



February 26, 1999

HOUSE BILL No. 1077

DIGEST OF HB 1077 (Updated February 25, 1999 11:46 am - DI 73)

Citations Affected: IC 33-13.

Synopsis: Judges' pension issues. Provides that a participant in the judges' 1977 benefit system or a participant in the judges' 1985 benefit system is eligible for normal retirement benefits if the participant is at least 55 years of age and the participant's age in years plus years of service is at least 85. Allows participants in the judges' retirement system to purchase service credit at full actuarial cost for prior service in PERF covered positions other than full-time commissioner, magistrate, or referee. Requires the monthly benefits payable to participants, survivors, and beneficiaries under the 1985 judges' retirement system to be increased by the same percentages and under (Continued next page)

Effective: July 1, 1999.

Kromkowski

January 6, 1999, read first time and referred to Committee on Ways and Means.
February 25, 1999, amended, reported — Do Pass.

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HB 1077—LS 6373/DI 96+



Digest Continued

the same conditions as monthly benefits are increased for members of PERF. (The introduced version of this bill was prepared by the pension management oversight committee.)

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HB 1077—LS 6373/DI 96+



February 26, 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.

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HOUSE BILL No. 1077

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

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

- 1 SECTION 1. IC 33-13-9.1-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Benefits provided
3 under this section are subject to IC 33-13-8-3.5 and section 9 of this
4 chapter.
5 (b) Any participant whose employment as judge by the employer is
6 terminated, regardless of cause, shall be entitled to a retirement annuity
7 beginning on the date specified by such participant in a written
8 application therefor, if all the following conditions are met:
9 (1) The date upon which the annuity begins is not prior to the date
10 of final termination of employment of such participant, or the date
11 thirty (30) days prior to the receipt of such application by the
12 board.
13 (2) The participant:
14 (A) has attained at least the age of sixty-two (62) and has at
15 least eight (8) years of service credit; ~~or~~

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1 benefit computed under this subsection and the benefit the participant
2 would have received under IC 33-13-8 as in effect on June 30, 1977.

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

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

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

19 (2) survivors of participants who die while in service after August
20 1, 1992; or

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

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

25 (1) the salary being paid for the office which the participant held

26 at the time of separation from service; multiplied by

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

28 TABLE B

29 Participant's Years	Percentage
30 of Service	
31 0-12	50%
32 13	51%
33 14	52%
34 15	53%
35 16	54%
36 17	55%
37 18	56%
38 19	57%
39 20	58%
40 21	59%
41 22 or more	60%

42 If a participant has a partial year of service in addition to at least eight

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1 (8) full years of service, an additional percentage shall be calculated by
 2 prorating between the applicable percentages, based on the number of
 3 months in the partial year of service.

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

10 (1) the sum of:

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

12 (B) fifty percent (50%) of the amount of retirement annuity the
 13 participant was drawing at the time of the participant's death,
 14 or to which the participant would have been entitled had the
 15 participant retired and begun receiving retirement annuity
 16 benefits prior to the participant's death; or

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

18 TABLE C

19 Year	20 Amount
21 July 1, 1995, to 22 June 30, 1996	\$10,000
23 July 1, 1996, to 24 June 30, 1997	\$11,000
25 July 1, 1997, and thereafter	\$12,000

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

32 (1) fifty percent (50%) of the amount of retirement annuity the
 33 participant was drawing at the time of death, or to which the
 34 participant would have been entitled had the participant retired
 35 and begun receiving retirement annuity benefits before death; or

36 (2) the amount determined under TABLE C in subsection (g)(2).

37 (i) If a participant:

38 (1) dies after June 30, 1983; and

39 (2) on the date of the participant's death:

40 (A) was receiving benefits under this chapter;

41 (B) had completed at least eight (8) years of service and was
 42 in service as a judge;



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1 (C) was permanently disabled; or
 2 (D) had completed at least eight (8) years of service, was not
 3 still in service as a judge, and was entitled to a future benefit;
 4 the participant's surviving spouse or surviving child or children, as
 5 designated by the participant, is entitled, regardless of the participant's
 6 age, to an annuity in an amount equal to the greater of the amount
 7 determined under TABLE C in subsection (g)(2) or fifty percent (50%)
 8 of the amount of retirement annuity the participant was drawing at the
 9 time of death, or to which the participant would have been entitled had
 10 the participant retired and begun receiving retirement annuity benefits
 11 on the participant's date of death, with reductions as necessary under
 12 subsection (e).

13 (j) Notwithstanding subsection (i), if a participant:
 14 (1) died after June 30, 1983, and before July 1, 1985; and
 15 (2) was serving as a judge at the time of death;
 16 the surviving spouse is entitled to the same retirement annuity as the
 17 surviving spouse of a permanently disabled participant entitled to
 18 benefits under subsection (h).

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

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

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

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

31 (4) Upon the cessation of payments to one (1) designated child,
 32 if there is at least one (1) other child then surviving and still
 33 entitled to payments, the remaining child or children shall share
 34 equally the annuity. If the surviving spouse of the participant is
 35 surviving upon the cessation of payments to all designated
 36 children, the surviving spouse will then receive the annuity for the
 37 remainder of the spouse's life.

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

40 (A) No child named as a beneficiary by a participant survives
 41 the participant.

42 (B) No children designated by the participant are entitled to an

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1 annuity due to their age at the time of death of the participant.

2 (C) A designation is not made.

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

7 SECTION 2. IC 33-13-9.1-5 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Benefits provided
9 under this section are subject to IC 33-13-8-3.5.

10 (b) A participant shall be considered permanently disabled if the
11 board has received a written certificate by at least two (2) licensed and
12 practicing physicians, appointed by the board, indicating that the
13 participant is totally incapacitated, by reason of physical or mental
14 infirmities, from earning a livelihood and that such condition is likely
15 to be permanent. Such participant shall be reexamined by at least two
16 (2) physicians appointed by the board, periodically at such times as the
17 board shall designate but at intervals of not to exceed one (1) year. If
18 in the opinion of these physicians, the participant has recovered from
19 the participant's disability, then benefits shall cease to be payable as of
20 the date of such examination unless, on that date, the participant ~~shall~~
21 **have reached the age of is at least sixty-five (65) years of age or is at**
22 **least fifty-five (55) years of age and meets the requirements under**
23 **section 4(b)(2)(B) of this chapter.**

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

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

30 SECTION 3. IC 33-13-9.1-10.5 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. (a) This section applies only**
33 **to a person who:**

- 34 (1) **is a judge participating under this chapter;**
35 (2) **before becoming a judge was a member of an Indiana**
36 **public employees' retirement fund;**
37 (3) **received credited service under an Indiana public**
38 **employees' retirement fund for the employment described in**
39 **subdivision (2), and the credited service is not eligible for**
40 **prior service credit under section 10 of this chapter; and**
41 (4) **has not attained vested status under an Indiana public**
42 **employees' retirement fund for the employment described in**



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- 1 subdivision (2).
- 2 **(b) If a person becomes a participant in the judges' 1977 benefit**
- 3 **system under this chapter, credit for service described in**
- 4 **subsection (a) shall be granted under this chapter by the board if:**
- 5 **(1) the prior service was credited under an Indiana public**
- 6 **employees' retirement fund; and**
- 7 **(2) the judge pays in a lump sum or in a series of payments**
- 8 **determined by the board, not exceeding five (5) annual**
- 9 **payments, the amount determined by the actuary for the 1977**
- 10 **benefit system as the total actual cost of the service.**
- 11 **(c) If the requirements of subsection (b) are not satisfied, a**
- 12 **participant is entitled to credit only for years of service after the**
- 13 **date of participation in the 1977 benefit system.**
- 14 **(d) An amortization schedule for contributions paid under this**
- 15 **section must include interest at a rate determined by the board.**
- 16 **(e) If the requirements of subsection (b) are satisfied, the board**
- 17 **shall transfer from the Indiana public employees' retirement fund**
- 18 **to the judges' 1977 benefit system the amount credited to the**
- 19 **judge's annuity savings account and the present value of the**
- 20 **retirement benefit payable at sixty-five (65) years of age that is**
- 21 **attributable to the transferring participant.**
- 22 **(f) The amount a participant must contribute to the judges' 1977**
- 23 **benefit system under subsection (b) shall be reduced by the amount**
- 24 **transferred to the judges' 1977 benefit system by the board under**
- 25 **subsection (e).**
- 26 **(g) If the requirements of subsection (b) are satisfied, credit for**
- 27 **prior service in an Indiana public employees' retirement fund is**
- 28 **waived.**
- 29 SECTION 4. IC 33-13-10.1-6 IS AMENDED TO READ AS
- 30 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. Any participant
- 31 whose employment as judge is terminated is entitled to a retirement
- 32 benefit computed under section 7 of this chapter, beginning on the date
- 33 specified by the participant in a written application, if all of the
- 34 following conditions are met:
- 35 (1) The date upon which the benefit begins is not before the date
- 36 of final termination of employment of the participant or the date
- 37 thirty (30) days before the receipt of the application by the board.
- 38 (2) The participant:
- 39 (A) has attained at least the age of sixty-two (62) and has at
- 40 least eight (8) years of service credit; or
- 41 (B) is at least fifty-five (55) years of age and the
- 42 participant's age in years plus the participant's years of

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1 **service is at least eighty-five (85); or**

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

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

6 SECTION 5. IC 33-13-10.1-7 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Benefits provided
8 under this section are subject to IC 33-13-8-3.5 and section 13 of this
9 chapter.

10 (b) The amount of the annual retirement benefit to which a
11 participant who applies for a retirement benefit and who ~~has attained~~
12 ~~is at least age~~ sixty-five (65) years **of age or is at least fifty-five (55)**
13 **years of age and meets the requirements under section 6(2)(B) of**
14 **this chapter** is entitled equals the product of:

15 (1) the salary that was paid to the participant at the time of
16 separation from service; multiplied by

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

18 TABLE

19 Participant's Years	Percentage
20 of Service	
21 8	24%
22 9	27%
23 10	30%
24 11	33%
25 12	50%
26 13	51%
27 14	52%
28 15	53%
29 16	54%
30 17	55%
31 18	56%
32 19	57%
33 20	58%
34 21	59%
35 22 or more	60%

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

40 (c) **Except as provided in section 6(2)(B) of this chapter and**
41 **subsection (b)**, if a participant who applies for a retirement benefit has
42 not attained age sixty-five (65) years, the participant is entitled to



1 receive a reduced annual retirement benefit that equals the benefit that
 2 would be payable if the participant were age sixty-five (65) reduced by
 3 one-tenth percent (0.1%) for each month that the participant's age at
 4 retirement precedes the participant's sixty-fifth birthday. This reduction
 5 does not apply to:

- 6 (1) participants who are separated from service because of
 7 permanent disability;
- 8 (2) survivors of participants who die while in service after August
 9 1, 1992; or
- 10 (3) survivors of participants who die while not in service but
 11 while entitled to a future benefit.

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

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

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

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

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

35 SECTION 7. IC 33-13-10.1-14 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) This section
 37 applies to a person who:

- 38 (1) is a judge participating under this chapter;
- 39 (2) before becoming a judge was appointed by a court to serve as
 40 a full-time referee, full-time commissioner, or full-time
 41 magistrate;
- 42 (3) was a member of the public employees' retirement fund during



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1 the employment described in subdivision (2); and
 2 (4) received credited service under the public employees'
 3 retirement fund for the employment described in subdivision (2).
 4 (b) If a person becomes a participant in the judges' 1985 benefit
 5 system under ~~IC 33-13-10.1-1~~ **section 1 of this chapter**, credit for
 6 prior service by the judge as a full-time referee, full-time
 7 commissioner, or full-time magistrate shall be granted under this
 8 chapter by the board if:
 9 (1) the prior service was credited under the public employees'
 10 retirement fund;
 11 (2) the state contributes to the judges' 1985 benefit system the
 12 amount the board determines necessary to amortize the prior
 13 service liability over a period determined by the board, but not
 14 more than ten (10) years; and
 15 (3) the judge pays in a lump sum or in a series of payments
 16 determined by the board, not exceeding five (5) annual payments,
 17 the amount the judge would have contributed if the judge had
 18 been a member of the judges' 1985 benefit system during the prior
 19 service.
 20 (c) If the requirements of subsection (b)(2) and (b)(3) are not
 21 satisfied, a participant is entitled to credit only for years of service after
 22 the date of participation in the 1985 benefit system.
 23 (d) An amortization schedule for contributions paid under
 24 subsection (b)(2) or (b)(3) must include interest at a rate determined by
 25 the board.
 26 (e) The following provisions apply to a person described in
 27 subsection (a):
 28 (1) A minimum benefit applies to participants receiving credit in
 29 the judges' 1985 benefit system from service covered by the
 30 public employees' retirement fund. The minimum benefit is
 31 payable at sixty-five (65) years of age **or when the participant**
 32 **is at least fifty-five (55) years of age and meets the**
 33 **requirements under section 6(2)(B) of this chapter** and equals
 34 the actuarial equivalent of the vested retirement benefit that is:
 35 (A) payable to the member at normal retirement under
 36 IC 5-10.2-4-1 as of the day before the transfer; and
 37 (B) based solely on:
 38 (i) creditable service;
 39 (ii) the average of the annual compensation; and
 40 (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to
 41 the annuity savings account of the transferring member as of
 42 the day before the transfer.

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1 (2) If the requirements of subsection (b)(2) and (b)(3) are
 2 satisfied, the board shall transfer from the public employees'
 3 retirement fund to the judges' 1985 benefit system the amount
 4 credited to the annuity savings account and the present value of
 5 the retirement benefit payable at sixty-five (65) years of age **or at**
 6 **least fifty-five (55) years of age under section 6(2)(B) of this**
 7 **chapter** that is attributable to the transferring participant.

8 (3) The amount the state and the participant must contribute to the
 9 judges' 1985 benefit system under subsection (b) shall be reduced
 10 by the amount transferred to the judges' 1985 benefit system by
 11 the board under subdivision (2).

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

18 ~~(5) Credit for prior service in the public employees' retirement~~
 19 ~~fund for service other than as a full-time referee, full-time~~
 20 ~~commissioner, or full-time magistrate remains under the public~~
 21 ~~employees' retirement fund and may not be credited under the~~
 22 ~~judges' 1985 benefit system.~~

23 SECTION 8. IC 33-13-10.1-14.5 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 1999]: **Sec. 14.5. (a) This section applies only**
 26 **to a person who:**

- 27 (1) **is a judge participating under this chapter;**
 28 (2) **before becoming a judge was a member of an Indiana**
 29 **public employees' retirement fund;**
 30 (3) **received credited service under an Indiana public**
 31 **employees' retirement fund for the employment described in**
 32 **subdivision (2), and the credited service is not eligible for**
 33 **prior service credit under section 14 of this chapter; and**
 34 (4) **has not attained vested status under an Indiana public**
 35 **employees' retirement fund for the employment described in**
 36 **subdivision (2).**

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

- 40 (1) **the prior service was credited under an Indiana public**
 41 **employees' retirement fund; and**
 42 (2) **the judge pays in a lump sum or in a series of payments**

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1 determined by the board, not exceeding five (5) annual
 2 payments, the amount determined by the actuary for the 1985
 3 benefit system as the total cost of the service.

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

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

9 (e) If the requirements of subsection (b) are satisfied, the board
 10 shall transfer from the Indiana public employees' retirement fund
 11 to the judges' 1985 benefit system the amount credited to the
 12 judges' annuity savings account and the present value of the
 13 retirement benefit payable at sixty-five (65) years of age that is
 14 attributable to the transferring participant.

15 (f) The amount a participant must contribute to the judges' 1985
 16 benefit system under subsection (b) shall be reduced by the amount
 17 transferred to the judges' 1985 benefit system by the board under
 18 subsection (e).

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

22 SECTION 9. IC 33-13-10.1-15 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 1999]: **Sec. 15. Subject to section 13 of this**
 25 **chapter, the monthly benefit payable under this chapter after June**
 26 **30, 1999, to participants, survivors, and beneficiaries shall be**
 27 **increased by the same percentages and under the same conditions**
 28 **as monthly benefits are increased under IC 5-10.2-5 for members**
 29 **of the public employees' retirement fund and their survivors and**
 30 **beneficiaries.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1077, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

and when so amended that said bill do pass.

(Reference is to HB 1077 as introduced.)

BAUER, Chair

Committee Vote: yeas 20, nays 0.

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