member actually
- 2 makes a contribution for the service credit;
- 3 (ii) a percentage rate, as determined by the actuary of the
- 4 fund, based on the age of the member at the time the
- 5 member makes a contribution for service credit and
- 6 computed to result in a contribution amount that
- 7 approximates the actuarial present value of the benefit
- 8 attributable to the service credit purchased; and
- 9 (iii) the number of years of private teaching service the
- 10 member intends to purchase; and
- 11 (B) for any accrued interest, at a rate determined by the
- 12 actuary of the fund, for the period from the member's initial
- 13 membership in the fund to the date payment is made by the
- 14 member; and
- 15 ~~(c)~~ (4) The fund ~~receives~~ **must receive** verification from the
- 16 private school that the private teaching service occurred.
- 17 (c) Service for years of private teaching that qualify a member for
- 18 retirement in an out-of-state system, **a private retirement system**, or
- 19 ~~in~~ any federal retirement system may not be granted under this section.
- 20 (d) A member who:
- 21 (1) terminates employment before satisfying the eligibility
- 22 requirements necessary to receive a monthly allowance; or
- 23 (2) receives a monthly allowance for the same service from
- 24 another tax supported public employee retirement plan other than
- 25 under the Social Security Act;
- 26 may withdraw the personal contributions made under the contributory
- 27 plan plus accumulated interest after submitting to the fund a properly
- 28 completed application for a refund.
- 29 (e) The following apply to the purchase of service credit under this
- 30 section:
- 31 (1) The board may allow a member to make periodic payments of
- 32 the contributions required for the purchase of the service credit.
- 33 The board shall determine the length of the period during which
- 34 the payments must be made.
- 35 (2) The board may deny an application for the purchase of service
- 36 credit if the purchase would exceed the limitations under Section
- 37 415 of the Internal Revenue Code.
- 38 (3) A member may not claim the service credit for purposes of
- 39 determining eligibility or computing benefits unless the member
- 40 has made all payments required for the purchase of the service
- 41 credit.
- 42 SECTION 22. IC 21-6.1-4-5 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Except as  
 2 provided in IC 21-6.1-4-6.1, a member may be given credit for leaves  
 3 of absence for study, professional improvement, and temporary  
 4 disability so long as the leave credit does not exceed one-seventh of the  
 5 total years of service claimed for retirement, referred to as the  
 6 one-seventh rule. A member granted a leave in these instances for  
 7 exchange teaching and for other educational employment approved  
 8 individually by the board is considered a teacher and is entitled to the  
 9 benefits of the fund if for or during the leave the member pays into the  
 10 fund the member's contributions. A leave for other educational  
 11 employment is not subject to the one-seventh rule.

12 (b) In each case of a teacher requesting a leave of absence to work  
 13 in a federally supported educational project, the board must determine  
 14 that the project is educational in nature and serves state citizens who  
 15 might otherwise be served by the public schools or public institutions  
 16 of higher education. The board shall make this determination for a one  
 17 (1) year period, which is later subject to review and reapproval.

18 (c) Subject to this chapter, leaves of absence specified in  
 19 IC 20-6.1-6-1, IC 20-6.1-6-2, or IC 20-6.1-6-3 **and adoption leave of**  
 20 **not more than one (1) year** must be credited to retirement.

21 (d) Notwithstanding any law, this section must be administered in  
 22 a manner consistent with the Family and Medical Leave Act of 1993  
 23 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies  
 24 for the benefits and protections afforded by the Family and Medical  
 25 Leave Act is entitled to receive credit for vesting and eligibility  
 26 purposes to the extent required by the Family and Medical Leave Act,  
 27 but is not entitled to receive credit for service for benefit purposes  
 28 unless the leave is described in subsection (a), (b), or (c).

29 SECTION 23. IC 21-6.1-5-9 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) The first **pension**  
 31 benefit payment after retirement shall be made not more than ninety  
 32 (90) days after the **completion and filing of the member's application**  
 33 **for retirement date: benefits.**

34 (b) After ~~that~~ **the first pension benefit** payment, each person  
 35 entitled to benefits shall receive the retirement benefits in installments  
 36 payable by the tenth day of each month.

37 (c) The last retirement benefit payment must be prorated to  
 38 terminate at the member's death.

39 SECTION 24. IC 33-13-9.1-10.5 IS ADDED TO THE INDIANA  
 40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 41 [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. (a) This section applies only**  
 42 **to a person who:**

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- 1 (1) is a judge participating under this chapter;
- 2 (2) before becoming a judge was a member of an Indiana
- 3 public employees' retirement fund;
- 4 (3) received credited service under an Indiana public
- 5 employees' retirement fund for the employment described in
- 6 subdivision (2), and the credited service is not eligible for
- 7 prior service credit under section 10 of this chapter; and
- 8 (4) the member has not attained vested status under an
- 9 Indiana public employees' retirement fund for the
- 10 employment described in subdivision (2).

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

- 14 (1) the prior service was credited under an Indiana public
- 15 employees' retirement fund; and
- 16 (2) the judge pays in a lump sum or in a series of payments
- 17 determined by the board, not exceeding five (5) annual
- 18 payments, the amount determined by the actuary for the 1977
- 19 benefit system as the total actual cost of the service.

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

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

25 (e) If the requirements of subsection (b) are satisfied, the board  
 26 shall transfer from the Indiana public employees' retirement fund  
 27 to the judges' 1977 benefit system the amount credited to the  
 28 judge's annuity savings account and the present value of the  
 29 retirement benefit payable at sixty-five (65) years of age that is  
 30 attributable to the transferring participant.

31 (f) The amount a participant must contribute to the judges' 1977  
 32 benefit system under subsection (b) shall be reduced by the amount  
 33 transferred to the judges' 1977 benefit system by the board under  
 34 subsection (e).

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

38 SECTION 25. IC 33-13-10.1-14.5 IS ADDED TO THE INDIANA  
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 40 [EFFECTIVE JULY 1, 1999]: **Sec. 14.5. (a) This section applies only**  
 41 **to a person who:**

- 42 (1) is a judge participating under this chapter;

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1 (2) before becoming a judge was a member of an Indiana  
2 public employees' retirement fund;

3 (3) received credited service under an Indiana public  
4 employees' retirement fund for the employment described in  
5 subdivision (2), and the credited service is not eligible for  
6 prior service credit under section 14 of this chapter; and

7 (4) the member has not attained vested status under an  
8 Indiana public employees' retirement fund for the  
9 employment described in subdivision (2).

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

13 (1) the prior service was credited under an Indiana public  
14 employees' retirement fund; and

15 (2) the judge pays in a lump sum or in a series of payments  
16 determined by the board, not exceeding five (5) annual  
17 payments, the amount determined by the actuary for the 1985  
18 benefit system as the total cost of the service.

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

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

24 (e) If the requirements of subsection (b) are satisfied, the board  
25 shall transfer from the Indiana public employees' retirement fund  
26 to the judges' 1985 benefit system the amount credited to the  
27 judge's annuity savings account and the present value of the  
28 retirement benefit payable at sixty-five (65) years of age that is  
29 attributable to the transferring participant.

30 (f) The amount a participant must contribute to the judges' 1985  
31 benefit system under subsection (b) shall be reduced by the amount  
32 transferred to the judges' 1985 benefit system by the board under  
33 subsection (e).

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

37 SECTION 26. IC 36-8-8-3 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) If a town  
39 establishes a board of metropolitan police commissioners, or if a town  
40 becomes a city, the municipality shall participate in the 1977 fund.  
41 However, if a police officer **or former marshal** is a member of the  
42 public employees' retirement fund, he may continue as a member of

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1 that fund instead of the 1977 fund. **Notwithstanding the age**  
 2 **requirements under section 7(a) of this chapter**, a police officer **or**  
 3 **former marshal** employed by a municipality at the time the  
 4 municipality enters the 1977 fund under this section shall be a member  
 5 of the 1977 fund unless the police officer **or former marshal** elects to  
 6 continue as a member of the public employees' retirement fund. **A**  
 7 **person may become a member of the 1977 fund under this**  
 8 **subsection without meeting the age limitation under section 7(a) of**  
 9 **this chapter only if the person satisfies:**

10 (1) **any aptitude, physical agility, or physical and mental**  
 11 **standards established by a local board under IC 36-8-3.2; and**

12 (2) **the minimum standards that are:**

13 (A) **adopted by the PERF board under section 19 of this**  
 14 **chapter; and**

15 (B) **in effect on the date the person becomes a member of**  
 16 **the 1977 fund.**

17 **Credit for prior service of a person who becomes a member of the**  
 18 **1977 fund under this subsection shall be determined under section**  
 19 **18 or 18.1 of this chapter. No service credit beyond that allowed**  
 20 **under section 18 or 18.1 of this chapter may be recognized under**  
 21 **the 1977 fund.**

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

26 (c) A unit that:

27 (1) has not established a pension fund for its firefighters; or

28 (2) is participating in the public employees' retirement fund under  
 29 subsection (b);

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

36 SECTION 27. IC 36-8-8-12.7 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12.7. (a) This section  
 38 applies to hearings conducted by local boards concerning  
 39 determinations of impairment under this chapter or of disability under  
 40 IC 36-8-5-2(g), IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

41 (b) At least five (5) days before the hearing, the local board shall  
 42 give notice to the fund member and the safety board of the time, date,

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- 1 and place of the hearing.
- 2 **(c) The local board must hold a hearing not more than ninety**
- 3 **(90) days after the fund member requests the hearing.**
- 4 ~~(c)~~ **(d)** At the hearing, the local board shall permit the fund member
- 5 and the safety board to:
- 6 (1) be represented by any individual;
- 7 (2) through witnesses and documents, present evidence;
- 8 (3) conduct cross-examination; and
- 9 (4) present arguments.
- 10 ~~(d)~~ **(e)** At the hearing, the local board shall require all witnesses to
- 11 be examined under oath, which may be administered by a member of
- 12 the local board.
- 13 ~~(e)~~ **(f)** The local board shall, at the request of the fund member or
- 14 the safety board, issue:
- 15 (1) subpoenas;
- 16 (2) discovery orders; and
- 17 (3) protective orders;
- 18 in accordance with the Indiana Rules of Trial Procedure that govern
- 19 discovery, depositions, and subpoenas in civil actions.
- 20 ~~(f)~~ **(g)** The local board shall have the hearing recorded so that a
- 21 transcript may be made of the proceedings.
- 22 ~~(g)~~ **(h)** After the hearing, the local board shall make its
- 23 determinations, including findings of fact, in writing and shall provide
- 24 copies of its determinations to the fund member and the safety board
- 25 **not more than thirty (30) days after the hearing.**
- 26 **(i) If the local board:**
- 27 **(1) does not hold a hearing within the time required under**
- 28 **subsection (c); or**
- 29 **(2) does not issue its determination within the time required**
- 30 **under subsection (h);**
- 31 **the fund member shall be considered to be totally impaired for**
- 32 **purposes of section 13.5 of this chapter and, if the issue before the**
- 33 **local board concerns the class of the member's impairment, the**
- 34 **member shall be considered to have a Class 1 impairment.**
- 35 ~~(h)~~ **(j)** The local board may on its own motion issue:
- 36 (1) subpoenas;
- 37 (2) discovery orders; and
- 38 (3) protective orders;
- 39 in accordance with the Indiana Rules of Trial Procedure that govern
- 40 discovery, depositions, and subpoenas in civil actions.
- 41 ~~(j)~~ **(k)** At the hearing, the local board may exclude evidence that is
- 42 irrelevant, immaterial, unduly repetitious, or excludable on the basis of

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evidentiary privilege recognized by the courts.

(j) (l) At the hearing, the local board may request the testimony of witnesses and the production of documents.

(k) (m) If a subpoena or order is issued under this section, the party seeking the subpoena or order shall serve it in accordance with the Indiana Rules of Trial Procedure. However, if the subpoena or order is on the local board's own motion, the sheriff of the county in which the subpoena or order is to be served shall serve it. A subpoena or order under this section may be enforced in the circuit or superior court of the county in which the subpoena or order is served.

(l) (n) With respect to a hearing conducted for purposes of determining disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5, the determination of the local board after a hearing is final and may be appealed to the court.

(m) (o) With respect to a hearing conducted for purposes of determining impairment or class of impairment under this chapter, the fund member may appeal the local board's determinations. An appeal under this subsection:

- (1) must be made in writing;
- (2) must state the class of impairment and the degree of impairment that is claimed by the fund member;
- (3) must include a written determination by the chief of the police or fire department stating that there is no suitable and available work; and
- (4) must be filed with the local board and the PERF board's director no later than thirty (30) days after the date on which the fund member received a copy of the local board's determinations.

(n) (p) To the extent required by the Americans with Disabilities Act, the transcripts, records, reports, and other materials generated as a result of a hearing, review, or appeal conducted to determine an impairment under this chapter or a disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5 must be:

- (1) retained in the separate medical file created for the member; and
- (2) treated as a confidential medical record.

SECTION 28. IC 36-8-8-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13.1. (a) If:

- (1) the local board has determined under this chapter that a covered impairment exists and the safety board has determined that there is no suitable and available work within the department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act; or

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- 1           (2) the fund member has filed an appeal under ~~section 12.7(m)~~  
 2           **section 12.7(o)** of this chapter;  
 3 the local board shall submit the local board's determinations and the  
 4 safety board's determinations to the PERF board's director.
- 5           (b) After the PERF board's director receives the determinations, the  
 6 fund member must submit to an examination by a medical authority  
 7 selected by the PERF board. The authority shall determine if there is a  
 8 covered impairment. With respect to a fund member who is covered by  
 9 sections 12.5 and 13.5 of this chapter, the authority shall determine the  
 10 degree of impairment. The PERF board shall adopt rules under  
 11 IC 4-22-2 to establish impairment standards, such as the impairment  
 12 standards contained in the United States Department of Veterans  
 13 Affairs Schedule for Rating Disabilities. The report of the examination  
 14 shall be submitted to the PERF board's director. If a fund member  
 15 refuses to submit to an examination, the authority may find that no  
 16 impairment exists.
- 17           (c) The PERF board's director shall review the medical authority's  
 18 report and the local board's determinations and issue an initial  
 19 determination within sixty (60) days after receipt of the local board's  
 20 determinations. The PERF board's director shall notify the local board,  
 21 the safety board, and the fund member of the initial determination. The  
 22 following provisions apply if the PERF board's director does not issue  
 23 an initial determination within sixty (60) days and if the delay is not  
 24 attributable to the fund member or the safety board:
- 25           (1) In the case of a review initiated under subsection (a)(1):  
 26           (A) the determinations of the local board and the chief of the  
 27 police or fire department are considered to be the initial  
 28 determination; and  
 29           (B) for purposes of section 13.5(d) of this chapter, the fund  
 30 member is considered to be totally impaired.
- 31           (2) In the case of an appeal submitted under subsection (a)(2), the  
 32 statements made by the fund member under ~~section 12.7(m)~~  
 33 **section 12.7(o)** of this chapter are considered to be the initial  
 34 determination.
- 35           (d) The fund member, the safety board, or the local board may  
 36 object in writing to the director's initial determination within fifteen  
 37 (15) days after the determination is issued. If no written objection is  
 38 filed, the initial determination becomes the final order of the PERF  
 39 board. If a timely written objection is filed, the PERF board shall issue  
 40 the final order after a hearing. The final order shall be issued not later  
 41 than one hundred eighty (180) days after the date of receipt of the local  
 42 board's determination. The following provisions apply if a final order

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1 is not issued within one hundred eighty (180) days and if the delay is  
 2 not attributable to the fund member or the chief of the police or fire  
 3 department:

4 (1) In the case of a review initiated under subsection (a)(1):

5 (A) the determinations of the local board and the chief of the  
 6 police or fire department are considered to be the final order;  
 7 and

8 (B) for purposes of section 13.5(d) of this chapter, the fund  
 9 member is considered to be totally impaired.

10 (2) In the case of an appeal submitted under subsection (a)(2), the  
 11 statements made by the fund member under ~~section 12.7(m)~~  
 12 **section 12.7(o)** of this chapter are considered to be the final order.

13 (e) If the PERF board approves the director's initial determination,  
 14 then the PERF board shall issue a final order adopting the initial  
 15 determination. The local board and the chief of the police or fire  
 16 department shall comply with the initial determination. If the PERF  
 17 board does not approve the initial determination, the PERF board may  
 18 receive additional evidence on the matter before issuing a final order.

19 (f) Appeals of the PERF board's final order may be made under  
 20 IC 4-21.5.

21 (g) The transcripts, records, reports, and other materials compiled  
 22 under this section must be retained in accordance with the procedures  
 23 specified in ~~section 12.7(n)~~ **section 12.7(p)** of this chapter.

24 SECTION 29. IC 36-8-8-14.1 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JUNE 1, 1998 (RETROACTIVE)]: Sec.  
 26 14.1. (a) Benefits paid under this section are subject to section 2.5 of  
 27 this chapter.

28 (b) If a fund member dies while receiving retirement or disability  
 29 benefits, the following apply:

30 (1) Each of the member's surviving children is entitled to a  
 31 monthly benefit equal to twenty percent (20%) of the fund  
 32 member's monthly benefit:

33 (A) until the child reaches eighteen (18) years of age; or

34 (B) until the child reaches twenty-three (23) years of age if the  
 35 child is enrolled in and regularly attending a secondary school  
 36 or is a full-time student at an accredited college or university;  
 37 whichever period is longer. However, if the board finds upon the  
 38 submission of satisfactory proof that a child who is at least  
 39 eighteen (18) years of age is mentally or physically incapacitated,  
 40 is not a ward of the state, and is not receiving a benefit under  
 41 subdivision (1)(B), the child is entitled to receive an amount each  
 42 month that is equal to the greater of thirty percent (30%) of the



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1 monthly pay of a first class patrolman or first class firefighter or  
 2 fifty-five percent (55%) of the monthly benefit the deceased  
 3 member was receiving or was entitled to receive on the date of the  
 4 member's death as long as the mental or physical incapacity of the  
 5 child continues. Benefits paid for a child shall be paid to the  
 6 surviving parent as long as the child resides with and is supported  
 7 by the surviving parent. If the surviving parent dies, the benefits  
 8 shall be paid to the legal guardian of the child.

9 (2) The member's surviving spouse is entitled to a monthly benefit  
 10 equal to sixty percent (60%) of the fund member's monthly  
 11 benefit during the spouse's lifetime. If the spouse remarried before  
 12 September 1, 1983, and benefits ceased on the date of remarriage,  
 13 the benefits for the surviving spouse shall be reinstated on July 1,  
 14 1997, and continue during the life of the surviving spouse.

15 If a fund member dies while receiving retirement or disability benefits,  
 16 there is no surviving eligible child or spouse, and there is proof  
 17 satisfactory to the local board, subject to review in the manner  
 18 specified in section 13.1(b) of this chapter, that the parent was wholly  
 19 dependent on the fund member, the member's surviving parent is  
 20 entitled, or both surviving parents if qualified are entitled jointly, to  
 21 receive fifty percent (50%) of the fund member's monthly benefit  
 22 during the parent's or parents' lifetime.

23 (c) If a fund member dies while on active duty or while retired and  
 24 not receiving benefits, the member's children and the member's spouse,  
 25 or the member's parent or parents, are entitled to receive a monthly  
 26 benefit determined under subsection (b). If the fund member did not  
 27 have at least twenty (20) years of service or was not at least fifty-two  
 28 (52) years old, the benefit is computed as if the member:

- 29 (1) did have twenty (20) years of service; and  
 30 (2) was fifty-two (52) years of age.

31 (d) If a fund member dies in the line of duty after August 31, 1982,  
 32 the member's surviving spouse is entitled to an additional monthly  
 33 benefit during the spouse's lifetime, equal to the difference between the  
 34 benefit payable under subsection (b)(2) and the benefit to which the  
 35 member would have been entitled on the date of the member's death,  
 36 but not less than the benefit payable to a member with twenty (20)  
 37 years service at fifty-two (52) years of age. If the spouse remarried  
 38 before September 1, 1983, and benefits ceased on the date of  
 39 remarriage, the benefits for the surviving spouse shall be reinstated on  
 40 July 1, 1997, and continue during the life of the surviving spouse. For  
 41 purposes of this subsection, "dies in the line of duty" means death that  
 42 occurs as a direct result of personal injury or illness resulting from:



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1 (1) any action that the member, in the member's capacity as a  
2 police officer:  
3 (A) is obligated or authorized by rule, regulation, condition of  
4 employment or service, or law to perform; **or**  
5 (B) **performs** in the course of controlling or reducing crime or  
6 enforcing the criminal law; or  
7 (2) any action that the member, in the member's capacity as a  
8 firefighter:  
9 (A) is obligated or authorized by rule, regulation, condition of  
10 employment or service, or law to perform; **or**  
11 (B) **performs** while on the scene of an emergency run  
12 (including false alarms) or on the way to or from the scene.  
13 **SECTION 30. An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1093, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-1.1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1.5. (a) The state, through the budget agency, may adopt a defined contribution plan, under Section 401(a) of the Internal Revenue Code, for the purpose of matching all or a specified portion of state employees' contributions to the state employees' deferred compensation plan.**

**(b) The deferred compensation committee shall be the trustee of a plan established under subsection (a) as described in section 4 of this chapter. A plan established under subsection (a) shall be administered by the auditor of state as described in section 5 of this chapter.**

**(c) The deferred compensation committee may approve funding offerings for a plan established under subsection (a), which may be the same as offerings for the state employees' deferred compensation plan. All funds in each plan shall be separately accounted for, but may be commingled for investment purposes.**

**(d) Contributions to a plan established under subsection (a) are limited to the amount of biennial appropriations made for that purpose.**

**(e) A plan established under subsection (a) must include appropriate provisions concerning the plan's day to day operation and any other provisions that are appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, on-line activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.**

**(f) The state is obligated at any particular time only for the current market value of the funding previously made to a plan established under subsection (a)."**

Page 2, line 27, strike "once" and insert "**four (4) times**".

Page 2, line 29, strike "beginning".

Page 2, strike line 30.

Page 2, line 31, strike "(30)" and insert "**not later than five (5)**".

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working".

Page 14, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 17. IC 33-13-9.1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.5. (a) A judge who has served in the active military service of the United States may purchase credit for the military service, subject to the following:**

**(1) The judge:**

**(A) must have at least six (6) years of credited service as a judge before the judge may claim the service credit; or**

**(B) must have become permanently disabled within the meaning of section 5(b) of this chapter within one (1) year before the purchase of the credit.**

**(2) Credit for years of service combined with the military service credit under this section may not exceed twenty-two (22) years.**

**(3) The judge must make contributions to the fund in order to purchase the service credit, before the judge retires or within one (1) year after the time the judge becomes permanently disabled, that are equal to the product of the following:**

**(A) The judge's salary at the time the judge actually makes a contribution for the service credit.**

**(B) The normal cost, which is a percentage rate, as determined by the age of the judge at the time the judge actually makes a contribution for service credit and computed to result in a contribution rate that approximates the actuarial value of the benefit attributable to the service credit purchased.**

**(C) The number of years of military service credit the judge intends to purchase.**

**(4) The judge must contribute accrued interest, at a rate determined by the actuary for the fund, for the period from the judge's initial participation in the fund to the date payment is made by the judge.**

**(5) The fund must receive verification that the military service is valid as of the date the verification is received.**

**(6) Credit for years of military service that qualify a judge for retirement in an out-of-state public retirement system or in a federal retirement system other than under the federal Social Security Act may not be granted under this section.**

**(b) The following apply to the purchase of service credit under this section:**



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(1) The board may allow a judge to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A judge may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

(c) A judge who has purchased military service credit who subsequently receives a retirement or disability annuity for the same service from another tax supported public employee retirement or disability plan other than under the federal Social Security Act may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund."

Page 15, between lines 16 and 17, begin a new paragraph and insert:  
 "SECTION 19. IC 33-13-10.1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.5. (a) A judge who has served in the active military service of the United States may purchase credit for the military service, subject to the following:

(1) The judge:

(A) must have at least six (6) years of credited service as a judge before the judge may claim the service credit; or

(B) must have become permanently disabled within the meaning of section 8(a) of this chapter within one (1) year before the purchase of the credit.

(2) Credit for years of service combined with the military service credit under this section may not exceed twenty-two (22) years.

(3) The judge must make contributions to the fund in order to purchase the service credit before the judge retires, or within one (1) year after the time that the judge becomes permanently disabled, that are equal to the product of the following:

(A) The judge's salary at the time the judge actually makes a contribution for the service credit.

(B) The normal cost, which is a percentage rate, as determined by the age of the judge at the time the judge



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actually makes a contribution for service credit and computed to result in a contribution rate that approximates the actuarial value of the benefit attributable to the service credit purchased.

(C) The number of years of military service credit the judge intends to purchase.

(4) The judge must contribute accrued interest, at a rate determined by the actuary for the fund, for the period from the judge's initial participation in the fund to the date payment is made by the judge.

(5) The fund must receive verification that the military service is valid as of the date the verification is received.

(6) Credit for years of military service that qualify a judge for retirement in an out-of-state public retirement system or in a federal retirement system other than under the federal Social Security Act may not be granted under this section.

(b) The following apply to the purchase of service credit under this section:

(1) The board may allow a judge to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A judge may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 20. IC 33-13-10.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Any participant who:

(1) ceases service as a judge, other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon the withdrawal, the participant is entitled to receive the total sum contributed, payable within sixty (60) days from date of withdrawal application or in such monthly installments as the participant may elect.



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**(b) A judge who has purchased military service credit who subsequently receives a retirement or disability annuity for the same service from another tax supported public employee retirement or disability plan other than under the federal Social Security Act may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund."**

Page 16, between lines 15 and 16, begin a new paragraph and insert:  
 "SECTION 22. IC 36-8-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) "Salary of a first class patrolman or first class firefighter" means the base salary of a patrolman or firefighter plus:

**(1) all longevity increases, if provided by the employer, for service of twenty (20) years or less; and**

**(2) remuneration or allowances for clothing, to the extent that these amounts exceed three hundred dollars (\$300) per year;** but does not include remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, ~~clothing~~, automobiles, firearms, education, overtime, or compensatory time off.

(b) With respect to the 1925, 1937, and 1953 funds, "salary of a first class patrolman or firefighter" may include longevity increases for more than twenty (20) years of service at the option of the employer but only if these longevity increases had taken effect before January 1, 1983."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1093 as introduced.)

BAUER, Chair

Committee Vote: yeas 19, nays 4.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1093, 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:

Replace the effective dates in SECTIONS 5 through 7 with "[EFFECTIVE JULY 1, 2000]".

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

"SECTION 1. IC 4-3-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The surviving spouse of each individual who serves as governor and who is entitled to a retirement benefit under section 1.1 of this chapter, is entitled to an annual pension. The pension shall be paid in equal monthly installments by the treasurer of state on warrant of the auditor of state after a claim has been made for the pension to the auditor by the surviving spouse or a person acting on his behalf. The annual pension under this section is equal to the **greater of following:**

(1) ~~fifty percent (50%) of~~ **For the surviving spouse of a governor who died before July 1, 1998, the greater of:**

(A) the annual retirement benefit ~~to which the governor to whom the received by the surviving spouse was married would have been entitled on the date of the governor's death under section 1.1 of this chapter;~~ **during the year beginning July 1, 1998;** or

~~(2) (B) ten thousand dollars (\$10,000).~~

(2) **For the surviving spouse of a governor who dies after June 30, 1998, the greater of:**

(A) **fifty percent (50%) of the annual retirement benefit that the governor to whom the surviving spouse was married was receiving or was entitled to receive on the date of the governor's death; or**

**(B) ten thousand dollars (\$10,000).**

The surviving spouse of each individual who serves as governor must elect to receive either (1) or (2) above and once any payment has been received the election is irrevocable. The surviving spouse is entitled to receive the pension for the remainder of his life unless he remarries. Notwithstanding any other law to the contrary, the pension under this section is in addition to any other retirement benefits a surviving spouse is entitled to receive."

Page 2, delete lines 14 through 42, begin a new paragraph and insert:

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"SECTION 3. IC 5-10.2-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The annuity savings account consists of:

- (1) the members' contributions; and
- (2) the interest credits on these contributions **in the guaranteed fund or the gain or loss in market value on these contributions in the alternative investment program**, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the member's contributions and interest credits.

(b) Each board shall maintain the annuity savings account program in effect on December 31, 1995 (referred to in this chapter as the guaranteed program). In addition, the board of the Indiana state teachers' retirement fund shall establish and maintain a guaranteed program within the 1996 account. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

- (1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.
- (2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.
- (3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.
- (4) All administrative costs of each alternative program shall be paid from the earnings on that program.
- (5) A valuation of each member's account must be completed at **least annually: as of the last day of each quarter.**

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

- (1) include a description of the procedure for selecting an alternative investment program;
- (2) be understandable by the majority of members; and
- (3) include a description of prior investment performance.



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(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection at any time, but not more than once in a twelve (12) month period.

(2) The board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the board. This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on: ~~the market value~~

(A) for an alternative investment program balance, **the market value** on the effective date; and **by account balance**

(B) for any guaranteed program balance, **the account balance** on the effective date.

All ~~future~~ contributions to the member's account shall be allocated **as of the last day of that quarter** in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(f) When a member who ~~has selected~~ **participates in** an alternative investment program ~~retires, dies, suspends membership and withdraws from the fund; or transfers the amount credited to the member from one~~ (1) alternative investment program to another **alternative investment program or to the guaranteed program**, the amount credited to the member shall be valued at the market value of the member's investment, as of the ~~last day of the preceding quarter; before the effective date of the member's selection. When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date.~~



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(g) When a member who participates in the guaranteed program retires, dies, suspends membership and withdraws from the fund, or transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the ~~preceding~~ quarter **preceding the effective date of the transfer. When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal,** plus any contributions received since that date **plus interest since that date.**

SECTION 4. IC 5-10.2-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Interest shall be credited and compounded at least annually on all amounts credited to the member in the guaranteed program. For the guaranteed program, the board shall annually establish an interest credit rate equal to or less than the investment income earned.

(b) The market value of each alternative investment program shall be allocated at least annually to the members participating in that program.

(c) Contributions to the guaranteed program **and the alternative investment programs** shall be invested as ~~of the contributions are paid and last day of the quarter in which the contributions are received.~~ **Contributions to the guaranteed program** shall begin to accumulate interest at the beginning of the quarter after the quarter in which the contributions are paid. ~~Contributions to the alternative investment programs shall be invested as the contributions are paid.~~ **received.**

(d) When a member retires or withdraws with a balance in the guaranteed program, a proportional interest credit determined by the board shall be granted for the period elapsed since the last interest date on that balance."

Delete page 3.

Page 4, delete lines 1 through 15.

Page 4, line 24, delete "shall" and insert "**may**".

Page 4, line 31, delete "(d)".

Page 4, line 31, strike "The board may establish rules for deferring

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the effective date of".

Page 4, line 32, strike "a suspension of".

Page 4, line 32, delete "membership" and insert "**membership**".

Page 4, line 32, delete "under this section.".

Page 4, line 32, strike "The deferral may not".

Page 4, strike line 33.

Page 4, line 34, delete "(e)" and insert "**(d)**".

Page 5, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 7. IC 5-10.2-4-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1.3. (a) A member who files an application for retirement benefits must provide the following information on the application form:**

**(1) The retirement date chosen by the member.**

**(2) Whether the member chooses:**

**(A) an annuity purchased from the amount credited to the member in the annuity savings account;**

**(B) a total or partial distribution from the annuity savings account under section 2(b) of this chapter; or**

**(C) a deferral of the payment of any benefits from the annuity savings account under section 2(c) of this chapter.**

**(3) The name of the beneficiary or beneficiaries designated by the member with respect to the pension portion of the member's retirement benefit.**

**(4) The name of the beneficiary or beneficiaries designated by the member with respect to the annuity portion of the member's retirement benefit, unless the member chooses total distribution under section 2 of this chapter.**

**(b) A member's designation of beneficiaries in the application for retirement benefits supersedes any previous designation of beneficiaries by the member.**

**(c) A member must indicate the name, address, date of birth, and Social Security number of each designated beneficiary and provide proof of birth of each designated beneficiary.**

**(d) Each board shall adopt a form for the application for retirement benefits that meets the requirements of this section."**

Page 5, line 19, after "benefit" insert "**of the pension portion**".

Page 5, line 29, after "the" insert "**pension portion of the**".

Page 5, line 41, after "time" insert ", as".

Page 5, line 41, delete "fund." and insert "**board**".

Page 6, line 7, strike "lump sum payment" and insert "**distribution**".

Page 6, line 13, strike "lump sum payment" and insert

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"distribution".

Page 6, line 16, strike "lump sum payment" and insert "distribution".

Page 6, line 29, after "choose" insert ", as of the first day of a month,".

Page 6, line 29, delete "lump sum payment" and insert "distribution".

Page 6, line 35, delete "lump sum payment" and insert "distribution".

Page 6, line 38, delete "lump sum payment" and insert "distribution".

Page 6, line 42, delete "lump sum" and insert "distribution".

Page 7, line 4, after "chapter." insert "**The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3, except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date.**".

Page 7, line 5, delete "(d)".

Page 7, line 5, strike "A member who retires is entitled to receive monthly".

Page 7, strike lines 6 through 7.

Page 7, line 8, delete "(e)" and insert "(d)".

Page 7, line 37, after "(b)" insert "**A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later.**".

Page 7, line 39, after "the" insert "**five (5) year**".

Page 7, line 39, after "payments" insert ".".

Page 7, line 40, strike "specified in section 2 of this chapter".

Page 8, line 22, after "marries" insert ", **either for the first time or following the death of the member's spouse,**".

Page 8, line 41, strike "section 2 of this chapter." and insert "**this subsection.**".

Page 10, between lines 2 and 3, begin a new paragraph and insert:  
 "SECTION 13. IC 5-10.3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Securities shall be held for the fund by banks or trust companies under a custodial agreement. Income, interest, proceeds of sale, materials, redemptions, and all other receipts from securities and other investments which the board retains for the cash working balance shall be deposited with the treasurer of state.

(b) The board may not purchase a security or financial interest



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~~issued or owned by a custodian or by a subsidiary, parent corporation, or holding company of a custodian.~~

(e) (b) Subject to IC 5-10.2-2-15, the board may contract with investment counsel, trust companies, or banks to assist the board in its investment program."

Page 12, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 17. IC 5-10.3-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. Leave Service. (a) A member is entitled to service credit for **adoption leave of not more than one (1) year and for** leaves of absence, granted under rules in force at the time of the leave, totaling six (6) months or less during any period of four (4) consecutive years.

(b) A member may make contributions during the leave of absence based on his rate of compensation on the date his leave of absence began.

(c) Notwithstanding any law, this section must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act, but is not entitled to receive credit for service for benefit purposes unless the leave is described in subsection (a)."

Page 13, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 20. IC 21-6.1-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. Conflicts of Interest. (a) Except as otherwise provided, no trustee or employee of the board may have any direct interest in the income of any investment made by the board nor may receive any pay or emolument for services connected with any investment made by the board. **However, the board may purchase a security or financial interest issued or owned by a custodian bank or trust company or by a subsidiary, parent corporation, or holding company of a custodian bank or trust company.**

(b) No trustee or employee may become in any manner an obligor for money loaned by or borrowed from the fund."

Page 15, delete lines 8 through 42, begin a new paragraph and insert:

"SECTION 23. IC 21-6.1-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) The first **pension** benefit payment after retirement shall be made not more than ninety (90) days after the **completion and filing of the** member's **application**



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for retirement ~~date~~ **benefits.**

(b) After ~~that the first pension benefit~~ payment, each person entitled to benefits shall receive the retirement benefits in installments payable by the tenth day of each month.

(c) The last retirement benefit payment must be prorated to terminate at the member's death."

Page 16, delete lines 1 through 23.

Page 17, delete lines 23 through 42.

Delete page 18.

Page 19, delete lines 1 through 10.

Page 20, delete lines 10 through 25.

Page 20, line 30, after "officer" insert "**or former marshal**".

Page 20, line 32, delete "and the".

Page 20, delete line 33.

Page 20, line 34, delete "IC 36-8-8-7(a)," and insert "**under section 7(a) of this chapter,**".

Page 20, line 34, after "officer" insert "**or former marshal**".

Page 20, line 36, after "officer" insert "**or former marshal**".

Page 20, line 37, after "fund." insert "**A person may become a member of the 1977 fund under this subsection without meeting the age limitation under section 7(a) of this chapter only if the person satisfies:**

(1) **any aptitude, physical agility, or physical and mental standards established by a local board under IC 36-8-3.2; and**

(2) **the minimum standards that are:**

(A) **adopted by the PERF board under section 19 of this chapter; and**

(B) **in effect on the date the person becomes a member of the 1977 fund.**

**Credit for prior service of a person who becomes a member of the 1977 fund under this subsection shall be determined under section 18 or 18.1 of this chapter. No service credit beyond that allowed under section 18 or 18.1 of this chapter may be recognized under the 1977 fund."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1093 as printed February 11, 1999.)

HARRISON, Chairperson

Committee Vote: Yeas 11, Nays 0.

EH 1093—LS 6182/DI 73+



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