Reprinted
January 30, 2008

HOUSE BILL No. 1105

DIGEST OF HB 1105 (Updated January 29, 2008 5:07 pm - DI 103)

Citations Affected: IC 5-2; IC 5-10; IC 5-22; IC 36-1; IC 36-8; noncode.

Synopsis: Various public safety matters. Increases to 65 years of age (from 60 years of age) the mandatory retirement age for a participant in the excise police, gaming agent, and conservation enforcement officers' retirement plan (plan). Caps the plan's annual retirement allowance at 75% of the participant's average annual salary. Establishes a deferred retirement option plan (DROP) for plan participants. Requires a law enforcement officer who: (1) has less than 25 years experience as a law enforcement officer; and (2) has not been employed as a law enforcement officer in the 10 years before being hired as a law enforcement officer; to repeat the full basic training course in order to regain law enforcement powers. Provides that a law enforcement officer who has at least 25 years experience as a law enforcement officer is not required to repeat the full basic training course but is required to attend a refresher course and a pre-basic

(Continued next page)

Effective: Upon passage; July 1, 2008.

Tincher, Goodin

January 8, 2008, read first time and referred to Committee on Veterans Affairs and Public Safety.
January 22, 2008, amended, reported — Do Pass.
January 29, 2008, read second time, amended, ordered engrossed.

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Digest Continued

training course to regain law enforcement powers. Provides that a governmental body may transfer property to the board of fire trustees of a fire protection district or the provider unit of a fire protection territory under the same circumstances that property may be transferred to a volunteer fire department. Provides that a participating unit in a fire protection territory may transfer any money belonging to the participating unit to the fire protection territory fund, the fire protection territory equipment replacement fund, or both funds. Legalizes any transfer of money from a participating unit to a fire protection territory before July 1, 2008. Provides that when a fire protection territory dissolves, title to any real property transferred to the provider unit reverts to the participating unit that transferred the real property to the provider unit.

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Reprinted
January 30, 2008

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1105

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

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

SECTION 1. IC 5-2-1-9, AS AMENDED BY P.L.230-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city,

county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

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(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (q), and (r), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-2-1-15(i).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in

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subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class

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attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Lawful use of force.

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;

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(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) worked as a full-time law enforcement officer for at least one (1) year before the officer is hired under subdivision (1);

(3) has not been employed as a law enforcement officer for at least two (2) years and less than ~~six (6)~~ **ten (10)** years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(4) completed **at any time** a basic training course certified by the board before the officer is hired under subdivision (1).

(o) An officer to whom subsection (n) applies must successfully complete the refresher course described in subsection (n) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(p) A law enforcement officer who:

(1) has completed a basic training course certified by the board; ~~and~~

(2) has not been employed as a law enforcement officer in the ~~six (6)~~ **ten (10)** years before the officer is hired as a law enforcement officer; **and**

(3) has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection

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(n)(1);

is not eligible to attend the refresher course described in subsection (n) and must repeat the full basic training course to regain law enforcement powers. **However, a law enforcement officer who worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1), and who otherwise satisfies the requirement of subsection (n), is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) and the pre-basic training course established under subsection (f).**

(q) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(r) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

SECTION 2. IC 5-10-5.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b), every participant is required to retire on the first day of the month following the participant's ~~sixtieth~~ **sixty-fifth** birthday.

(b) An officer who becomes a participant after becoming fifty (50) years of age is required to retire on the earlier of:

(1) the first day of the month following the participant's sixty-fifth birthday; or

(2) the first day of the month following the completion of ~~ten (10)~~ **fifteen (15)** years of service.

SECTION 3. IC 5-10-5.5-10, AS AMENDED BY P.L.180-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Benefits provided under this section

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are subject to section 2.5 of this chapter.

(b) The annual retirement allowance of a participant, payable in equal monthly installments beginning on the participant's normal retirement date, shall be a percentage of the participant's average annual salary, such percentage to be twenty-five percent (25%) increased by one and two-thirds percent (1 2/3%) of the participant's average annual salary for each completed year of creditable service more than ten (10) years. **However, the annual retirement allowance computed under this subsection may not exceed seventy-five percent (75%) of the participant's average annual salary.**

(c) The annual retirement allowance shall cease with the last monthly payment prior to the death of the participant.

SECTION 4. IC 5-10-5.5-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22. (a) As used in this section, "DROP" refers to a deferred retirement option plan established under this section.**

(b) As used in this section, "DROP entry date" means the date that a participant's election to enter a DROP becomes effective.

(c) As used in this section, "DROP frozen benefit" refers to an annual retirement allowance computed under section 10 of this chapter based on a participant's:

(1) average annual salary; and

(2) years of creditable service;

on the date the participant enters the DROP.

(d) As used in this section, "DROP retirement date" means the future retirement date selected by a participant at the time the participant elects to enter the DROP.

(e) Only a participant who is eligible to receive an unreduced annual retirement allowance immediately upon termination of employment may elect to enter a DROP. A participant who elects to enter the DROP must agree to the following:

(1) The participant shall execute an irrevocable election to retire on the DROP retirement date and must remain in active service until that date.

(2) While in the DROP, the participant shall continue to make contributions under section 8 of this chapter.

(3) The participant shall select a DROP retirement date not less than twelve (12) months and not more than thirty-six (36) months after the participant's DROP entry date.

(4) The participant may not remain in the DROP after the date the participant reaches the mandatory retirement age

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under section 9 of this chapter.

(5) The participant may make an election to enter the DROP only once in the participant's lifetime.

(f) Contributions or payments provided by the general assembly under section 4(b)(4) of this chapter continue for a participant while the participant is in the DROP.

(g) A participant shall exit the DROP on the earliest of the following:

(1) The participant's DROP retirement date.

(2) Thirty-six (36) months after the participant's DROP entry date.

(3) The participant's mandatory retirement age.

(4) The date the participant retires because of a disability as provided by subsection (k).

(h) A participant who retires on the participant's DROP retirement date or on the date the participant retires because of a disability as provided by subsection (k) may elect to receive an annual retirement allowance:

(1) computed under section 10 of this chapter as if the participant had never entered the DROP; or

(2) consisting of:

(A) the DROP frozen benefit; plus

(B) an additional amount, paid as the participant elects under subsection (i), determined by multiplying:

(i) the DROP frozen benefit; by

(ii) the number of months the participant was in the DROP.

(i) The participant shall elect, at the participant's retirement, to receive the additional amount calculated under subsection (h)(2)(B) in one (1) of the following ways:

(1) A lump sum paid on:

(A) the participant's DROP retirement date; or

(B) the date the participant retires because of a disability as provided by subsection (k).

(2) Three (3) equal annual payments:

(A) commencing on:

(i) the participant's DROP retirement date; or

(ii) the date the participant retires because of a disability as provided by subsection (k); and

(B) thereafter paid on:

(i) the anniversary of the participant's DROP retirement date; or

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(ii) the date the participant retires because of a disability as provided by subsection (k).

(j) A cost of living increase determined under section 21(c) of this chapter does not apply to the additional amount calculated under subsection (h)(2)(B) at the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k). No cost of living increase is applied to a DROP frozen benefit while the participant is in the DROP. After the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k), cost of living increases determined under section 21(c) of this chapter apply to the participant's annual retirement allowance computed under this section.

(k) If a participant becomes disabled, in the line of duty or other than in the line of duty while in the DROP, the participant's annual retirement allowance is computed as follows:

(1) If the participant retires because of a disability less than twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated as if the participant had never entered the DROP.

(2) If the participant retires because of a disability at least twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated under this section, and the participant's retirement date is the date the member retires because of a disability rather than the participant's DROP retirement date.

(l) If, before payment of the participant's annual retirement allowance begins, the participant dies in the line of duty or other than in the line of duty, death benefits are payable as follows:

(1) The benefit calculated under subsection (h)(2)(B) is paid in a lump sum to the participant's surviving spouse. If there is no surviving spouse, the lump sum must be divided equally among the participant's surviving children. If there are no surviving children, the lump sum is paid to the participant's parents. If there are no surviving parents, the lump sum is paid to the participant's estate.

(2) A benefit is paid on the DROP frozen benefit under the terms of the retirement plan created by this chapter.

(m) Except as provided under subsections (k) and (l), the annual retirement allowance for a participant who exits the DROP for any reason other than retirement on the participant's DROP retirement date is calculated as if the participant had never entered

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the DROP.

SECTION 5. IC 5-22-22-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) This section applies to the following surplus property:

(1) Fire trucks.

(2) Emergency service vehicles.

(3) Firefighting or emergency services equipment.

(b) As used in this section, **"fire department" refers to any of the following:**

(1) A volunteer fire department ~~has the meaning set forth~~ **(as defined** in IC 36-8-12-2).

(2) The board of fire trustees of a fire protection district established under IC 36-8-11.

(3) The provider unit of a fire protection territory established under IC 36-8-19.

(c) Notwithstanding section 4, 4.5, or 5 of this chapter, a governmental body may transfer title of surplus property to a ~~volunteer~~ fire department for the ~~volunteer~~ fire department's use in providing fire protection or emergency services.

(d) A ~~volunteer~~ fire department located in the same county as the governmental body offering the surplus property for transfer has the right of first refusal for all surplus property offered. Surplus property that is refused by the ~~volunteer~~ fire departments located in the same county as the governmental body may be transferred to any ~~volunteer~~ fire department in Indiana.

(e) A governmental body may transfer title of surplus property to a ~~volunteer~~ fire department under this section by:

(1) sale;

(2) gift; or

(3) another arrangement acceptable to the governmental body and the ~~volunteer~~ fire department.

SECTION 6. IC 36-1-11-5.7, AS ADDED BY P.L.188-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.7. ~~(a) As used in this section, "political subdivision":~~

~~(1) before July 1, 2008, does not include a township in a county having a consolidated city; and~~

~~(2) after June 30, 2008, refers to all political subdivisions.~~

~~(b)~~ **(a)** As used in this section, **"fire department" refers to any of the following:**

(1) A volunteer fire department ~~has the meaning set forth~~ **(as defined** in IC 36-8-12-2).

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(2) The board of fire trustees of a fire protection district established under IC 36-8-11.

(3) The provider unit of a fire protection territory established under IC 36-8-19.

~~(c)~~ **(b)** Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a political subdivision may sell or transfer:

(1) real property; or

(2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses;

without consideration or for a nominal consideration to a ~~volunteer~~ fire department for construction of a fire station or other purposes related to firefighting.

SECTION 7. IC 36-8-19-8, AS AMENDED BY P.L.47-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

(1) All receipts from the tax imposed under this section.

(2) Any money transferred to the fund by the provider unit as authorized under subsection (d).

(3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.

(4) Any money transferred to the fund by a participating unit under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. After estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The

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amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

(1) the levy in the following year shall be increased by the amount required to be transferred; and

(2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. Each participating unit must agree to the amount to be transferred by adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an identical amount to be transferred.

(f) The tax under this section is not subject to the tax levy limitations imposed on civil taxing units under IC 6-1.1-18.5 for any unit that is a participating unit in a fire protection territory that was established before August 1, 2001.

(g) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. For purposes of calculating a participating unit's maximum permissible ad valorem property tax levy for the three (3) calendar years in which the participating unit levies a tax to support the territory, the unit's maximum permissible ad valorem property tax levy for the preceding calendar year under IC 6-1.1-18.5-3(a) STEP ONE or IC 6-1.1-18.5-3(b) STEP ONE is increased each year by an amount equal to the difference between the:

(1) amount the unit will have to levy for the ensuing calendar year in order to fund the unit's share of the fire protection territory budget for the operating costs as provided in the ordinance or resolution making the unit a participating unit in the fire protection territory; and

(2) unit's levy for fire protection services for the calendar year that

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immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the territory.

SECTION 8. IC 36-8-19-8.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.6. (a) A participating unit may adopt an ordinance or a resolution to transfer any money belonging to the participating unit to:**

(1) the fire protection territory fund established under section 8 of this chapter;

(2) the fire protection territory equipment replacement fund established under section 8.5 of this chapter; or

(3) both funds described in subdivisions (1) and (2).

(b) An ordinance or a resolution adopted under this section must state both of the following:

(1) The amount of money transferred to either fund.

(2) The source of the money.

(d) The transfer of money from a participating unit to a fire protection territory before July 1, 2008, is legalized.

SECTION 9. IC 36-8-19-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. (a) For purposes of this section, a fire protection territory is dissolved if all participating units withdraw from the fire protection territory as provided in section 13 of this chapter.**

(b) When a fire protection territory dissolves, title to any real property transferred to the provider unit reverts to the participating unit that transferred the real property to the provider unit.

SECTION 10. [EFFECTIVE UPON PASSAGE] **IC 5-10-5.5-9 and IC 5-10-5.5-10, both as amended by this act, and IC 5-10-5.5-22, as added by this act, apply only to a participant in the state excise police, gaming agent, and conservation enforcement officers' retirement fund who is in active service after June 30, 2008.**

SECTION 11. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1105, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 5-2-1-9, AS AMENDED BY P.L.230-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement

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officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6,

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1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (q), and (r), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-2-1-15(i).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used

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for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

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(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.
(2) Media relations.
(3) Accounting and administration.
(4) Discipline.
(5) Department policy making.
(6) Lawful use of force.
(7) Department programs.
(8) Emergency vehicle operation.
(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;
(2) the police chief of any town having a metropolitan police department; and
(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

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(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) worked as a full-time law enforcement officer for at least one (1) year before the officer is hired under subdivision (1);

(3) has not been employed as a law enforcement officer for at least two (2) years and less than ~~six (6)~~ **ten (10)** years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(4) completed **at any time** a basic training course certified by the board before the officer is hired under subdivision (1).

(o) An officer to whom subsection (n) applies must successfully complete the refresher course described in subsection (n) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(p) A law enforcement officer who:

(1) has completed a basic training course certified by the board; ~~and~~

(2) has not been employed as a law enforcement officer in the ~~six (6)~~ **ten (10)** years before the officer is hired as a law enforcement officer; **and**

(3) has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1);

is not eligible to attend the refresher course described in subsection (n) and must repeat the full basic training course to regain law enforcement powers. **However, a law enforcement officer who worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1), and who otherwise satisfies the requirement of subsection (n), is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) and the pre-basic training course established under subsection (f).**

(q) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course

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established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(r) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

SECTION 2. IC 5-10-5.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. **(a) This section does not apply after June 30, 2008, to a participant who is an Indiana state conservation enforcement officer.**

~~(a)~~ **(b)** Except as provided in subsection ~~(b),~~ **(c),** every participant is required to retire on the first day of the month following the participant's sixtieth birthday.

~~(b)~~ **(c)** An officer who becomes a participant after becoming fifty (50) years of age is required to retire on the earlier of:

(1) the first day of the month following the participant's sixty-fifth birthday; or

(2) the first day of the month following the completion of ten (10) years of service.

SECTION 3. IC 5-10-5.5-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9.5. (a) This section applies after June 30, 2008, to a participant who is an Indiana state conservation enforcement officer.**

(b) A participant is required to retire on the first day of the month after the month in which the participant becomes sixty-five (65) years of age.

SECTION 4. IC 5-10-5.5-12, AS AMENDED BY P.L.180-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(a) of this chapter (relating to early retirement) shall be determined in accordance with section ~~10(a)~~ **10** of this chapter (relating to normal retirement). ~~However,~~ **For a participant who is not an Indiana state conservation enforcement officer,** the amount of

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annual retirement allowance otherwise payable upon early retirement shall be reduced by one-quarter percent (1/4%) for each full month that the date of early retirement precedes the attainment of the participant's sixtieth birthday. **For a participant who is an Indiana state conservation enforcement officer, the amount of annual retirement allowance otherwise payable upon early retirement shall be reduced by one-quarter percent (1/4%) for each full month that the date of early retirement precedes the attainment of the participant's sixty-fifth birthday.**

(b) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(b) or 11(c) of this chapter (relating to early retirement) shall be determined in accordance with section ~~10(a)~~ **10** of this chapter (relating to normal retirement).".

Page 4, line 29, after "(a)" insert "**As used in this section, "fund" refers to the fire protection territory fund established under section 8 of this chapter.**

(b)".

Page 4, line 32, delete "(b)" and insert "**(c)**".

Page 4, line 36, delete "(c)" and insert "**(d)**".

Page 5, after line 4, begin a new paragraph and insert:

"SECTION 10. [EFFECTIVE JULY 1, 2008] **IC 5-10-5.5-9 and IC 5-10-5.5-12, both as amended by this act, and IC 5-10-5.5-9.5, as added by this act, apply only to a participant in the state excise police, gaming agent, and conservation enforcement officers' retirement fund who:**

(1) is a conservation enforcement officer; and

(2) retires after June 30, 2008.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1105 as introduced.)

TINCHER, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1105 be amended to read as follows:

Replace the effective date in SECTION 2 with "[EFFECTIVE UPON PASSAGE]".

Replace the effective date in SECTION 10 with "[EFFECTIVE UPON PASSAGE]".

Page 7, line 30, delete "(a) This section".

Page 7, delete lines 31 through 32.

Page 7, line 33, reset in roman "(a)".

Page 7, line 33, after "(a)" delete "(b)".

Page 7, line 33, after "(b)," delete "(c)".

Page 7, line 33, after "subsection" reset in roman "(b),".

Page 7, line 35, strike "sixtieth" and insert "**sixty-fifth**".

Page 7, line 36, reset in roman "(b)".

Page 7, line 36, delete "(c)".

Page 7, line 40, strike "ten (10)" and insert "**fifteen (15)**".

Page 7, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 3. IC 5-10-5.5-10, AS AMENDED BY P.L.180-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Benefits provided under this section are subject to section 2.5 of this chapter.

(b) The annual retirement allowance of a participant, payable in equal monthly installments beginning on the participant's normal retirement date, shall be a percentage of the participant's average annual salary, such percentage to be twenty-five percent (25%) increased by one and two-thirds percent (1 2/3%) of the participant's average annual salary for each completed year of creditable service more than ten (10) years. **However, the annual retirement allowance computed under this subsection may not exceed seventy-five percent (75%) of the participant's average annual salary.**

(c) The annual retirement allowance shall cease with the last monthly payment prior to the death of the participant.

SECTION 4. IC 5-10-5.5-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22. (a) As used in this section, "DROP" refers to a deferred retirement option plan established under this section.**

(b) As used in this section, "DROP entry date" means the date that a participant's election to enter a DROP becomes effective.

(c) As used in this section, "DROP frozen benefit" refers to an annual retirement allowance computed under section 10 of this

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chapter based on a participant's:

(1) average annual salary; and

(2) years of creditable service;

on the date the participant enters the DROP.

(d) As used in this section, "DROP retirement date" means the future retirement date selected by a participant at the time the participant elects to enter the DROP.

(e) Only a participant who is eligible to receive an unreduced annual retirement allowance immediately upon termination of employment may elect to enter a DROP. A participant who elects to enter the DROP must agree to the following:

(1) The participant shall execute an irrevocable election to retire on the DROP retirement date and must remain in active service until that date.

(2) While in the DROP, the participant shall continue to make contributions under section 8 of this chapter.

(3) The participant shall select a DROP retirement date not less than twelve (12) months and not more than thirty-six (36) months after the participant's DROP entry date.

(4) The participant may not remain in the DROP after the date the participant reaches the mandatory retirement age under section 9 of this chapter.

(5) The participant may make an election to enter the DROP only once in the participant's lifetime.

(f) Contributions or payments provided by the general assembly under section 4(b)(4) of this chapter continue for a participant while the participant is in the DROP.

(g) A participant shall exit the DROP on the earliest of the following:

(1) The participant's DROP retirement date.

(2) Thirty-six (36) months after the participant's DROP entry date.

(3) The participant's mandatory retirement age.

(4) The date the participant retires because of a disability as provided by subsection (k).

(h) A participant who retires on the participant's DROP retirement date or on the date the participant retires because of a disability as provided by subsection (k) may elect to receive an annual retirement allowance:

(1) computed under section 10 of this chapter as if the participant had never entered the DROP; or

(2) consisting of:

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(A) the DROP frozen benefit; plus

(B) an additional amount, paid as the participant elects under subsection (i), determined by multiplying:

(i) the DROP frozen benefit; by

(ii) the number of months the participant was in the DROP.

(i) The participant shall elect, at the participant's retirement, to receive the additional amount calculated under subsection (h)(2)(B) in one (1) of the following ways:

(1) A lump sum paid on:

(A) the participant's DROP retirement date; or

(B) the date the participant retires because of a disability as provided by subsection (k).

(2) Three (3) equal annual payments:

(A) commencing on:

(i) the participant's DROP retirement date; or

(ii) the date the participant retires because of a disability as provided by subsection (k); and

(B) thereafter paid on:

(i) the anniversary of the participant's DROP retirement date; or

(ii) the date the participant retires because of a disability as provided by subsection (k).

(j) A cost of living increase determined under section 21(c) of this chapter does not apply to the additional amount calculated under subsection (h)(2)(B) at the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k). No cost of living increase is applied to a DROP frozen benefit while the participant is in the DROP. After the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k), cost of living increases determined under section 21(c) of this chapter apply to the participant's annual retirement allowance computed under this section.

(k) If a participant becomes disabled, in the line of duty or other than in the line of duty while in the DROP, the participant's annual retirement allowance is computed as follows:

(1) If the participant retires because of a disability less than twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated as if the participant had never entered the DROP.

(2) If the participant retires because of a disability at least

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twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated under this section, and the participant's retirement date is the date the member retires because of a disability rather than the participant's DROP retirement date.

(l) If, before payment of the participant's annual retirement allowance begins, the participant dies in the line of duty or other than in the line of duty, death benefits are payable as follows:

(1) The benefit calculated under subsection (h)(2)(B) is paid in a lump sum to the participant's surviving spouse. If there is no surviving spouse, the lump sum must be divided equally among the participant's surviving children. If there are no surviving children, the lump sum is paid to the participant's parents. If there are no surviving parents, the lump sum is paid to the participant's estate.

(2) A benefit is paid on the DROP frozen benefit under the terms of the retirement plan created by this chapter.

(m) Except as provided under subsections (k) and (l), the annual retirement allowance for a participant who exits the DROP for any reason other than retirement on the participant's DROP retirement date is calculated as if the participant had never entered the DROP.".

Page 7, delete line 42.

Page 8, delete lines 1 through 29.

Page 12, line 13, delete "IC 5-10-5.5-12," and insert "**IC 5-10-5.5-10,**".

Page 12, line 13, delete "IC 5-10-5.5-9.5," and insert "**IC 5-10-5.5-22,**".

Page 12, line 16, delete ":".

Page 12, delete line 17.

Page 12, line 18, delete "(2) retires" and insert "**is in active service**".

Page 12, run in lines 16 through 18.

Page 12, after line 18, begin a new paragraph and insert:

"SECTION 11. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1105 as printed January 22, 2008.)

TINCHER

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1105 be amended to read as follows:

Page 11, line 33, delete "As used in this section, "fund" refers to the".

Page 11, delete lines 34 through 35.

Page 11, line 36, delete "(b)".

Page 11, run in lines 33 through 36.

Page 11, line 37, after "unit" delete "to the" and insert "**to:**

(1) the fire protection territory fund established under section 8 of this chapter;

(2) the fire protection territory equipment replacement fund established under section 8.5 of this chapter; or

(3) both funds described in subdivisions (1) and (2).".

Page 11, delete line 38.

Page 11, line 39, delete "(c)" and insert "**(b)**".

Page 11, line 41, after "to" delete "the" and insert "**either**".

(Reference is to HB 1105 as printed January 22, 2008.)

TINCHER

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