



January 21, 2000

## SENATE BILL No. 62

DIGEST OF SB 62 (Updated January 13, 2000 11:54 AM - DI 73)

**Citations Affected:** IC 2-3.5; IC 5-10.3; IC 36-8; noncode.

**Synopsis:** Public safety survivor and disability benefits. Separates the provisions concerning survivors' benefits for police officers and firefighters into separate sections based on whether the death was in the line of duty or not in the line of duty. Makes the definition of "dies in the line of duty" used in the survivors' benefits statutes uniform for all police officers and uniform for all firefighters. Separates the provisions concerning disability benefits for police officers and firefighters into separate provisions based on whether the disability was in the line of duty or not in the line of duty. Specifies that if a local pension board determines that a police officer or firefighter has a disability, the local board shall also make a recommendation to the 1977 fund advisory committee concerning whether the disability occurred in the line of duty. Requires the 1977 fund advisory committee to review the recommendations and make a finding concerning whether the disability occurred in the line of duty. Provides that in the legislators' retirement system, if a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the PERF board's general investment fund. (The introduced version of this bill was prepared by the pension management oversight commission.)

**Effective:** July 1, 2000.

**Harrison, Lutz L, Weatherwax,  
Craycraft, Sipes**

November 17, 1999, read first time and referred to Committee on Pensions and Labor.  
January 20, 2000, amended, reported favorably — Do Pass.

SB 62—LS 6199/DI 73+



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January 21, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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## SENATE BILL No. 62



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

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

- 1 SECTION 1. IC 2-3.5-5-3, AS AMENDED BY P.L.195-1999,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2000]: Sec. 3. (a) The PERF board shall establish alternative  
4 investment programs within the fund, based on the following  
5 requirements:  
6 (1) The PERF board shall maintain at least one (1) alternative  
7 investment program that is an indexed stock fund and one (1)  
8 alternative investment program that is a bond fund.  
9 (2) The programs should represent a variety of investment  
10 objectives.  
11 (3) The programs may not permit a member to withdraw money  
12 from the member's account, except as provided in section 6 of this  
13 chapter.  
14 (4) All administrative costs of each alternative program shall be  
15 paid from the earnings on that program.  
16 (5) A valuation of each member's account must be completed as  
17 of the last day of each quarter.

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1 (b) A member shall direct the allocation of the amount credited to  
2 the member among the available alternative investment funds, subject  
3 to the following conditions:

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

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

11 (3) A member may select any combination of the available  
12 investment funds, in ten percent (10%) increments.

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

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

19 (6) If a member does not make an investment selection of the  
20 alternative investment programs, the member's account shall be  
21 invested in the ~~bond~~ **PERF board's general investment** fund.

22 (7) All contributions to the member's account shall be allocated  
23 as of the last day of the quarter in which the contributions are  
24 received in accordance with the member's most recent effective  
25 direction. The PERF board shall not reallocate the member's  
26 account at any other time.

27 (c) When a member transfers the amount credited to the member  
28 from one (1) alternative investment program to another alternative  
29 investment program, the amount credited to the member shall be  
30 valued at the market value of the member's investment, as of the day  
31 before the effective date of the member's selection. When a member  
32 retires, becomes disabled, dies, or withdraws from the fund, the amount  
33 credited to the member shall be the market value of the member's  
34 investment as of the last day of the quarter preceding the member's  
35 distribution or annuitization at retirement, disability, death, or  
36 withdrawal, plus contributions received after that date.

37 (d) The PERF board shall determine the value of each alternative  
38 program in the defined contribution fund, as of the last day of each  
39 calendar quarter, as follows:

40 (1) The market value shall exclude the employer contributions  
41 and employee contributions received during the quarter ending on  
42 the current allocation date.



1 (2) The market value as of the immediately preceding quarter end  
 2 date shall include the employer contributions and employee  
 3 contributions received during that preceding quarter.

4 (3) The market value as of the immediately preceding quarter end  
 5 date shall exclude benefits paid from the fund during the quarter  
 6 ending on the current quarter end date.

7 SECTION 2. IC 5-10.3-11-4.5 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4.5. In addition to the  
 9 requirements of section 4 of this chapter, each year the state board shall  
 10 distribute from the pension relief fund to each unit of local government,  
 11 in two (2) equal installments on or before June 30 and on or before  
 12 October 1, an amount equal to

13 ~~(1) the amount payable to each surviving spouse in the unit under~~  
 14 ~~IC 36-8-6-9.8(c)(2); IC 36-8-7-12.1(b)(2)(A)(ii); or~~  
 15 ~~IC 36-8-7.5-13.8(h)(2); minus~~

16 ~~(2)~~

17 **determined under the following STEPS:**

18 **STEP ONE: For each surviving spouse in the unit who is a**  
 19 **surviving spouse of a member of the 1925 fund, the 1937 fund,**  
 20 **or the 1953 fund who dies after December 31, 1988, determine**  
 21 **the greater of thirty percent (30%) of the monthly pay of a**  
 22 **first class patrolman or firefighter or fifty-five percent (55%)**  
 23 **of the monthly benefit the deceased member was receiving or**  
 24 **was entitled to receive on the date of the member's death.**  
 25 **However, if the deceased member was not entitled to a benefit**  
 26 **because the member had not completed twenty (20) years of**  
 27 **service, for the purposes of computing the amount under this**  
 28 **STEP, the member's benefit is considered to be fifty percent**  
 29 **(50%) of the monthly salary of a first class patrolman or first**  
 30 **class firefighter.**

31 **STEP TWO: Subtract** thirty percent (30%) of the salary of a first  
 32 class patrolman or first class firefighter.

33 SECTION 3. IC 36-8-6-8 IS AMENDED TO READ AS FOLLOWS  
 34 [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) **For a member who became**  
 35 **disabled before July 1, 2000,** the 1925 fund shall be used to pay a  
 36 pension in a sum determined by the local board, but not exceeding:

37 (1) for a disability or disease occurring before July 1, 1982, fifty  
 38 percent (50%); and

39 (2) for a disability or disease occurring after June 30, 1982,  
 40 fifty-five percent (55%);

41 of the salary of a first class patrolman, to a member of the police  
 42 department who has suffered or contracted a mental or physical disease



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1 or disability that renders him unable to perform the essential functions  
 2 of any duty in the police department, considering reasonable  
 3 accommodation to the extent required by the Americans with  
 4 Disabilities Act. If a member who becomes eligible for a disability  
 5 pension has more than twenty (20) years of service, he is entitled to  
 6 receive a disability pension equal to the pension he would have  
 7 received if he had retired on the date of the disability.

8 (b) **Except as otherwise provided in this subsection, for a**  
 9 **member who becomes disabled after June 30, 2000, the 1925 fund**  
 10 **shall be used to pay a pension in a sum determined by the local**  
 11 **board, but not exceeding fifty-five percent (55%) of the salary of**  
 12 **a first class patrolman, to a member of the police department who**  
 13 **has suffered or contracted a mental or physical disease or**  
 14 **disability:**

15 (1) **that is:**

16 (A) **the direct result of:**

17 (i) **a personal injury that occurs while the fund member**  
 18 **is on duty;**

19 (ii) **a personal injury that occurs while the fund member**  
 20 **is off duty and is responding to an offense or a reported**  
 21 **offense, in the case of a police officer; or**

22 (iii) **an occupational disease (as defined in IC 22-3-7-10),**  
 23 **including a duty related disease that is also included**  
 24 **within clause (B); or**

25 (B) **a duty related disease (for purposes of this section, a**  
 26 **"duty related disease" means a disease arising out of the**  
 27 **fund member's employment; a disease is considered to**  
 28 **arise out of the fund member's employment if it is**  
 29 **apparent to the rational mind, upon consideration of all of**  
 30 **the circumstances, that:**

31 (i) **there is a connection between the conditions under**  
 32 **which the fund member's duties are performed and the**  
 33 **disease;**

34 (ii) **the disease can be seen to have followed as a natural**  
 35 **incident of the fund member's duties as a result of the**  
 36 **exposure occasioned by the nature of the fund member's**  
 37 **duties; and**

38 (iii) **the disease can be traced to the fund member's**  
 39 **employment as the proximate cause); and**

40 (2) **that renders the member unable to perform the essential**  
 41 **functions of any duty in the police department, considering**  
 42 **reasonable accommodation to the extent required by the**

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**Americans with Disabilities Act.**

**If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.**

**(c) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:**

**(1) that is not described in subsection (b)(1); and**

**(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.**

**If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.**

**(d)** The member must have retired from active service after a physical examination by the police surgeon or another surgeon appointed by the local board. The disability must be determined solely by the local board after the examination and a hearing conducted under IC 36-8-8-12.7. A member shall be retained on active duty with full pay until he is retired by the local board because of the disability.

**(e)** After a member has been retired upon pension, the local board may, at any time, require the retired member to again be examined by the police surgeon or another surgeon appointed by the local board. After the examination the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the retired member should remain on the pension roll. The retired member shall be retained on the pension roll until reinstated in the service of the police department, except in case of resignation. If after the examination and hearing the retired member is found to have recovered from his disability and to be again fit for active duty, then the member shall be put on active duty with full pay and from that time is no longer entitled to payments from the 1925 fund. If the member fails or refuses to return to active duty, he waives all rights to further benefits from the 1925 fund.

**(f)** If the salary of a first class patrolman is increased or



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1 decreased, the pension payable shall be proportionately increased or  
 2 decreased. However, the monthly pension payable to a member or  
 3 survivor may not be reduced below:

4 ~~(A)~~ **(1)** the amount of the first full monthly pension received by  
 5 that person; or

6 ~~(B)~~ **(2)** fifty-five percent (55%) of the salary of a first class  
 7 patrolman;

8 whichever is greater.

9 ~~(e)~~ **(g)** Time spent receiving disability benefits is considered active  
 10 service for the purpose of determining retirement benefits until the  
 11 member has a total of twenty (20) years of service.

12 **(h) A fund member who is receiving disability benefits under  
 13 this chapter shall be transferred from disability to regular  
 14 retirement status when the member becomes fifty-five (55) years  
 15 of age.**

16 SECTION 4. IC 36-8-6-8.1 IS ADDED TO THE INDIANA CODE  
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 18 1, 2000]: **Sec. 8.1 (a) If a local board determines that a fund  
 19 member has a temporary or a permanent disability, the local board  
 20 shall also make a recommendation to the 1977 fund advisory  
 21 committee concerning whether the disability is:**

22 **(1) a disability in the line of duty (as described in section  
 23 8(b)(1) of this chapter); or**

24 **(2) a disability not in the line of duty (a disability other than  
 25 a disability described in section 8(b)(1) of this chapter).**

26 **The local board shall forward its recommendation to the 1977 fund  
 27 advisory committee.**

28 **(b) The 1977 fund advisory committee shall review the local  
 29 board's recommendation not later than forty-five (45) days after  
 30 receiving the recommendation and shall then issue an initial  
 31 determination of whether the disability is in the line of duty or not  
 32 in the line of duty. The 1977 fund advisory committee shall notify  
 33 the local board, the safety board, and the fund member of its initial  
 34 determination.**

35 **(c) The fund member, the safety board, or the local board may  
 36 object in writing to the 1977 fund advisory committee's initial  
 37 determination under subsection (b) not later than fifteen (15) days  
 38 after the initial determination is issued. If a written objection is not  
 39 filed, the 1977 fund advisory committee's initial determination  
 40 becomes final. If a timely written objection is filed, the 1977 fund  
 41 advisory committee shall issue a final determination after a  
 42 hearing. The final determination must be issued not later than one**



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1 hundred eighty (180) days after the date of receipt of the local  
2 board's recommendation.

3 SECTION 5. IC 36-8-6-9.6 IS ADDED TO THE INDIANA CODE  
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
5 1, 2000]: **Sec. 9.6. (a) This section applies to an active or retired  
6 member who dies other than in the line of duty (as defined in  
7 section 10.1 of this chapter).**

8 **(b) A payment shall be made to the surviving spouse of a  
9 deceased member in an amount fixed by ordinance, but at least an  
10 amount equal to the following:**

11 **(1) To the surviving spouse of a member who died before  
12 January 1, 1989, an amount equal to thirty percent (30%) of  
13 the monthly pay of a first class patrolman per month during  
14 the surviving spouse's life if the spouse did not remarry before  
15 September 1, 1983. If the spouse remarried before September  
16 1, 1983, and benefits ceased on the date of remarriage, the  
17 benefits for the surviving spouse shall be reinstated on July 1,  
18 1997, and continue during the life of the surviving spouse.**

19 **(2) Except as otherwise provided in this subdivision, to the  
20 surviving spouse of a member who dies after December 31,  
21 1988, an amount per month, during the spouse's life, equal to  
22 the greater of:**

23 **(A) thirty percent (30%) of the monthly pay of a first class  
24 patrolman; or**

25 **(B) fifty-five percent (55%) of the monthly benefit the  
26 deceased member was receiving or was entitled to receive  
27 on the date of the member's death.**

28 **However, if the deceased member was not entitled to a benefit  
29 because the member had not completed twenty (20) years of  
30 service, for purposes of computing the amount under clause  
31 (B), the member's benefit shall be considered to be fifty  
32 percent (50%) of the monthly salary of a first class  
33 patrolman. The amount provided in this subdivision is subject  
34 to adjustment as provided in subsection (e).**

35 **(c) Except as otherwise provided in this subsection, a payment  
36 shall also be made to each child of a deceased member less than  
37 eighteen (18) years of age, in an amount fixed by ordinance, but at  
38 least an amount equal to twenty percent (20%) of the monthly pay  
39 of a first class patrolman per month:**

40 **(1) until the child becomes eighteen (18) years of age;**

41 **(2) until the child becomes twenty-three (23) years of age if  
42 the child is enrolled in and regularly attending a secondary**



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1 school or is a full-time student at an accredited college or  
 2 university; or

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

5 whichever period is longer. However, the total of benefits under  
 6 this subsection added to the benefits under subsection (b) may not  
 7 exceed the maximum benefits computed under section 9 of this  
 8 chapter for pension payments to a member who retires from active  
 9 service after twenty (20) years or more of active service. This  
 10 maximum benefit is equal to fifty percent (50%) of the salary of a  
 11 first class patrolman in the police department plus, for a member  
 12 who retired before January 1, 1986, two percent (2%) of the first  
 13 class patrolman's salary for each year of service of the retired  
 14 member over twenty (20) years or, for a member who retires after  
 15 December 31, 1985, plus one percent (1%) of the first class  
 16 patrolman's salary for each six (6) months of service of the retired  
 17 member over twenty (20) years. However, the maximum benefit  
 18 may not exceed in any year an amount greater than seventy-four  
 19 percent (74%) of the salary of a first class patrolman.

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

35 (e) If the salary of a first class patrolman is increased or  
 36 decreased, the pension payable under this section shall be  
 37 proportionately increased or decreased. However, the monthly  
 38 pension payable to a member or survivor may not be reduced  
 39 below the amount of the first full monthly pension received by that  
 40 person.

41 SECTION 6. IC 36-8-6-9.7 IS ADDED TO THE INDIANA CODE  
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 2000]: **Sec. 9.7. (a)** This section applies to a member who died in  
 2 the line of duty (as defined in section 10.1 of this chapter) before  
 3 September 1, 1982.

4 (b) A payment shall be made to the surviving spouse of a  
 5 deceased member in an amount fixed by ordinance, but at least an  
 6 amount equal to thirty percent (30%) of the monthly pay of a first  
 7 class patrolman per month during the surviving spouse's life if the  
 8 spouse did not remarry before September 1, 1983. If the spouse  
 9 remarried before September 1, 1983, and benefits ceased on the  
 10 date of remarriage, the benefits for the surviving spouse shall be  
 11 reinstated on July 1, 1997, and continue during the life of the  
 12 surviving spouse.

13 (c) Except as otherwise provided in this subsection, a payment  
 14 shall also be made to each child of a deceased member less than  
 15 eighteen (18) years of age, in an amount fixed by ordinance, but at  
 16 least an amount equal to twenty percent (20%) of the monthly pay  
 17 of a first class patrolman per month to each child:

- 18 (1) until the child becomes eighteen (18) years of age;
- 19 (2) until the child becomes twenty-three (23) years of age if  
 20 the child is enrolled in and regularly attending a secondary  
 21 school or is a full-time student at an accredited college or  
 22 university; or
- 23 (3) during the entire period of the child's physical or mental  
 24 disability;

25 whichever period is longer. However, the total of benefits under  
 26 this subsection added to the benefits under subsection (b) may not  
 27 exceed the maximum benefits computed under section 9 of this  
 28 chapter for pension payments to a member who retires from active  
 29 service after twenty (20) years or more of active service. This  
 30 maximum benefit is equal to fifty percent (50%) of the salary of a  
 31 first class patrolman in the police department plus, for a member  
 32 who retired before January 1, 1986, two percent (2%) of the first  
 33 class patrolman's salary for each year of service of the retired  
 34 member over twenty (20) years or, for a member who retires after  
 35 December 31, 1985, plus one percent (1%) of the first class  
 36 patrolman's salary for each six (6) months of service of the retired  
 37 member over twenty (20) years. However, the maximum benefit  
 38 may not exceed in any year an amount greater than seventy-four  
 39 percent (74%) of the salary of a first class patrolman.

40 (d) If a deceased member leaves no surviving spouse and no  
 41 child who qualifies for benefits under subsection (c) but does leave  
 42 a dependent parent or parents, an amount equal to twenty percent



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1 (20%) of the monthly pay of a first class patrolman per month  
 2 from the time of the member's death shall be paid to the dependent  
 3 parent or parents during their dependency. When both parents  
 4 survive, the total amount is still twenty percent (20%), to be paid  
 5 to them jointly. In all cases of payment to a dependent relative of  
 6 a deceased member, the board is the final judge of the question of  
 7 necessity and dependency and of the amount to be paid. The board  
 8 may also reduce or terminate temporarily or permanently a  
 9 payment to a dependent relative of a deceased member when it  
 10 determines that the condition of the fund or other circumstances  
 11 make this action necessary.

12 (e) If the salary of a first class patrolman is increased or  
 13 decreased, the pension payable under this section shall be  
 14 proportionately increased or decreased. However, the monthly  
 15 pension payable to a member or survivor may not be reduced  
 16 below the amount of the first full monthly pension received by that  
 17 person.

18 SECTION 7. IC 36-8-6-9.8 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9.8. (a) Benefits paid  
 20 under this section are subject to section 1.5 of this chapter.

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

- 24 (1) one thousand five hundred dollars (\$1,500) for a member who  
 25 dies before September 1, 1984;  
 26 (2) three thousand dollars (\$3,000) for a member who dies after  
 27 August 31, 1984, and before July 1, 1994;  
 28 (3) six thousand dollars (\$6,000) for a member who dies after  
 29 June 30, 1994, and before January 1, 1999; and  
 30 (4) nine thousand dollars (\$9,000) for a member who dies after  
 31 December 31, 1998.

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

- 35 (1) To the surviving spouse of a member who dies before January  
 36 1, 1989, an amount equal to thirty percent (30%) of the monthly  
 37 pay of a first class patrolman per month during the surviving  
 38 spouse's life if the spouse did not remarry before September 1,  
 39 1983. If the spouse remarried before September 1, 1983, and  
 40 benefits ceased on the date of remarriage, the benefits for the  
 41 surviving spouse shall be reinstated on July 1, 1997, and continue  
 42 during the life of the surviving spouse.



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1 (2) To the surviving spouse of a member who dies after December  
 2 31, 1988, an amount per month, during the spouse's life, equal to  
 3 the greater of:

4 (A) thirty percent (30%) of the monthly pay of a first class  
 5 patrolman; or

6 (B) fifty-five percent (55%) of the monthly benefit the  
 7 deceased member was receiving or was entitled to receive on  
 8 the date of the member's death.

9 However, if the deceased member was not entitled to a benefit  
 10 because the member had not completed twenty (20) years of  
 11 service, for the purposes of computing the amount under clause  
 12 (B), the member's benefit shall be considered to be fifty percent  
 13 (50%) of the monthly salary of a first class patrolman. The  
 14 amount provided for in this subdivision is subject to adjustment  
 15 as provided in subsection (f):

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

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

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

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

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

31 (e) If a deceased member leaves no surviving spouse and no child  
 32 who qualifies for benefits under subsection (d) but does leave a  
 33 dependent parent or parents, an amount equal to twenty percent (20%)  
 34 of the monthly pay of a first class patrolman per month from the time  
 35 of his death shall be paid to the dependent parent or parents during  
 36 their dependency. When both parents survive, the total amount is still  
 37 twenty percent (20%); to be paid to them jointly. In all cases of  
 38 payment to a dependent relative of a deceased member, the board is the  
 39 final judge of the question of necessity and dependency and of the  
 40 amount to be paid. The board may also reduce or terminate temporarily  
 41 or permanently a payment to a dependent relative of a deceased  
 42 member when it determines that the condition of the fund or other



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1 circumstances makes this action necessary.

2 (f) If the salary of a first class patrolman is increased or decreased;  
3 the pension payable under this section shall be proportionately  
4 increased or decreased.

5 SECTION 8. IC 36-8-6-10.1 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10.1. (a) ~~If~~ **This section**  
7 **applies to a member who** dies in the line of duty after August 31,  
8 1982.

9 (b) The surviving spouse is entitled to ~~an additional~~ **a** monthly  
10 benefit, during the spouse's lifetime, equal to ~~the difference between:~~

11 ~~(1) the benefit to which the member would have been entitled on~~  
12 ~~the date of the member's death, but no less than fifty percent~~  
13 ~~(50%) of the monthly wage received by a first class patrolman.~~

14 ~~and~~

15 ~~(2) the amount received by the spouse under section 9-8(c) of this~~  
16 ~~chapter.~~

17 If the surviving spouse remarried before September 1, 1983, and  
18 benefits ceased on the date of remarriage, the benefits for the surviving  
19 spouse shall be reinstated on July 1, 1997, and continue during the life  
20 of the surviving spouse.

21 ~~(b) (c)~~ **A payment shall also be made to each child of a deceased**  
22 **member less than eighteen (18) years of age, in an amount fixed by**  
23 **ordinance, but at least an amount equal to twenty percent (20%)**  
24 **of the monthly pay of a first class patrolman per month to each**  
25 **child:**

26 **(1) until the child becomes eighteen (18) years of age;**

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

31 **(3) during the entire period of the child's physical or mental**  
32 **disability;**

33 **whichever period is longer.**

34 (d) The surviving children of a spouse receiving benefits under this  
35 section ~~the deceased member who are eligible to receive a benefit~~  
36 ~~under subsection (c) may receive an additional benefit in an~~  
37 ~~amount fixed by ordinance, but the total additional benefit under~~  
38 ~~this subsection to all the member's children may not receive more~~  
39 ~~than exceed a total of thirty percent (30%) of the monthly wage~~  
40 ~~received by a first class patrolman. However, this limitation does not~~  
41 ~~apply to the children of a spouse receiving benefits under this section~~  
42 ~~member who are physically or mentally disabled.~~



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1           (e) If a deceased member leaves no surviving spouse and no  
 2 child who qualifies for benefits under subsection (c) but does leave  
 3 a dependent parent or parents, an amount equal to twenty percent  
 4 (20%) of the monthly pay of a first class patrolman per month  
 5 from the time of the member's death shall be paid to the dependent  
 6 parent or parents during their dependency. When both parents  
 7 survive, the total amount is still twenty percent (20%), to be paid  
 8 to them jointly. In all cases of payment to a dependent relative of  
 9 a deceased member, the board is the final judge of the question of  
 10 necessity and dependency and of the amount to be paid. The board  
 11 may also reduce or terminate temporarily or permanently a  
 12 payment to a dependent relative of a deceased member when it  
 13 determines that the condition of the fund or other circumstances  
 14 make this action necessary.

15           (f) If the salary of a first class patrolman is increased or  
 16 decreased, the pension payable under this section shall be  
 17 proportionately increased or decreased. However, the monthly  
 18 pension payable to a member or survivor may not be reduced  
 19 below the amount of the first full monthly pension received by that  
 20 person.

21           (g) For purposes of this section, "dies in the line of duty" means  
 22 death that occurs as a direct result of personal injury or illness resulting  
 23 from any action that the member in the member's capacity as a police  
 24 officer:

25           (1) is obligated or authorized by rule, regulation, condition of  
 26 employment or service, or law to perform; or

27           (2) performs in the course of controlling or reducing crime or  
 28 enforcing the criminal law.

29           SECTION 9. IC 36-8-7-11 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) Benefits paid  
 31 under this section are subject to section 2.5 of this chapter.

32           (b) If a member of the fire department becomes seventy (70) years  
 33 of age or is found upon examination by a medical officer to be  
 34 physically or mentally disabled and unable to perform the essential  
 35 functions of the job, considering reasonable accommodation to the  
 36 extent required by the Americans with Disabilities Act, so as to make  
 37 necessary his retirement from all service with the department, the local  
 38 board shall retire the person.

39           (c) The local board may retire a person for disability only after a  
 40 hearing conducted under IC 36-8-8-12.7.

41           (d) If after the hearing the local board determines that ~~the~~ a person  
 42 who became disabled before July 1, 2000, is disabled and unable to



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1 perform the essential functions of the job, considering reasonable  
 2 accommodation to the extent required by the Americans with  
 3 Disabilities Act, the local board shall then authorize the monthly  
 4 payment to the person from the 1937 fund as prescribed by section 12.1  
 5 of this chapter. All physical and mental examinations of members of  
 6 the fire department shall be made on order of the local board by a  
 7 medical officer designated by the local board.

8 (c) If a member of the fire department or a retired member of the  
 9 1937 fund dies and leaves:

10 (1) a surviving spouse;

11 (2) a child or children under eighteen (18) years of age;

12 (3) a child or children over the age of eighteen (18) years who are  
 13 mentally or physically incapacitated; or

14 (4) a child or children less than twenty-three (23) years of age  
 15 who are:

16 (A) enrolled in and regularly attending a secondary school; or

17 (B) full-time students at an accredited college or university;

18 the local board shall authorize the payment to the surviving spouse and  
 19 to the child or children the amount from the fund as prescribed by  
 20 section 12.1 of this chapter. If the surviving spouse of a deceased  
 21 member remarried before September 1, 1983, and pension benefits  
 22 ceased on the date of remarriage, the benefits for the surviving spouse  
 23 shall be reinstated on July 1, 1997, and continue during the life of the  
 24 surviving spouse. If the pension of the surviving spouse of a deceased  
 25 member has ceased by virtue of his remarriage, and if the person to  
 26 whom he has remarried was a retired member of the fire department  
 27 who was also entitled to a pension, then upon the death of the member  
 28 to whom he had remarried he is entitled to receive a pension as the  
 29 surviving spouse of a deceased member as though he had not been  
 30 remarried.

31 (d) If a deceased member of the fire department leaves no surviving  
 32 spouse or children but leaves a dependent parent, and upon satisfactory  
 33 proof that the parent was wholly dependent upon the deceased member,  
 34 the local board shall authorize the monthly payment to the parent from  
 35 the 1937 fund that is prescribed by section 12.1 of this chapter.

36 (e) If after the hearing under this section and a recommendation  
 37 under section 12.5 of this chapter, the 1977 fund advisory  
 38 committee determines that a person who becomes disabled after  
 39 June 30, 2000:

40 (1) has a disability that is:

41 (A) the direct result of:

42 (i) a personal injury that occurs while the fund member

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1 is on duty;  
2 (ii) a personal injury that occurs while the fund member  
3 is responding to an emergency or reported emergency  
4 for which the fund member is trained; or  
5 (iii) an occupational disease (as defined in IC 22-3-7-10),  
6 including a duty related disease that is also included  
7 within clause (B); or  
8 (B) a duty related disease (for purposes of this section, a  
9 "duty related disease" means a disease arising out of the  
10 fund member's employment; a disease is considered to  
11 arise out of the fund member's employment if it is  
12 apparent to the rational mind, upon consideration of all of  
13 the circumstances, that:  
14 (i) there is a connection between the conditions under  
15 which the fund member's duties are performed and the  
16 disease;  
17 (ii) the disease can be seen to have followed as a natural  
18 incident of the fund member's duties as a result of the  
19 exposure occasioned by the nature of the fund member's  
20 duties; and  
21 (iii) the disease can be traced to the fund member's  
22 employment as the proximate cause); and  
23 (2) is unable to perform the essential functions of the job,  
24 considering reasonable accommodation to the extent required  
25 by the Americans with Disabilities Act;  
26 the local board shall then authorize the monthly payment to the  
27 person from the 1937 fund of an amount equal to fifty-five percent  
28 (55%) of the salary of a fully paid first class firefighter in the unit  
29 at the time of the payment of the pension. All physical and mental  
30 examinations of members of the fire department shall be made on  
31 order of the local board by a medical officer designated by the local  
32 board.  
33 (f) If after the hearing under this section and a recommendation  
34 under section 12.5 of this chapter, the 1977 fund advisory  
35 committee determines that a person who becomes disabled after  
36 June 30, 2000:  
37 (1) has a disability that is not a disability described in  
38 subsection (e)(1); and  
39 (2) is unable to perform the essential functions of the job,  
40 considering reasonable accommodation to the extent required  
41 by the Americans with Disabilities Act;  
42 the local board shall then authorize the monthly payment to the

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1 person from the 1937 fund of an amount equal to fifty-five percent  
 2 (55%) of the salary of a fully paid first class firefighter in the unit  
 3 at the time of the payment of the pension. All physical and mental  
 4 examinations of members of the fire department shall be made on  
 5 order of the local board by a medical officer designated by the local  
 6 board.

7 SECTION 10. IC 36-8-7-12.1 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12.1. (a) Benefits paid  
 9 under this section are subject to section 2.5 of this chapter.

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

13 (1) Upon retirement with disability during service, a member is  
 14 entitled to receive in monthly installments an amount equal to  
 15 fifty-five percent (55%) of the salary of a fully paid first class  
 16 firefighter in the unit at the time of the payment of the pension.

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

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

20 (i) for the surviving spouse of a member who dies before  
 21 January 1, 1989, thirty percent (30%) of the salary of a fully  
 22 paid first class firefighter in the unit at the time of the  
 23 payment of the pension; and

24 (ii) for the surviving spouse of a member who dies after  
 25 December 31, 1988, an amount per month, during the  
 26 spouse's life, equal to the greater of thirty percent (30%) of  
 27 the monthly pay of a first class firefighter or fifty-five  
 28 percent (55%) of the monthly benefit the deceased member  
 29 was receiving or was entitled to receive on the date of the  
 30 member's death (these amounts shall be proportionately  
 31 increased or decreased if the salary of a first class firefighter  
 32 is increased or decreased); however, if the deceased member  
 33 was not entitled to a benefit because the member had not  
 34 completed twenty (20) years of service; for the purposes of  
 35 computing the second amount under this item, the member's  
 36 benefit shall be considered to be fifty percent (50%) of the  
 37 monthly salary of a first class firefighter in the unit at the  
 38 time of payment of the pension;

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

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

41 (ii) less than twenty-three (23) years of age if the children  
 42 are enrolled in and regularly attending a secondary school or



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1 are full-time students at an accredited college or university;  
 2 are each entitled to receive an amount fixed by ordinance but  
 3 not less than twenty percent (20%) of the salary of a fully paid  
 4 first class firefighter in the unit at the time of the payment of  
 5 the pension; and

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

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

33 If the local board finds upon the submission of satisfactory proof that  
 34 a child eighteen (18) years of age or older is mentally or physically  
 35 incapacitated; is not a ward of the state; and is not receiving a benefit  
 36 under subdivision (2)(B)(ii); the child is entitled to receive the same  
 37 amount as is paid to the surviving spouse of a deceased firefighter; as  
 38 long as the mental or physical incapacity continues. A sum paid for the  
 39 benefit of a child or children shall be paid to the remaining parent; if  
 40 alive; as long as the child or children reside with and are supported by  
 41 the parent. If the parent dies; the sum shall be paid to the lawful  
 42 guardian of the child or children.



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1           ~~(e)~~ **(b)** A member who has been in service twenty (20) years, upon  
 2 making a written application to the fire chief, may be retired from all  
 3 service with the department without a medical examination or  
 4 disability. Except as provided in subsection ~~(g)~~; **(f)**, the local board  
 5 shall authorize the payment to the retired member of fifty percent  
 6 (50%) of the salary of a fully paid first class firefighter of the unit at the  
 7 time of the payment of the pension, plus:

8           (1) for a member who retires before January 1, 1986, two percent  
 9 (2%) of that salary for each year of service; or

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

18           ~~(d)~~ **(c)** A member who is discharged from the fire department after  
 19 having served at least twenty (20) years is entitled to receive the  
 20 amount equal to the amount that the member would have received if  
 21 the member retired voluntarily. ~~If a member dies after retirement and~~  
 22 ~~leaves a surviving spouse or dependent child or children, they are~~  
 23 ~~entitled to receive the amount provided for the dependents of members~~  
 24 ~~who have died in the service of the fire department.~~

25           ~~(e)~~ **(d)** All pensions in a class are on an equal basis. The local board  
 26 may not depart from this chapter in authorizing the payment of  
 27 pensions.

28           ~~(f)~~ **(e)** The monthly pension payable to a member ~~or survivor~~ may  
 29 not be reduced below the amount of the first full monthly pension  
 30 received by that person.

31           ~~(g)~~ **(f)** The monthly pension payable to a member who is transferred  
 32 from disability to regular retirement status may not be reduced below  
 33 fifty-five percent (55%) of the salary of a fully paid first class  
 34 firefighter in the unit at the time of the payment of the pension.

35           ~~(h)~~ **(g)** A benefit payable under this section shall be paid in not less  
 36 than twelve (12) monthly installments.

37           **(h) A fund member who is receiving disability benefits under**  
 38 **this chapter shall be transferred from disability to regular**  
 39 **retirement status when the member becomes fifty-five (55) years**  
 40 **of age.**

41           SECTION 11. IC 36-8-7-12.2 IS ADDED TO THE INDIANA  
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS

SB 62—LS 6199/DI 73+



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1 [EFFECTIVE JULY 1, 2000]: **Sec. 12.2. (a) This section applies to an**  
 2 **active or retired member who dies other than in the line of duty (as**  
 3 **defined in section 12.4 of this chapter).**

4 **(b) If a member of the fire department or a retired member of**  
 5 **the 1937 fund dies and leaves:**

6 **(1) a surviving spouse;**

7 **(2) a child or children less than eighteen (18) years of age;**

8 **(3) a child or children at least eighteen (18) years of age who**  
 9 **are mentally or physically incapacitated; or**

10 **(4) a child or children less than twenty-three (23) years of age**  
 11 **who are:**

12 **(A) enrolled in and regularly attending a secondary school;**

13 **or**

14 **(B) full-time students at an accredited college or**  
 15 **university;**

16 **the local board shall authorize the payment to the surviving spouse**  
 17 **and to the child or children the amount from the fund as**  
 18 **prescribed by this section. If the surviving spouse of a deceased**  
 19 **member remarried before September 1, 1983, and pension benefits**  
 20 **ceased on the date of remarriage, the benefits for the surviving**  
 21 **spouse shall be reinstated on July 1, 1997, and continue during the**  
 22 **life of the surviving spouse. If the pension of the surviving spouse**  
 23 **of a deceased member has ceased by virtue of the spouse's**  
 24 **remarriage, and if the person to whom the spouse has remarried**  
 25 **was a retired member of the fire department who was also entitled**  
 26 **to a pension, then upon the death of the member to whom the**  
 27 **spouse had remarried, the spouse is entitled to receive a pension as**  
 28 **the surviving spouse of a deceased member as though the spouse**  
 29 **had not been remarried.**

30 **(c) If a deceased member of the fire department leaves no**  
 31 **surviving spouse or children but leaves a dependent parent, and**  
 32 **upon satisfactory proof that the parent was wholly dependent upon**  
 33 **the deceased member, the local board shall authorize the monthly**  
 34 **payment to the parent from the 1937 fund that is prescribed by this**  
 35 **section.**

36 **(d) If a member dies while in active service or after retirement:**

37 **(1) the surviving spouse is entitled to receive an amount fixed**  
 38 **by ordinance but not less than:**

39 **(A) for the surviving spouse of a member who dies before**  
 40 **January 1, 1989, thirty percent (30%) of the salary of a**  
 41 **fully paid first class firefighter in the unit at the time of the**  
 42 **payment of the pension; and**



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- 1 (B) for the surviving spouse of a member who dies after  
2 December 31, 1988, except as otherwise provided in this  
3 clause, an amount per month, during the spouse's life,  
4 equal to the greater of thirty percent (30%) of the monthly  
5 pay of a first class firefighter or fifty-five percent (55%) of  
6 the monthly benefit the deceased member was receiving or  
7 was entitled to receive on the date of the member's death  
8 (these amounts shall be proportionately increased or  
9 decreased if the salary of a first class firefighter is  
10 increased or decreased); however, if the deceased member  
11 was not entitled to a benefit because the member had not  
12 completed twenty (20) years of service, for purposes of  
13 computing the second amount under this item, the  
14 member's benefit is considered to be fifty percent (50%) of  
15 the monthly salary of a first class firefighter in the unit at  
16 the time of payment of the pension;
- 17 (2) the member's children who are:
- 18 (A) less than eighteen (18) years of age; or  
19 (B) less than twenty-three (23) years of age if the children  
20 are enrolled in and regularly attending a secondary school  
21 or are full-time students at an accredited college or  
22 university;
- 23 are each entitled to receive an amount fixed by ordinance but  
24 not less than twenty percent (20%) of the salary of a fully paid  
25 first class firefighter in the unit at the time of the payment of  
26 the pension; and
- 27 (3) each parent of a deceased member who was eligible for a  
28 pension is entitled to receive jointly an amount equal to thirty  
29 percent (30%) of the salary of a fully paid first class  
30 firefighter in the unit at the time of the payment of the  
31 pension.
- 32 If the local board finds upon the submission of satisfactory proof  
33 that a child eighteen (18) years of age or older is mentally or  
34 physically incapacitated, is not a ward of the state, and is not  
35 receiving a benefit under subdivision (2)(B), the child is entitled to  
36 receive the same amount as is paid to the surviving spouse of a  
37 deceased firefighter, as long as the mental or physical incapacity  
38 continues. A sum paid for the benefit of a child or children shall be  
39 paid to the remaining parent, if alive, as long as the child or  
40 children reside with and are supported by the parent. If the parent  
41 dies, the sum shall be paid to the lawful guardian of the child or  
42 children.



1 (e) The monthly pension payable to a survivor may not be  
 2 reduced below the amount of the first full monthly pension  
 3 received by that person.

4 (f) A benefit payable under this section shall be paid in not less  
 5 than twelve (12) monthly installments.

6 SECTION 12. IC 36-8-7-12.3 IS ADDED TO THE INDIANA  
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2000]: Sec. 12.3. (a) This section applies to a  
 9 member who died in the line of duty (as defined in section 12.4 of  
 10 this chapter) before September 1, 1982.

11 (b) If a member of the fire department or a retired member of  
 12 the 1937 fund dies and leaves:

13 (1) a surviving spouse;

14 (2) a child or children less than eighteen (18) years of age;

15 (3) a child or children at least eighteen (18) years of age who  
 16 are mentally or physically incapacitated; or

17 (4) a child or children less than twenty-three (23) years of age  
 18 who are:

19 (A) enrolled in and regularly attending a secondary school;  
 20 or

21 (B) full-time students at an accredited college or  
 22 university;

23 the local board shall authorize the payment to the surviving spouse  
 24 and to the child or children of the amount from the fund as  
 25 prescribed by this section. If the surviving spouse of a deceased  
 26 member remarried before September 1, 1983, and pension benefits  
 27 ceased on the date of remarriage, the benefits for the surviving  
 28 spouse shall be reinstated on July 1, 1997, and continue during the  
 29 life of the surviving spouse. If the pension of the surviving spouse  
 30 of a deceased member has ceased by virtue of the spouse's  
 31 remarriage, and if the person to whom the spouse has remarried  
 32 was a retired member of the fire department who was also entitled  
 33 to a pension, then upon the death of the member to whom the  
 34 spouse had remarried, the spouse is entitled to receive a pension as  
 35 the surviving spouse of a deceased member as though the spouse  
 36 had not been remarried.

37 (c) If a deceased member of the fire department leaves no  
 38 surviving spouse or children but leaves a dependent parent, and  
 39 upon satisfactory proof that the parent was wholly dependent upon  
 40 the deceased member, the local board shall authorize the monthly  
 41 payment to the parent from the 1937 fund that is prescribed by this  
 42 section.



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1           **(d) If a member dies while in active service:**

2           **(1) the surviving spouse is entitled to receive an amount fixed**  
 3           **by ordinance but not less than thirty percent (30%) of the**  
 4           **salary of a fully paid first class firefighter in the unit at the**  
 5           **time of the payment of the pension;**

6           **(2) the member's children who are:**

7           **(A) less than eighteen (18) years of age; or**

8           **(B) less than twenty-three (23) years of age if the children**  
 9           **are enrolled in and regularly attending a secondary school**  
 10           **or are full-time students at an accredited college or**  
 11           **university;**

12           **are each entitled to receive an amount fixed by ordinance but**  
 13           **not less than twenty percent (20%) of the salary of a fully paid**  
 14           **first class firefighter in the unit at the time of the payment of**  
 15           **the pension; and**

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

21           **If the local board finds upon the submission of satisfactory proof**  
 22           **that a child eighteen (18) years of age or older is mentally or**  
 23           **physically incapacitated, is not a ward of the state, and is not**  
 24           **receiving a benefit under subdivision (2)(B), the child is entitled to**  
 25           **receive the same amount as is paid to the surviving spouse of a**  
 26           **deceased firefighter as long as the mental or physical incapacity**  
 27           **continues. A sum paid for the benefit of a child or children shall be**  
 28           **paid to the remaining parent, if alive, as long as the child or**  
 29           **children reside with and are supported by the parent. If the parent**  
 30           **dies, the sum shall be paid to the lawful guardian of the child or**  
 31           **children.**

32           **(e) The monthly pension payable to a survivor may not be**  
 33           **reduced below the amount of the first full monthly pension**  
 34           **received by that person.**

35           **(f) A benefit payable under this section shall be paid in not less**  
 36           **than twelve (12) monthly installments.**

37           **SECTION 13. IC 36-8-7-12.4 IS ADDED TO THE INDIANA**  
 38           **CODE AS A NEW SECTION TO READ AS FOLLOWS**  
 39           **[EFFECTIVE JULY 1, 2000]: Sec. 12.4. (a) This section applies to an**  
 40           **active member who dies in the line of duty after August 31, 1982.**

41           **(b) If a member dies in the line of duty after August 31, 1982,**  
 42           **the surviving spouse is entitled to a monthly benefit, during the**

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1 spouse's lifetime, equal to the benefit to which the member would  
 2 have been entitled on the date of the member's death, but not less  
 3 than fifty percent (50%) of the monthly wage received by a fully  
 4 paid first class firefighter. If the spouse remarried before  
 5 September 1, 1983, and benefits ceased on the date of remarriage,  
 6 the benefits for the surviving spouse shall be reinstated on July 1,  
 7 1997, and continue during the life of the surviving spouse. If the  
 8 pension of the surviving spouse of a deceased member has ceased  
 9 by virtue of the spouse's remarriage, and if the person to whom the  
 10 spouse has remarried was a retired member of the fire department  
 11 who was also entitled to a pension, then upon the death of the  
 12 member to whom the spouse had remarried, the spouse is entitled  
 13 to receive a pension as the surviving spouse of a deceased member  
 14 as though the spouse had not been remarried.

15 (c) If a member dies while in active service, the member's  
 16 children who are:

- 17 (1) less than eighteen (18) years of age; or
- 18 (2) less than twenty-three (23) years of age if the children are
- 19 enrolled in and regularly attending a secondary school or are
- 20 full-time students at an accredited college or university;

21 are each entitled to receive an amount fixed by ordinance but not  
 22 less than twenty percent (20%) of the salary of a fully paid first  
 23 class firefighter in the unit at the time of the payment of the  
 24 pension.

25 (d) The surviving children of the deceased member who are  
 26 eligible to receive a benefit under subsection (c) may receive an  
 27 additional benefit in an amount fixed by ordinance, but the total  
 28 additional benefit under this subsection to all the member's  
 29 children may not exceed a total of thirty percent (30%) of the  
 30 monthly wage received by a first class firefighter. However, this  
 31 limitation does not apply to the children of a member who are  
 32 physically or mentally disabled.

33 (e) If a deceased member of the fire department leaves no  
 34 surviving spouse or children but leaves a dependent parent, and  
 35 upon satisfactory proof that the parent was wholly dependent upon  
 36 the deceased member, the local board shall authorize the monthly  
 37 payment to the parent from the 1937 fund. Each parent of a  
 38 deceased member who was eligible for a pension under this  
 39 subsection is entitled to receive jointly an amount equal to thirty  
 40 percent (30%) of the salary of a fully paid first class firefighter in  
 41 the unit at the time of the payment of the pension.

42 (f) For purposes of this section, "dies in the line of duty" means

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1 death that occurs as a direct result of personal injury or illness  
 2 resulting from any action that the member, in the member's  
 3 capacity as a firefighter:

4 (1) is obligated or authorized by rule, regulation, condition of  
 5 employment or service, or law to perform; or

6 (2) performs while on the scene of an emergency run  
 7 (including false alarms) or on the way to or from the scene.

8 (g) If the local board finds upon the submission of satisfactory  
 9 proof that a child eighteen (18) years of age or older is mentally or  
 10 physically incapacitated, is not a ward of the state, and is not  
 11 receiving a benefit under subsection (c)(2), the child is entitled to  
 12 receive the same amount as is paid to the surviving spouse of a  
 13 deceased firefighter, as long as the mental or physical incapacity  
 14 continues. A sum paid for the benefit of a child or children shall be  
 15 paid to the remaining parent, if alive, as long as the child or  
 16 children reside with and are supported by the parent. If the parent  
 17 dies, the sum shall be paid to the lawful guardian of the child or  
 18 children.

19 (h) The monthly pension payable to a survivor may not be  
 20 reduced below the amount of the first full monthly pension  
 21 received by that person.

22 (i) A benefit payable under this section shall be paid in not less  
 23 than twelve (12) monthly installments.

24 SECTION 14. IC 36-8-7-12.5 IS ADDED TO THE INDIANA  
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 26 [EFFECTIVE JULY 1, 2000]: Sec. 12.5. (a) If a local board  
 27 determines that a fund member has a temporary or a permanent  
 28 disability, the local board shall also make a recommendation to the  
 29 1977 fund advisory committee concerning whether the disability is:

30 (1) a disability in the line of duty (as described in section  
 31 11(e)(1) of this chapter); or

32 (2) a disability not in the line of duty (a disability other than  
 33 a disability described in section 11(e)(1) of this chapter).

34 The local board shall forward its recommendation to the 1977 fund  
 35 advisory committee.

36 (b) The 1977 fund advisory committee shall review the local  
 37 board's recommendation not later than forty-five (45) days after  
 38 receiving the recommendation and shall then issue an initial  
 39 determination of whether the disability is in the line of duty or not  
 40 in the line of duty. The 1977 fund advisory committee shall notify  
 41 the local board, the safety board, and the fund member of its initial  
 42 determination.



1 (c) The fund member, the safety board, or the local board may  
 2 object in writing to the 1977 fund advisory committee's initial  
 3 determination under subsection (b) not later than fifteen (15) days  
 4 after the initial determination is issued. If a written objection is not  
 5 filed, the 1977 fund advisory committee's initial determination  
 6 becomes final. If a timely written objection is filed, the 1977 fund  
 7 advisory committee shall issue a final determination after a  
 8 hearing. The final determination must be issued not later than one  
 9 hundred eighty (180) days after the date of receipt of the local  
 10 board's recommendation.

11 SECTION 15. IC 36-8-7-26 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 26. (a) As used in this  
 13 section, "dies in the line of duty" has the meaning set forth in ~~section~~  
 14 ~~12.1~~ **section 12.3** of this chapter.

15 (b) A special death benefit of seventy-five thousand dollars  
 16 (\$75,000) for a fund member who dies in the line of duty before  
 17 January 1, 1998, and one hundred fifty thousand dollars (\$150,000) for  
 18 a fund member who dies in the line of duty after December 31, 1997,  
 19 shall be paid in a lump sum by the public employees' retirement fund  
 20 from the pension relief fund established under IC 5-10.3-11 to the  
 21 following relative of a fund member who dies in the line of duty:

- 22 (1) To the surviving spouse.
- 23 (2) If there is no surviving spouse, to the surviving children (to be  
 24 shared equally).
- 25 (3) If there is no surviving spouse and there are no surviving  
 26 children, to the parent or parents in equal shares.

27 (c) The benefit provided by this section is in addition to any other  
 28 benefits provided under this chapter.

29 SECTION 16. IC 36-8-7.5-13 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. (a) **For a member**  
 31 **who becomes disabled before July 1, 2000**, the 1953 fund shall be  
 32 used to pay a pension in an annual sum equal to:

- 33 (1) fifty percent (50%) for a disease or disability occurring before  
 34 July 1, 1991; and
- 35 (2) fifty-five percent (55%) for a disease or disability occurring  
 36 after June 30, 1991;

37 of the salary of a first class patrolman in the police department,  
 38 computed and payable as prescribed by section 12(b) of this chapter,  
 39 to an active member of the police department who has been in active  
 40 service for more than one (1) year and who has suffered or contracted  
 41 a mental or physical disease or disability that render the member  
 42 permanently unfit for active duty in the police department, or to an



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1 active member of the police department who has been in active service  
 2 for less than one (1) year who has suffered or received personal injury  
 3 from violent external causes while in the actual discharge of his duties  
 4 as a police officer. The pensions provided for in this subsection shall  
 5 be paid only so long as the member of the police department remains  
 6 unfit for active duty in the police department.

7 (b) For a member who becomes disabled after June 30, 2000, the  
 8 1953 fund shall be used to pay a pension in an annual sum equal to  
 9 fifty-five percent (55%) of the salary of a first class patrolman in  
 10 the police department, computed on an annual basis and payable  
 11 in twelve (12) equal monthly installments, to an active member of  
 12 the police department who:

13 (1) has suffered or incurred a disability that renders the  
 14 member permanently unfit for active duty in the police  
 15 department and that is:

16 (A) the direct result of:

17 (i) a personal injury that occurs while the fund member  
 18 is on duty;

19 (ii) a personal injury that occurs while the fund member  
 20 is off duty and is responding to an offense or a reported  
 21 offense; or

22 (iii) an occupational disease (as defined in IC 22-3-7-10),  
 23 including a duty related disease that is also included  
 24 within clause (B); or

25 (B) a duty related disease (for purposes of this section, a  
 26 "duty related disease" means a disease arising out of the  
 27 fund member's employment; a disease is considered to  
 28 arise out of the fund member's employment if it is  
 29 apparent to the rational mind, upon consideration of all of  
 30 the circumstances, that:

31 (i) there is a connection between the conditions under  
 32 which the fund member's duties are performed and the  
 33 disease;

34 (ii) the disease can be seen to have followed as a natural  
 35 incident of the fund member's duties as a result of the  
 36 exposure occasioned by the nature of the fund member's  
 37 duties; and

38 (iii) the disease can be traced to the fund member's  
 39 employment as the proximate cause); and

40 (2) is unable to perform the essential functions of the job,  
 41 considering reasonable accommodation to the extent required  
 42 by the Americans with Disabilities Act.



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1     **The pensions provided for in this subsection shall be paid only so**  
 2     **long as the member of the police department remains unfit for**  
 3     **active duty in the police department. If the salary of a first class**  
 4     **patrolman is increased or decreased, the pension payable shall be**  
 5     **proportionately increased or decreased. However, the monthly**  
 6     **pension payable to a member or survivor may not be reduced**  
 7     **below the amount of the first full monthly pension received by that**  
 8     **person.**

9     **(c) For a member who becomes disabled after June 30, 2000, the**  
 10    **1953 fund shall be used to pay a pension in an annual sum equal to**  
 11    **fifty-five percent (55%) of the salary of a first class patrolman in**  
 12    **the police department, computed on an annual basis and payable**  
 13    **in twelve (12) equal monthly installments, to an active member of**  
 14    **the police department who has been in active service for at least**  
 15    **one (1) year and:**

16       **(1) has suffered or incurred a disability that:**

17           **(A) renders the member permanently unfit for active duty**  
 18           **in the police department; and**

19           **(B) is not described in subsection (b)(2); and**

20       **(2) is unable to perform the essential functions of the job,**  
 21       **considering reasonable accommodation to the extent required**  
 22       **by the Americans with Disabilities Act.**

23    **The pension provided in this subsection shall be paid only so long**  
 24    **as the member of the police department remains unfit for active**  
 25    **duty in the police department. If the salary of a first class**  
 26    **patrolman is increased or decreased, the pension payable shall be**  
 27    **proportionately increased or decreased. However, the monthly**  
 28    **pension payable to a member or survivor may not be reduced**  
 29    **below the amount of the first full monthly pension received by that**  
 30    **person.**

31    **(d) For a member who became disabled before July 1, 2000, the**  
 32    **1953 fund shall be used to pay temporary benefits in an annual sum**  
 33    **equal to thirty percent (30%) of the salary of a first class patrolman in**  
 34    **the police department, computed and payable as prescribed by section**  
 35    **12(a) of this chapter, to an active member of the police department who**  
 36    **has been in active service for more than one (1) year and who has**  
 37    **suffered any physical or mental disability that renders the member**  
 38    **temporarily or permanently unable to perform his duties as a member**  
 39    **of the police department, or to an active member of the police**  
 40    **department who has been in active service for less than one (1) year**  
 41    **and who has suffered or received personal injury from violent external**  
 42    **causes while in the actual discharge of his duties as a police officer,**



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1 until the time the member is physically and mentally able to return to  
2 active service on the police department.

3 ~~(c)~~ (e) For a member who becomes disabled after June 30, 2000,  
4 the 1953 fund shall be used to pay a pension in an annual sum  
5 equal to thirty percent (30%) of the salary of a first class  
6 patrolman in the police department, computed on an annual basis  
7 and payable in twelve (12) equal monthly installments, to an active  
8 member of the police department who:

9 (1) suffers or incurs a disability that renders the member  
10 temporarily unfit for active duty in the police department and  
11 that is:

12 (A) the direct result of:

13 (i) a personal injury that occurs while the fund member  
14 is on duty;

15 (ii) a personal injury that occurs while the fund member  
16 is off duty and is responding to an offense or a reported  
17 offense, in the case of a police officer; or

18 (iii) an occupational disease (as defined in IC 22-3-7-10),  
19 including a duty related disease that is also included  
20 within clause (B); or

21 (B) a duty related disease (for purposes of this section, a  
22 "duty related disease" means a disease arising out of the  
23 fund member's employment; a disease is considered to  
24 arise out of the fund member's employment if it is  
25 apparent to the rational mind, upon consideration of all of  
26 the circumstances, that:

27 (i) there is a connection between the conditions under  
28 which the fund member's duties are performed and the  
29 disease;

30 (ii) the disease can be seen to have followed as a natural  
31 incident of the fund member's duties as a result of the  
32 exposure occasioned by the nature of the fund member's  
33 duties; and

34 (iii) the disease can be traced to the fund member's  
35 employment as the proximate cause); and

36 (2) is unable to perform the essential functions of the job,  
37 considering reasonable accommodation to the extent required  
38 by the Americans with Disabilities Act.

39 The pension provided in this subsection shall be paid only so long  
40 as the member of the police department remains unfit for active  
41 duty in the police department. If the salary of a first class  
42 patrolman is increased or decreased, the pension payable shall be

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1 proportionately increased or decreased. However, the monthly  
 2 pension payable to a member or survivor may not be reduced  
 3 below the amount of the first full monthly pension received by that  
 4 person.

5 (f) For a member who becomes disabled after June 30, 2000, the  
 6 1953 fund shall be used to pay temporary benefits in an annual  
 7 sum equal to thirty percent (30%) of the salary of a first class  
 8 patrolman in the police department, computed on an annual basis  
 9 and payable in twelve (12) equal monthly installments, to an active  
 10 member of the police department:

11 (1) who has been in active service for at least one (1) year;

12 (2) suffers or incurs a disability that:

13 (A) renders the member temporarily unfit for active duty  
 14 in the police department; and

15 (B) is not described in subsection (b)(2); and

16 (3) is unable to perform the essential functions of the job,  
 17 considering reasonable accommodation to the extent required  
 18 by the Americans with Disabilities Act.

19 The pension provided for in this subsection shall be paid only so  
 20 long as the member of the police department remains unfit for  
 21 active duty in the police department. If the salary of a first class  
 22 patrolman is increased or decreased, the pension payable shall be  
 23 proportionately increased or decreased. However, the monthly  
 24 pension payable to a member or survivor may not be reduced  
 25 below the amount of the first full monthly pension received by that  
 26 person.

27 (g) If an application is made by an active member of the police  
 28 department because of physical or mental disability for temporary  
 29 benefits as provided in subsection ~~(a) or (b)~~; **(d), (e), or (f)**, the benefit  
 30 is not payable until the local board determines after a hearing  
 31 conducted under IC 36-8-8-12.7 that the member is unfit for active duty  
 32 on the police department, considering reasonable accommodation to  
 33 the extent required by the Americans with Disabilities Act. Before the  
 34 hearing, a physician to be appointed by the local board shall examine  
 35 the member and certify in writing whether in his opinion the member  
 36 is unfit, physically or mentally, for active duty in the police department.  
 37 After the pension or benefit has been granted by the local board, the  
 38 payment commences with the original date of the injury or illness  
 39 causing the disability.

40 ~~(d)~~ **(h)** A member who has been granted a disability benefit under  
 41 subsection ~~(a) or (b)~~ **this section** and who fails or refuses to submit to  
 42 a physical examination at any time by the local board physician has no



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1 right in the future to receive the disability benefit, and any benefit that  
2 has been granted shall be immediately canceled by the local board.

3 ~~(e)~~ **(i)** The local board may, from time to time, require a member of  
4 the police department who is receiving at any time disability benefits  
5 or pensions as provided in ~~subsection (a) or (b)~~ **this section** to be  
6 examined by the physician appointed by the local board. After the  
7 examination, the local board shall conduct a hearing under  
8 IC 36-8-8-12.7 to determine whether the disability still exists and  
9 whether the member should continue to receive the pension or benefit.  
10 If after the examination and hearing the member is found to have  
11 recovered from his disability and is fit for active duty on the police  
12 department, then upon written notice to the member by the local board,  
13 the member shall be reinstated in active service, the safety board shall  
14 be informed of the action of the local board, and from that time the  
15 member is no longer entitled to payments from the 1953 fund. If the  
16 member fails or refuses to return to active duty after ordered by the  
17 local board, he ceases to be a member of the 1953 fund and waives all  
18 rights to any further pensions or benefits provided by the 1953 fund.

19 ~~(f)~~ **(j)** Notwithstanding any other provision of this chapter, no  
20 disability benefit may be paid for any disability based upon or caused  
21 by any mental or physical condition that a member had at the time he  
22 entered or reentered his active service in the police department.

23 ~~(g)~~ **(k)** If a member who is receiving disability benefits under  
24 subsection (a), **(b), or (c)** for a disease or disability occurring after June  
25 30, 1991, is transferred from disability to regular retirement status, the  
26 member's monthly pension may not be reduced below fifty-five percent  
27 (55%) of the salary of a first class patrolman at the time of payment of  
28 the pension.

29 ~~(h)~~ **(l)** To the extent required by the Americans with Disabilities  
30 Act, the transcripts, reports, records, and other material compiled to  
31 determine the existence of a disability shall be:

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

34 **(m) A fund member who is receiving disability benefits under**  
35 **this chapter shall be transferred from disability to regular**  
36 **retirement status when the member becomes fifty-five (55) years**  
37 **of age.**

38 SECTION 17. IC 36-8-7.5-13.2 IS ADDED TO THE INDIANA  
39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
40 [EFFECTIVE JULY 1, 2000]: **Sec. 13.2. (a) If a local board**  
41 **determines that a fund member has a temporary or a permanent**  
42 **disability, the local board shall also make a recommendation to the**

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1 **1977 fund advisory committee concerning whether the disability is:**

2 **(1) a disability in the line of duty (as described in section**  
3 **13(b)(1) of this chapter); or**

4 **(2) a disability not in the line of duty (a disability other than**  
5 **a disability described in section 13(b)(1) of this chapter).**

6 **The local board shall forward its recommendation to the 1977 fund**  
7 **advisory committee.**

8 **(b) The 1977 fund advisory committee shall review the local**  
9 **board's recommendation not later than forty-five (45) days after**  
10 **receiving the recommendation and shall then issue an initial**  
11 **determination of whether the disability is in the line of duty or not**  
12 **in the line of duty. The 1977 fund advisory committee shall notify**  
13 **the local board, the safety board, and the fund member of its initial**  
14 **determination.**

15 **(c) The fund member, the safety board, or the local board may**  
16 **object in writing to the 1977 fund advisory committee's initial**  
17 **determination under subsection (b) not later than fifteen (15) days**  
18 **after the initial determination is issued. If a written objection is not**  
19 **filed, the 1977 fund advisory committee's initial determination**  
20 **becomes final. If a timely written objection is filed, the 1977 fund**  
21 **advisory committee shall issue a final determination after a**  
22 **hearing. The final determination must be issued not later than one**  
23 **hundred eighty (180) days after the date of receipt of the local**  
24 **board's recommendation.**

25 **SECTION 18. IC 36-8-7.5-13.6 IS ADDED TO THE INDIANA**  
26 **CODE AS A NEW SECTION TO READ AS FOLLOWS**  
27 **[EFFECTIVE JULY 1, 2000]: Sec. 13.6 (a) This section applies to an**  
28 **active or retired member who dies other than in the line of duty (as**  
29 **defined in section 14.1 of this chapter).**

30 **(b) The 1953 fund shall be used to pay an annuity, computed**  
31 **under subsection (g) and payable in monthly installments, to the**  
32 **surviving spouse of a member of the fund who dies from any cause**  
33 **after having served for one (1) year or more. The annuity continues**  
34 **during the life of the surviving spouse unless the spouse remarried**  
35 **before September 1, 1983. If the spouse remarried before**  
36 **September 1, 1983, benefits ceased on the date of remarriage. If a**  
37 **member of the fund died, but not in the line of duty, and the**  
38 **member's surviving spouse remarried before September 1, 1983,**  
39 **the benefits of the surviving spouse shall be reinstated on July 1,**  
40 **1997, and continue during the life of the surviving spouse.**

41 **(c) The 1953 fund shall also be used to pay an annuity equal to**  
42 **twenty percent (20%) of the salary of a first class patrolman on the**



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1 police department, computed as provided in section 12(b) of this  
 2 chapter and payable in monthly installments, to each dependent  
 3 child of a member of the fund who dies from any cause after  
 4 having served for one (1) year or more as an active member of the  
 5 police department. The pension to each child continues:

- 6 (1) until the child becomes eighteen (18) years of age;  
 7 (2) until the child becomes twenty-three (23) years of age if  
 8 the child is enrolled in and regularly attending a secondary  
 9 school or is a full-time student at an accredited college or  
 10 university; or  
 11 (3) during the entire period of the child's physical or mental  
 12 disability;

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

15 (d) If a deceased member leaves no surviving spouse and no  
 16 child who qualifies for a benefit under subsection (c) but does leave  
 17 a dependent parent or parents, the 1953 fund is used to pay an  
 18 annuity not greater than a sum equal to twenty percent (20%) of  
 19 the salary of a first class patrolman on the police department,  
 20 computed and payable as provided in section 12(b) of this chapter,  
 21 payable monthly to the dependent parent or parents of a member  
 22 of the police department who dies from any cause after having  
 23 served for one (1) year or more as an active member of the police  
 24 department. The annuity continues for the remainder of the life or  
 25 lives of the parent or parents as long as either or both fail to have  
 26 sufficient other income for their proper care, maintenance, and  
 27 support.

28 (e) In all cases of payment to a dependent relative of a deceased  
 29 member, the local board is the final judge of the question of  
 30 necessity and dependency and of the amount within the stated  
 31 limits to be paid. The local board may also reduce or terminate  
 32 temporarily or permanently a payment to a dependent relative of  
 33 a deceased member when it determines that the condition of the  
 34 1953 fund or other circumstances make this action necessary.

35 (f) If the salary of a first class patrolman is increased or  
 36 decreased, the pension payable under this section shall be  
 37 proportionately increased or decreased. However, the monthly  
 38 pension payable to a member or survivor may not be reduced  
 39 below the amount of the first full monthly pension received by that  
 40 person.

41 (g) Except as otherwise provided in this subsection, the annuity  
 42 payable under subsection (b) equals one (1) of the following:



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1 (1) For the surviving spouse of a member who dies before  
 2 January 1, 1989, thirty percent (30%) of the salary of a first  
 3 class patrolman.

4 (2) For the surviving spouse of a member who dies after  
 5 December 31, 1988, an amount per month during the spouse's  
 6 life equal to the greater of:

7 (A) thirty percent (30%) of the monthly pay of a first class  
 8 patrolman; or

9 (B) fifty-five percent (55%) of the monthly benefit the  
 10 deceased member was receiving or was entitled to receive  
 11 on the date of the member's death.

12 However, if the deceased member was not entitled to a benefit  
 13 because the member had not completed twenty (20) years of  
 14 service, for the purposes of computing the amount under  
 15 subdivision (2)(B) the member's benefit is considered to be fifty  
 16 percent (50%) of the monthly salary of a first class patrolman. The  
 17 amount provided in this subdivision is subject to adjustment as  
 18 provided in subsection (f).

19 SECTION 19. IC 36-8-7.5-13.7 IS ADDED TO THE INDIANA  
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2000]: Sec. 13.7 (a) This section applies to a  
 22 member who died in the line of duty (as defined in section 14.1 of  
 23 this chapter) before September 1, 1982.

24 (b) The 1953 fund shall be used to pay an annuity, computed  
 25 under subsection (g) and payable in monthly installments, to the  
 26 surviving spouse of a member. The annuity continues during the  
 27 life of the surviving spouse unless the spouse remarried before  
 28 September 1, 1983. If the spouse remarried before September 1,  
 29 1983, benefits ceased on the date of remarriage. If a member of the  
 30 fund died, but not in the line of duty, and the member's surviving  
 31 spouse remarried before September 1, 1983, the benefits of the  
 32 surviving spouse shall be reinstated on July 1, 1997, and continue  
 33 during the life of the surviving spouse.

34 (c) The 1953 fund shall also be used to pay an annuity equal to  
 35 twenty percent (20%) of the salary of a first class patrolman on the  
 36 police department, computed as provided in section 12(b) of this  
 37 chapter and payable in monthly installments, to each dependent  
 38 child of a member of the fund who dies from any cause while in the  
 39 actual discharge of duties as a police officer. The pension to each  
 40 child continues:

41 (1) until the child becomes eighteen (18) years of age;

42 (2) until the child becomes twenty-three (23) years of age if

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1           the child is enrolled in and regularly attending a secondary  
2           school or is a full-time student at an accredited college or  
3           university; or

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

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

8           (d) If a deceased member leaves no surviving spouse and no  
9           child who qualifies for a benefit under subsection (c) but does leave  
10          a dependent parent or parents, the 1953 fund shall be used to pay  
11          an annuity not greater than a sum equal to twenty percent (20%)  
12          of the salary of a first class patrolman on the police department,  
13          computed and payable as provided in section 12(b) of this chapter,  
14          payable monthly to the dependent parent or parents of a member  
15          of the police department. The annuity continues for the remainder  
16          of the life or lives of the parent or parents as long as either or both  
17          fail to have sufficient other income for their proper care,  
18          maintenance, and support.

19          (e) In all cases of payment to a dependent relative of a deceased  
20          member, the local board is the final judge of the question of  
21          necessity and dependency and of the amount within the stated  
22          limits to be paid. The local board may also reduce or terminate  
23          temporarily or permanently a payment to a dependent relative of  
24          a deceased member when it determines that the condition of the  
25          1953 fund or other circumstances make this action necessary.

26          (f) If the salary of a first class patrolman is increased or  
27          decreased, the pension payable under this section shall be  
28          proportionately increased or decreased. However, the monthly  
29          pension payable to a member or survivor may not be reduced  
30          below the amount of the first full monthly pension received by that  
31          person.

32          (g) The annuity payable under subsection (b) equals thirty  
33          percent (30%) of the salary of a first class patrolman. The amount  
34          provided in this subsection is subject to adjustment as provided in  
35          subsection (f).

36          SECTION 20. IC 36-8-7.5-13.8 IS AMENDED TO READ AS  
37          FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13.8. (a) Benefits paid  
38          under this section are subject to section 1.5 of this chapter.

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

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



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1 (2) dies from any cause while in the actual discharge of his duties  
 2 as a police officer after having served less than one (1) year as an  
 3 active member of the police department;  
 4 fifteen hundred dollars (\$1,500) for a member who died before  
 5 September 1, 1984, three thousand dollars (\$3,000) for a member who  
 6 dies after August 31, 1984, and before July 1, 1994, six thousand  
 7 dollars (\$6,000) for a member who dies after June 30, 1994, and before  
 8 January 1, 1999, and nine thousand dollars (\$9,000) for a member who  
 9 dies after December 31, 1998. Any member of the fund may name a  
 10 beneficiary to receive the amount provided for upon his death by  
 11 designating in writing in such form as is prescribed by the local board  
 12 and delivered to the board. The beneficiary may be changed from time  
 13 to time by the member by canceling the designation and delivering a  
 14 new designation to the local board. If the member makes no  
 15 designation of beneficiary, the sum provided for shall be paid to the  
 16 member's estate.

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

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

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

25 The annuity continues during the life of the surviving spouse unless the  
 26 spouse remarried before September 1, 1983. If the spouse remarried  
 27 before September 1, 1983, benefits ceased on the date of remarriage.  
 28 However, if a member of the police department died in the line of duty  
 29 and the member's surviving spouse remarried before September 1,  
 30 1983, the benefits for the surviving spouse shall be reinstated on July  
 31 1, 1995, and continue during the life of the surviving spouse. If a  
 32 member of the fund died, but not in the line of duty, and the member's  
 33 surviving spouse remarried before September 1, 1983, the benefits of  
 34 the surviving spouse shall be reinstated on July 1, 1997, and continue  
 35 during the life of the surviving spouse.

36 (d) The 1953 fund shall also be used to pay an annuity equal to  
 37 twenty percent (20%) of the salary of a first class patrolman on the  
 38 police department, computed as provided in section 12(b) of this  
 39 chapter and payable in monthly installments, to each dependent child  
 40 of a member of the fund who dies from any cause after having served  
 41 for one (1) year or more as an active member of the police department  
 42 or dies from any cause while in the actual discharge of his duties as a



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1 police officer after having served less than one (1) year as an active  
2 member of the police department. The pension to each child continues:

- 3 (1) until the child attains the age of eighteen (18) years;  
4 (2) until the child becomes twenty-three (23) years of age if the  
5 child is enrolled in and regularly attending a secondary school or  
6 is a full-time student at an accredited college or university; or  
7 (3) during the entire period of the child's physical or mental  
8 disability;

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

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

- 19 (1) dies from any cause after having served for one (1) year or  
20 more as an active member of the police department; or  
21 (2) dies from any cause while in the actual discharge of his duties  
22 as a police officer after having served less than one (1) year as an  
23 active member of the police department.

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

27 (f) In all cases of payment to a dependent relative of a deceased  
28 member, the local board is the final judge of the question of necessity  
29 and dependency and of the amount within the stated limits to be paid.  
30 The local board may also reduce or terminate temporarily or  
31 permanently a payment to a dependent relative of a deceased member  
32 when it determines that the condition of the 1953 fund or other  
33 circumstances make this action necessary.

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

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

- 39 (1) For the surviving spouse of a member who dies before January  
40 1, 1989, thirty percent (30%) of the salary of a first class  
41 patrolman.  
42 (2) For the surviving spouse of a member who dies after

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1 December 31, 1988, an amount per month during the spouse's life  
2 equal to the greater of:

- 3 (A) thirty percent (30%) of the monthly pay of a first class  
4 patrolman; or  
5 (B) fifty-five percent (55%) of the monthly benefit the  
6 deceased member was receiving or was entitled to receive on  
7 the date of the member's death:

8 However, if the deceased member was not entitled to a benefit because  
9 the member had not completed twenty (20) years of service, for the  
10 purposes of computing the amount under clause (B) the member's  
11 benefit shall be considered to be fifty percent (50%) of the monthly  
12 salary of a first class patrolman. The amount provided for in this  
13 subdivision is subject to adjustment as provided in subsection (g):

14 SECTION 21. IC 36-8-7.5-14.1 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14.1. (a) **This section  
16 applies to an active member who dies in the line of duty after  
17 August 31, 1982.**

18 (b) If a member dies in the line of duty after August 31, 1982, the  
19 surviving spouse is entitled to ~~an additional~~ a monthly benefit, during  
20 the spouse's lifetime, equal to the ~~difference between:~~

- 21 ~~(1) the benefit to which the member would have been entitled on~~  
22 ~~the date of the member's death, but not less than fifty percent~~  
23 ~~(50%) of the monthly wage received by a first class patrolman.~~  
24 ~~and~~  
25 ~~(2) the amount received by the spouse under section 13-8(c) of~~  
26 ~~this chapter:~~

27 If the spouse remarried before September 1, 1983, benefits ceased on  
28 the date of remarriage. However, if a member of the police department  
29 dies in the line of duty after August 31, 1982, and the member's  
30 surviving spouse remarried before September 1, 1983, the benefits for  
31 the surviving spouse shall be reinstated on July 1, 1995, and continue  
32 during the life of the surviving spouse.

33 ~~(b)~~ (c) **The 1953 fund shall also be used to pay an annuity equal  
34 to twenty percent (20%) of the salary of a first class patrolman on  
35 the police department, computed as provided in section 12(b) of  
36 this chapter and payable in monthly installments, to each  
37 dependent child of a member of the fund who dies from any cause  
38 while in the actual discharge of duties as a police officer. The  
39 pension to each child continues:**

- 40 (1) **until the child becomes eighteen (18) years of age;**  
41 (2) **until the child becomes twenty-three (23) years of age if  
42 the child is enrolled in and regularly attending a secondary**



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1 school or is a full-time student at an accredited college or  
2 university; or

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

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

7 (d) The surviving children of a spouse receiving benefits under this  
8 section the deceased member who are eligible to receive a benefit  
9 under subsection (c) may receive an additional benefit in an  
10 amount fixed by ordinance, but the total benefit to all the  
11 member's children under this subsection may not receive more than  
12 exceed a total of thirty percent (30%) of the monthly wage received by  
13 a first class patrolman. However, this limitation does not apply to the  
14 children of a spouse receiving benefits under this section member who  
15 are physically or mentally disabled.

16 (e) If a deceased member leaves no surviving spouse and no  
17 child who qualifies for a benefit under subsection (c) but does leave  
18 a dependent parent or parents, the 1953 fund shall be used to pay  
19 an annuity not greater than a sum equal to twenty percent (20%)  
20 of the salary of a first class patrolman on the police department,  
21 computed and payable as provided in section 12(b) of this chapter,  
22 payable monthly to the dependent parent or parents of a member  
23 of the police department who dies from any cause while in the  
24 actual discharge of duties as a police officer. The annuity continues  
25 for the remainder of the life or lives of the parent or parents as  
26 long as either or both fail to have sufficient other income for their  
27 proper care, maintenance, and support.

28 (f) In all cases of payment to a dependent relative of a deceased  
29 member, the local board is the final judge of the question of  
30 necessity and dependency and of the amount within the stated  
31 limits to be paid. The local board may also reduce or terminate  
32 temporarily or permanently a payment to a dependent relative of  
33 a deceased member when it determines that the condition of the  
34 1953 fund or other circumstances make this action necessary.

35 (g) If the salary of a first class patrolman is increased or  
36 decreased, the pension payable under this section shall be  
37 proportionately increased or decreased. However, the monthly  
38 pension payable to a member or survivor may not be reduced  
39 below the amount of the first full monthly pension received by that  
40 person.

41 (e) (h) For purposes of this section, "dies in the line of duty" means  
42 death that occurs as a direct result of personal injury or illness resulting



1 from any action that the member, in the member's capacity as a police  
2 officer:

3 (1) is obligated or authorized by rule, regulation, condition of  
4 employment or service, or law to perform; **or**

5 (2) **performs** in the course of controlling or reducing crime or  
6 enforcing the criminal law.

7 SECTION 22. IC 36-8-8-12 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) Benefits paid  
9 under this section are subject to sections 2.5 and 2.6 of this chapter.

10 (b) If an active fund member has a covered impairment, as  
11 determined under sections 12.3 through 13.1 of this chapter, the  
12 member is entitled to receive the benefit prescribed by section 13.3 or  
13 13.5 of this chapter. A member who has had a covered impairment and  
14 returns to active duty with the department shall not be treated as a new  
15 applicant seeking to become a member of the 1977 fund.

16 (c) If a retired fund member who has not yet reached the member's  
17 fifty-second birthday is found by the PERF board to be permanently or  
18 temporarily unable to perform all suitable work for which the member  
19 is or may be capable of becoming qualified, the member is entitled to  
20 receive during the disability the retirement benefit payments payable  
21 at fifty-two (52) years of age. During a reasonable period in which a  
22 disabled fund member is becoming qualified for suitable work, the  
23 member may continue to receive disability benefit payments. However,  
24 benefits payable for disability under this subsection are reduced by  
25 amounts for which the fund member is eligible from:

26 (1) a plan or policy of insurance providing benefits for loss of  
27 time because of disability;

28 (2) a plan, fund, or other arrangement to which the fund member's  
29 employer has contributed or for which the fund member's  
30 employer has made payroll deductions, including a group life  
31 policy providing installment payments for disability, a group  
32 annuity contract, or a pension or retirement annuity plan other  
33 than the fund established by this chapter;

34 (3) the federal Social Security Act (42 U.S.C. 401 et seq.), the  
35 Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States  
36 Department of Veterans Affairs, or another federal, state, local, or  
37 other governmental agency;

38 (4) worker's compensation payable under IC 22-3; and

39 (5) a salary or wage, including overtime and bonus pay and extra  
40 or additional remuneration of any kind, the fund member receives  
41 or is entitled to receive from the member's employer.

42 For the purposes of this subsection, a retired fund member is

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1 considered eligible for benefits from subdivisions (1) through (5)  
2 whether or not the member has made application for the benefits.

3 (d) Notwithstanding any other law, a plan, policy of insurance, fund,  
4 or other arrangement:

5 (1) delivered, issued for delivery, amended, or renewed after  
6 April 9, 1979; and

7 (2) described in subsection (c)(1) or (c)(2);

8 may not provide for a reduction or alteration of benefits as a result of  
9 benefits for which a fund member may be eligible from the 1977 fund  
10 under subsection (c).

11 (e) Time spent receiving disability benefits is considered active  
12 service for the purpose of determining retirement benefits until the  
13 fund member has a total of twenty (20) years of service.

14 **(f) A fund member who is receiving disability benefits under this**  
15 **chapter shall be transferred from disability to regular retirement**  
16 **status when the member becomes fifty-five (55) years of age.**

17 SECTION 23. IC 36-8-8-12.7, AS AMENDED BY P.L.195-1999,  
18 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2000]: Sec. 12.7. (a) This section applies to hearings  
20 conducted by local boards concerning determinations of impairment  
21 under this chapter or of disability under IC 36-8-5-2(g), IC 36-8-6,  
22 IC 36-8-7, and IC 36-8-7.5.

23 (b) At least five (5) days before the hearing, the local board shall  
24 give notice to the fund member and the safety board of the time, date,  
25 and place of the hearing.

26 (c) The local board must hold a hearing not more than ninety (90)  
27 days after the fund member requests the hearing.

28 (d) At the hearing, the local board shall permit the fund member and  
29 the safety board to:

30 (1) be represented by any individual;

31 (2) through witnesses and documents, present evidence;

32 (3) conduct cross-examination; and

33 (4) present arguments.

34 (e) At the hearing, the local board shall require all witnesses to be  
35 examined under oath, which may be administered by a member of the  
36 local board.

37 (f) The local board shall, at the request of the fund member or the  
38 safety board, issue:

39 (1) subpoenas;

40 (2) discovery orders; and

41 (3) protective orders;

42 in accordance with the Indiana Rules of Trial Procedure that govern

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- 1 discovery, depositions, and subpoenas in civil actions.
- 2 (g) The local board shall have the hearing recorded so that a  
3 transcript may be made of the proceedings.
- 4 (h) After the hearing, the local board shall make its determinations,  
5 including findings of fact, in writing and shall provide copies of its  
6 determinations to the fund member and the safety board not more than  
7 thirty (30) days after the hearing.
- 8 (i) If the local board:
- 9 (1) does not hold a hearing within the time required under  
10 subsection (c); or  
11 (2) does not issue its determination within the time required under  
12 subsection (h);
- 13 the fund member shall be considered to be totally impaired for  
14 purposes of section 13.5 of this chapter and, if the issue before the local  
15 board concerns the class of the member's impairment, the member shall  
16 be considered to have a Class 1 impairment.
- 17 (j) The local board may on its own motion issue:
- 18 (1) subpoenas;  
19 (2) discovery orders; and  
20 (3) protective orders;
- 21 in accordance with the Indiana Rules of Trial Procedure that govern  
22 discovery, depositions, and subpoenas in civil actions.
- 23 (k) At the hearing, the local board may exclude evidence that is  
24 irrelevant, immaterial, unduly repetitious, or excludable on the basis of  
25 evidentiary privilege recognized by the courts.
- 26 (l) At the hearing, the local board may request the testimony of  
27 witnesses and the production of documents.
- 28 (m) If a subpoena or order is issued under this section, the party  
29 seeking the subpoena or order shall serve it in accordance with the  
30 Indiana Rules of Trial Procedure. However, if the subpoena or order is  
31 on the local board's own motion, the sheriff of the county in which the  
32 subpoena or order is to be served shall serve it. A subpoena or order  
33 under this section may be enforced in the circuit or superior court of  
34 the county in which the subpoena or order is served.
- 35 (n) With respect to a hearing conducted for purposes of determining  
36 disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5, the determination  
37 of the local board after a hearing is final and may be appealed to the  
38 court.
- 39 (o) With respect to a hearing conducted for purposes of determining  
40 impairment or class of impairment under this chapter, the fund member  
41 may appeal the local board's determinations. An appeal under this  
42 subsection:



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- 1 (1) must be made in writing;
- 2 (2) must state the class of impairment and the degree of
- 3 impairment that is claimed by the fund member;
- 4 (3) must include a written determination by the chief of the police
- 5 or fire department stating that there is no suitable and available
- 6 work; and
- 7 (4) must be filed with the local board and the PERF board's
- 8 director no later than thirty (30) days after the date on which the
- 9 fund member received a copy of the local board's determinations.
- 10 (p) To the extent required by the Americans with Disabilities Act,
- 11 the transcripts, records, reports, and other materials generated as a
- 12 result of a hearing, review, or appeal conducted to determine an
- 13 impairment under this chapter or a disability under IC 36-8-6,
- 14 IC 36-8-7, or IC 36-8-7.5 must be:
- 15 (1) retained in the separate medical file created for the member;
- 16 and
- 17 (2) treated as a confidential medical record.
- 18 **(q) If a local board determines that a fund member described in**
- 19 **section 13.3(a) of this chapter has a covered impairment, the local**
- 20 **board shall also make a recommendation to the 1977 fund advisory**
- 21 **committee concerning whether the covered impairment is an**
- 22 **impairment described in section 13.3(c) of this chapter or whether**
- 23 **it is an impairment described in section 13.3(d) of this chapter. The**
- 24 **local board shall forward its recommendation to the 1977 fund**
- 25 **advisory committee.**
- 26 (r) The 1977 fund advisory committee shall review the local
- 27 board's recommendation not later than forty-five (45) days after
- 28 receiving the recommendation and shall then issue an initial
- 29 determination of whether the disability is in the line of duty or not
- 30 in the line of duty. The 1977 fund advisory committee shall notify
- 31 the local board, the safety board, and the fund member of its initial
- 32 determination.
- 33 (s) The fund member, the safety board, or the local board may
- 34 object in writing to the 1977 fund advisory committee's initial
- 35 determination under subsection (r) not later than fifteen (15) days
- 36 after the initial determination is issued. If a written objection is not
- 37 filed, the 1977 fund advisory committee's initial determination
- 38 becomes final. If a timely written objection is filed, the 1977 fund
- 39 advisory committee shall issue a final determination after a
- 40 hearing. The final determination must be issued not later than one
- 41 hundred eighty (180) days after the date of receipt of the local
- 42 board's recommendation.

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1 SECTION 24. IC 36-8-8-13.3 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13.3. (a) This section  
 3 applies only to a fund member who:

- 4 (1) is hired for the first time before January 1, 1990; and  
 5 (2) does not choose coverage by sections 12.5 and 13.5 of this  
 6 chapter under section 12.4 of this chapter.

7 This section does not apply to a fund member described in section  
 8 12.3(c)(2) of this chapter.

9 (b) A fund member:

- 10 (1) who **became disabled before July 1, 2000;**  
 11 (2) is determined to have a covered impairment; and  
 12 (3) for whom it is determined that there is no suitable and  
 13 available work within the fund member's department, considering  
 14 reasonable accommodation to the extent required by the  
 15 Americans with Disabilities Act;

16 is entitled to receive during the disability a benefit equal to the benefit  
 17 that the fund member would have received if the fund member had  
 18 retired. If the disabled fund member does not have at least twenty (20)  
 19 years of service or is not at least fifty-two (52) years of age, the benefit  
 20 is computed and paid as if the fund member had twenty (20) years of  
 21 service and was fifty-two (52) years of age.

22 (c) **Except as otherwise provided in this subsection, a fund**  
 23 **member:**

- 24 (1) who becomes disabled after July 1, 2000;  
 25 (2) who is determined to have a covered impairment that is:  
 26 (A) the direct result of:  
 27 (i) a personal injury that occurs while the fund member  
 28 is on duty;  
 29 (ii) a personal injury that occurs while the fund member  
 30 is off duty and is responding to an offense or a reported  
 31 offense, in the case of a police officer, or an emergency or  
 32 reported emergency for which the fund member is  
 33 trained, in the case of a firefighter; or  
 34 (iii) an occupational disease (as defined in IC 22-3-7-10),  
 35 including a duty related disease that is also included  
 36 within clause (B); or  
 37 (B) a duty related disease (for purposes of this section, a  
 38 "duty related disease" means a disease arising out of the  
 39 fund member's employment; a disease is considered to  
 40 arise out of the fund member's employment if it is  
 41 apparent to the rational mind, upon consideration of all of  
 42 the circumstances, that:



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- 1 (i) there is a connection between the conditions under  
 2 which the fund member's duties are performed and the  
 3 disease;  
 4 (ii) the disease can be seen to have followed as a natural  
 5 incident of the fund member's duties as a result of the  
 6 exposure occasioned by the nature of the fund member's  
 7 duties; and  
 8 (iii) the disease can be traced to the fund member's  
 9 employment as the proximate cause); and  
 10 (3) for whom it is determined that there is no suitable and  
 11 available work within the fund member's department,  
 12 considering reasonable accommodation to the extent required  
 13 by the Americans with Disabilities Act;  
 14 is entitled to receive during the disability a benefit equal to the  
 15 benefit that the fund member would have received if the fund  
 16 member had retired. If the disabled fund member does not have at  
 17 least twenty (20) years of service or is not at least fifty-two (52)  
 18 years of age, the benefit is computed and paid as if the fund  
 19 member had twenty (20) years of service and was fifty-two (52)  
 20 years of age.  
 21 (d) Except as otherwise provided in this subsection, a fund  
 22 member:  
 23 (1) who becomes disabled after July 1, 2000;  
 24 (2) who is determined to have a covered impairment that is  
 25 not a covered impairment described in subsection (c)(2)(A) or  
 26 (c)(2)(B); and  
 27 (3) for whom it is determined that there is no suitable and  
 28 available work within the fund member's department,  
 29 considering reasonable accommodation to the extent required  
 30 by the federal Americans with Disabilities Act;  
 31 is entitled to receive during the disability a benefit equal to the  
 32 benefit that the fund member would have received if the fund  
 33 member had retired. If the disabled fund member does not have at  
 34 least twenty (20) years of service or is not at least fifty-two (52)  
 35 years of age, the benefit is computed and paid as if the fund  
 36 member had twenty (20) years of service and was fifty-two (52)  
 37 years of age.  
 38 (e) Notwithstanding section 12.3 of this chapter and any other  
 39 provision of this section, a member who:  
 40 (1) has had a covered impairment;  
 41 (2) recovers and returns to active service with the department; and  
 42 (3) within two (2) years after returning to active service has an



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1           impairment that except for section 12.3 of this chapter would be  
 2           a covered impairment;  
 3           is entitled to the benefit under this subsection if the impairment  
 4           described in subdivision (3) results from the same condition or  
 5           conditions (without an intervening circumstance) that caused the  
 6           covered impairment described in subdivision (1). The member is  
 7           entitled to receive the monthly disability benefit amount paid to the  
 8           member at the time of the member's return to active service plus any  
 9           adjustments under section 15 of this chapter that would have been  
 10          applicable during the member's period of reemployment.

11          SECTION 25. IC 36-8-8-13.8 IS ADDED TO THE INDIANA  
 12          CODE AS A NEW SECTION TO READ AS FOLLOWS  
 13          [EFFECTIVE JULY 1, 2000]: **Sec. 13.8. (a) This section applies to an**  
 14          **active or retired member who dies other than in the line of duty (as**  
 15          **defined in section 14.1 of this chapter) after August 31, 1982.**

16          **(b) If a fund member dies while receiving retirement or**  
 17          **disability benefits, the following apply:**

18                 **(1) Except as otherwise provided in this subsection, each of**  
 19                 **the member's surviving children is entitled to a monthly**  
 20                 **benefit equal to twenty percent (20%) of the fund member's**  
 21                 **monthly benefit:**

22                         **(A) until the child becomes eighteen (18) years of age; or**  
 23                         **(B) until the child becomes twenty-three (23) years of age**  
 24                         **if the child is enrolled in and regularly attending a**  
 25                         **secondary school or is a full-time student at an accredited**  
 26                         **college or university;**

27                 **whichever period is longer. However, if the board finds upon**  
 28                 **the submission of satisfactory proof that a child who is at least**  
 29                 **eighteen (18) years of age is mentally or physically**  
 30                 **incapacitated, is not a ward of the state, and is not receiving**  
 31                 **a benefit under subdivision (1)(B), the child is entitled to**  
 32                 **receive an amount each month that is equal to the greater of**  
 33                 **thirty percent (30%) of the monthly pay of a first class**  
 34                 **patrolman or first class firefighter or fifty-five percent (55%)**  
 35                 **of the monthly benefit the deceased member was receiving or**  
 36                 **was entitled to receive on the date of the member's death as**  
 37                 **long as the mental or physical incapacity of the child**  
 38                 **continues. Benefits paid for a child shall be paid to the**  
 39                 **surviving parent as long as the child resides with and is**  
 40                 **supported by the surviving parent. If the surviving parent**  
 41                 **dies, the benefits shall be paid to the legal guardian of the**  
 42                 **child.**



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

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

16           (c) Except as otherwise provided in this subsection, if a fund  
 17           member dies while on active duty or while retired and not  
 18           receiving benefits, the member's children and the member's  
 19           spouse, or the member's parent or parents are entitled to receive  
 20           a monthly benefit determined under subsection (b). If the fund  
 21           member did not have at least twenty (20) years of service or was  
 22           not at least fifty-two (52) years of age, the benefit is computed as if  
 23           the member:

24           (1) did have twenty (20) years of service; and

25           (2) was fifty-two (52) years of age.

26           SECTION 26. IC 36-8-8-13.9 IS ADDED TO THE INDIANA  
 27           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 28           [EFFECTIVE JULY 1, 2000]: **Sec. 13.9. (a) This section applies to an**  
 29           **active member who died in the line of duty (as defined in section**  
 30           **14.1 of this chapter) before September 1, 1982.**

31           (b) Except as otherwise provided in this subsection, if a fund  
 32           member dies in the line of duty, the following apply:

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

36           (A) until the child becomes eighteen (18) years of age; or

37           (B) until the child becomes twenty-three (23) years of age  
 38           if the child is enrolled in and regularly attending a  
 39           secondary school or is a full-time student at an accredited  
 40           college or university;

41           whichever period is longer. However, if the board finds upon  
 42           the submission of satisfactory proof that a child who is at least

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1           eighteen (18) years of age is mentally or physically  
 2           incapacitated, is not a ward of the state, and is not receiving  
 3           a benefit under subdivision (1)(B), the child is entitled to  
 4           receive an amount each month that is equal to the greater of  
 5           thirty percent (30%) of the monthly pay of a first class  
 6           patrolman or first class firefighter or fifty-five percent (55%)  
 7           of the monthly benefit the deceased member was receiving or  
 8           was entitled to receive on the date of the member's death as  
 9           long as the mental or physical incapacity of the child  
 10          continues. Benefits paid for a child shall be paid to the  
 11          surviving parent as long as the child resides with and is  
 12          supported by the surviving parent. If the surviving parent  
 13          dies, the benefits shall be paid to the legal guardian of the  
 14          child.

15          (2) The member's surviving spouse is entitled to a monthly  
 16          benefit equal to sixty percent (60%) of the fund member's  
 17          monthly benefit during the spouse's lifetime. If the spouse  
 18          remarried before September 1, 1983, and benefits ceased on  
 19          the date of remarriage, the benefits for the surviving spouse  
 20          shall be reinstated on July 1, 1997, and continue during the  
 21          life of the surviving spouse.

22          **If there is no surviving eligible child or spouse, and there is proof**  
 23          **satisfactory to the local board, subject to review in the manner**  
 24          **specified in section 13.1(b) of this chapter, that the parent was**  
 25          **wholly dependent on the fund member, the member's surviving**  
 26          **parent is entitled, or both surviving parents if qualified are entitled**  
 27          **jointly, to receive fifty percent (50%) of the fund member's**  
 28          **monthly benefit during the parent's or parents' lifetime.**

29          **(c) If the fund member did not have at least twenty (20) years of**  
 30          **service or was not at least fifty-two (52) years of age, the benefit**  
 31          **under subsection (b) is computed as if the member:**

32                  **(1) did have twenty (20) years of service; and**

33                  **(2) was fifty-two (52) years of age.**

34          SECTION 27. IC 36-8-8-14.1, AS AMENDED BY P.L.195-1999,  
 35          SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36          JULY 1, 2000]: Sec. 14.1. (a) Benefits paid under this section are  
 37          subject to section 2.5 of this chapter.

38          **(b) This section applies to an active member who dies in the line**  
 39          **of duty after August 31, 1982.**

40          **(c) If a fund member dies in the line of duty after August 31,**  
 41          **1982, the member's surviving spouse is entitled to a monthly**  
 42          **benefit during the spouse's lifetime, equal to the benefit to which**



1 the member would have been entitled on the date of the member's  
 2 death, but not less than the benefit payable to a member with  
 3 twenty (20) years service at fifty-two (52) years of age. If the spouse  
 4 remarried before September 1, 1983, and benefits ceased on the  
 5 date of remarriage, the benefits for the surviving spouse shall be  
 6 reinstated on July 1, 1997, and continue during the life of the  
 7 surviving spouse.

8 (d) If a fund member dies while receiving retirement or disability  
 9 benefits, in the line of duty, the following apply:

10 ~~(1)~~ each of the member's surviving children is entitled to a  
 11 monthly benefit equal to twenty percent (20%) of the fund  
 12 member's monthly benefit:

13 ~~(A)~~ (1) until the child reaches eighteen (18) years of age; or

14 ~~(B)~~ (2) until the child reaches twenty-three (23) years of age  
 15 if the child is enrolled in and regularly attending a secondary  
 16 school or is a full-time student at an accredited college or  
 17 university;

18 whichever period is longer. However, if the board finds upon the  
 19 submission of satisfactory proof that a child who is at least  
 20 eighteen (18) years of age is mentally or physically incapacitated,  
 21 is not a ward of the state, and is not receiving a benefit under  
 22 ~~subdivision (1)(B)~~, **subdivision (2)**, the child is entitled to receive  
 23 an amount each month that is equal to the greater of thirty percent  
 24 (30%) of the monthly pay of a first class patrolman or first class  
 25 firefighter or fifty-five percent (55%) of the monthly benefit the  
 26 deceased member was receiving or was entitled to receive on the  
 27 date of the member's death as long as the mental or physical  
 28 incapacity of the child continues. Benefits paid for a child shall be  
 29 paid to the surviving parent as long as the child resides with and  
 30 is supported by the surviving parent. If the surviving parent dies,  
 31 the benefits shall be paid to the legal guardian of the child.

32 ~~(2) The member's surviving spouse is entitled to a monthly benefit~~  
 33 ~~equal to sixty percent (60%) of the fund member's monthly~~  
 34 ~~benefit during the spouse's lifetime. If the spouse remarried before~~  
 35 ~~September 1, 1983, and benefits ceased on the date of remarriage,~~  
 36 ~~the benefits for the surviving spouse shall be reinstated on July 1,~~  
 37 ~~1997, and continue during the life of the surviving spouse.~~

38 (e) If a fund member dies while receiving retirement or disability  
 39 benefits, there is no surviving eligible child or spouse, and there is  
 40 proof satisfactory to the local board, subject to review in the manner  
 41 specified in section 13.1(b) of this chapter, that the parent was wholly  
 42 dependent on the fund member, the member's surviving parent is



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1 entitled, or both surviving parents if qualified are entitled jointly, to  
 2 receive fifty percent (50%) of the fund member's monthly benefit  
 3 during the parent's or parents' lifetime.

4 ~~(e) If a fund member dies while on active duty or while retired and~~  
 5 ~~not receiving benefits; the member's children and the member's spouse;~~  
 6 ~~or the member's parent or parents; are entitled to receive a monthly~~  
 7 ~~benefit determined under subsection (b):~~

8 (f) If the fund member did not have at least twenty (20) years of  
 9 service or was not at least fifty-two (52) years old, the benefit is  
 10 computed as if the member:

11 (1) did have twenty (20) years of service; and

12 (2) was fifty-two (52) years of age.

13 ~~(d) If a fund member dies in the line of duty after August 31, 1982;~~  
 14 ~~the member's surviving spouse is entitled to an additional monthly~~  
 15 ~~benefit during the spouse's lifetime, equal to the difference between the~~  
 16 ~~benefit payable under subsection (b)(2) and the benefit to which the~~  
 17 ~~member would have been entitled on the date of the member's death;~~  
 18 ~~but not less than the benefit payable to a member with twenty (20)~~  
 19 ~~years service at fifty-two (52) years of age. If the spouse remarried~~  
 20 ~~before September 1, 1983; and benefits ceased on the date of~~  
 21 ~~remarriage; the benefits for the surviving spouse shall be reinstated on~~  
 22 ~~July 1, 1997; and continue during the life of the surviving spouse.~~

23 (g) For purposes of this ~~subsection; section,~~ "dies in the line of  
 24 duty" means death that occurs as a direct result of personal injury or  
 25 illness resulting from:

26 (1) any action that the member, in the member's capacity as a  
 27 police officer:

28 (A) is obligated or authorized by rule, regulation, condition of  
 29 employment or service, or law to perform; or

30 (B) performs in the course of controlling or reducing crime or  
 31 enforcing the criminal law; or

32 (2) any action that the member, in the member's capacity as a  
 33 firefighter:

34 (A) is obligated or authorized by rule, regulation, condition of  
 35 employment or service, or law to perform; or

36 (B) performs while on the scene of an emergency run  
 37 (including false alarms) or on the way to or from the scene.

38 SECTION 28. [EFFECTIVE JULY 1, 2000] (a) **The 1977 fund**  
 39 **advisory committee established by IC 36-8-8-4 shall before**  
 40 **November 1, 2000, determine which surviving spouses, children, or**  
 41 **parents receiving benefits under IC 36-8-6, IC 36-8-7, or**  
 42 **IC 36-8-7.5 are survivors of police officers or firefighters who died**



1 **in the line of duty before September 1, 1982.**  
2 **(b) This SECTION expires January 1, 2002.**

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SENATE MOTION

Mr. President: I move that Senator Lutz be added as second author of Senate Bill 62.

HARRISON

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SENATE MOTION

Mr. President: I move that Senators Weatherwax, Craycraft and Sipes be added as coauthors of Senate Bill 62.

HARRISON

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 62, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

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

"SECTION 1. IC 2-3.5-5-3, AS AMENDED BY P.L.195-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The PERF board shall establish alternative investment programs within the fund, based on the following requirements:

- (1) The PERF 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.
- (3) The programs may not permit a member to withdraw money from the member's account, except as provided in section 6 of this chapter.
- (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 as of the last day of each quarter.

(b) A member shall direct the allocation of the amount credited to the member among the 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 one (1) time in a twelve (12) month period.
- (2) The PERF 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 PERF board. This date is the effective date of the member's selection.
- (3) A member may select any combination of the available 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 on the effective date.

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(6) If a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the ~~bond~~ **PERF board's general investment** fund.

(7) All contributions to the member's account shall be allocated as of the last day of the quarter in which the contributions are received in accordance with the member's most recent effective direction. The PERF board shall not reallocate the member's account at any other time.

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection. When a member retires, becomes disabled, dies, or 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 withdrawal, plus contributions received after that date.

(d) The PERF board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

(1) The market value shall exclude the employer contributions and employee contributions received during the quarter ending on the current allocation date.

(2) The market value as of the immediately preceding quarter end date shall include the employer contributions and employee contributions received during that preceding quarter.

(3) The market value as of the immediately preceding quarter end date shall exclude benefits paid from the fund during the quarter ending on the current quarter end date."

Page 2, line 11, delete "becomes" and insert "**became**".

Page 2, line 27, delete "For" and insert "**Except as otherwise provided in this subsection, for**".

Page 3, line 24, delete "For" and insert "**Except as otherwise provided in this subsection, for**".

Page 4, line 37, delete "finding of" and insert "**recommendation to the 1977 fund advisory committee concerning**".

Page 4, line 42, delete "finding" and insert "**recommendation**".

Page 5, line 3, delete "finding" and insert "**recommendation**".

Page 5, line 4, delete "findings" and insert "**recommendation**".

Page 5, line 17, delete "finding" and insert "**recommendation**".

Page 5, line 26, delete "dies" and insert "**died**".



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Page 5, line 34, delete "To" and insert "**Except as otherwise provided in this subdivision, to**".

Page 6, line 7, delete "A" and insert "**Except as otherwise provided in this subsection, a**".

Page 6, line 25, delete "retires" and insert "**retired**".

Page 6, line 33, delete "If" and insert "**Except as otherwise provided in this subsection, if**".

Page 7, line 25, delete "A" and insert "**Except as otherwise provided in this subsection, a**".

Page 8, line 2, delete "retires" and insert "**retired**".

Page 12, line 12, delete "becomes" and insert "**became**".

Page 13, line 6, delete "the local board" and insert "**under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee**".

Page 14, line 1, delete "the local board" and insert "**under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee**".

Page 18, line 10, after 1988, insert "**except as otherwise provided in this clause,**".

Page 22, line 35, delete "finding of" and insert "**recommendation to the 1977 fund advisory committee concerning**".

Page 22, line 41, delete "finding" and insert "**recommendation**".

Page 23, line 2, delete "finding" and insert "**recommendation**".

Page 23, line 3, delete "findings" and insert "**recommendation**".

Page 23, line 16, delete "finding" and insert "**recommendation**".

Page 25, line 37, delete "becomes" and insert "**became**".

Page 29, line 6, delete "finding of" and insert "**recommendation to the 1977 fund advisory committee concerning**".

Page 29, line 12, delete "finding" and insert "**recommendation**".

Page 29, line 15, delete "finding" and insert "**recommendation**".

Page 29, line 16, delete "findings" and insert "**recommendation**".

Page 29, line 29, delete "finding" and insert "**recommendation**".

Page 31, line 4, delete "The" and insert "**Except as otherwise provided in this subsection, the**".

Page 40, line 25, delete "determination of" and insert "**recommendation to the 1977 fund advisory committee concerning**".

Page 40, line 28, delete "A fund member may appeal the local board's" and insert "**The local board shall forward its recommendation to the 1977 fund advisory committee.**

(r) **The 1977 fund advisory committee shall review the local board's recommendation not later than forty-five (45) days after**



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receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The 1977 fund advisory committee shall notify the local board, the safety board, and the fund member of its initial determination.

(s) The fund member, the safety board, or the local board may object in writing to the 1977 fund advisory committee's initial determination under subsection (r) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the 1977 fund advisory committee's initial determination becomes final. If a timely written objection is filed, the 1977 fund advisory committee shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation."

Page 40, delete lines 29 through 40.

Page 41, line 8, delete "becomes" and insert "became".

Page 41, line 20, delete "A" and insert "**Except as otherwise provided in this subsection, a**".

Page 42, line 18, delete "A" and insert "**Except as otherwise provided in this subsection, a**".

Page 43, delete lines 7 through 36.

Page 44, line 2, delete "Each" and insert "**Except as otherwise provided in this subsection, each**".

Page 44, line 41, delete "If" and insert "**Except as otherwise provided in this subsection, if**".

Page 45, line 13, delete "If" and insert "**Except as otherwise provided in this subsection, if**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 62 as introduced.)

HARRISON, Chairperson

Committee Vote: Yeas 7, Nays 0.



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