



February 22, 2008

**ENGROSSED
HOUSE BILL No. 1119**

DIGEST OF HB 1119 (Updated February 20, 2008 11:57 am - DI 102)

Citations Affected: IC 36-8.

Synopsis: Public safety leaves of absence; retiree reemployment. Allows an appointing authority to grant a leave of absence to a police officer or firefighter for service in an elected office. Provides that the leave does not diminish the officeholder's retirement or pension fund rights or advancement on the officeholder's department salary schedule. Requires an officeholder to pay the assessment or contribution to the officeholder's pension fund for the period of the leave in order to receive service credit in the fund for the leave. Authorizes the officeholder's employer to pay all or a part of the assessment or contribution for the officeholder. Allows a retired member of the 1925 police pension fund (1925 fund), the 1937 firefighters' pension fund (1937 fund), the 1953 police pension fund (1953 fund), or the 1977 police officers' and firefighters' pension and disability fund (1977 fund) to: (1) be rehired, not less than 30 days after retirement, by the same unit that employed the member as a police officer or firefighter for a position other than that of a full-time, fully paid police officer or firefighter; and (2) continue to receive a retirement benefit from the 1925 fund, 1937 fund, 1953 fund, or 1977 fund. Provides that the reemployment provisions may be implemented only if the local board (for the 1925, 1937, and 1953 funds) or the PERF board (for the 1977 fund) receives from the Internal Revenue Service any rulings or determination letter that the local board or the PERF board considers necessary or appropriate.

Effective: July 1, 2008.

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Austin, Niezgodski, Wolkins

(SENATE SPONSORS — WEATHERWAX, LANDSKE, LANANE)

January 8, 2008, read first time and referred to Committee on Labor and Employment.
January 24, 2008, amended, reported — Do Pass.
January 28, 2008, read second time, ordered engrossed. Engrossed.
January 29, 2008, read third time, passed. Yeas 91, nays 0.

SENATE ACTION

January 29, 2008, read first time and referred to Committee on Pensions and Labor.
February 21, 2008, amended, reported favorably — Do Pass.

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February 22, 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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ENGROSSED HOUSE BILL No. 1119

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 36-8-5-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The police chief or fire chief
3 may be granted a leave of absence by the authority who appointed ~~him~~
4 **the police chief or fire chief**. This appointing authority may also grant
5 a leave of absence to any other full-time, fully paid police officer or
6 firefighter.

7 (b) A leave of absence under subsection (a) shall be granted for
8 service in the Indiana general assembly. ~~and~~ **A leave of absence under**
9 **subsection (a)** may also be granted ~~only~~ **for service in any other**
10 **elected office** or for one (1) of the following reasons:

- 11 (1) Sickness.
- 12 (2) Disability.
- 13 (3) Sabbatical purposes.

14 However, a leave of absence because of disability may not be granted
15 to a member of the 1977 fund under this subsection unless a leave
16 granted under subsection (g) has expired without disability benefits
17 having been paid from the 1977 fund. In the case of such an expiration,

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1 a leave for purposes of disability may be granted under this subsection
2 but only until the member's eligibility for disability benefits is finally
3 determined.

4 (c) Before a leave of absence may be granted for sabbatical
5 purposes, the member must submit a written request explaining and
6 justifying the leave to the appointing authority. Sabbatical purposes
7 must be related to the improvement of the member's professional
8 performance and skills, such as education, special training, work
9 related experience, and exchange programs.

10 (d) This subsection applies to leaves of absence granted under
11 subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for
12 a period of not more than one (1) year, determined by the appointing
13 authority, and may be renewed upon written request of the member.

14 (e) This subsection applies to leaves of absence granted for service
15 ~~in the Indiana general assembly.~~ **if an elected office.** A police officer
16 or firefighter **who** serves in the general assembly ~~he~~ shall be granted a
17 leave for the time spent in this service, including the time spent for
18 committee or legislative council meetings. **A police officer or**
19 **firefighter who serves in any other elected office may be granted a**
20 **leave for the time spent in this service. Leave for service in an**
21 **elected office does not diminish a police officer's or firefighter's**
22 **rights under the police officer's or firefighter's retirement or**
23 **pension fund, except as provided in section 10 of this chapter, or**
24 **advancement on the police officer's or firefighter's department**
25 **salary schedule. For these purposes, the police officer or firefighter**
26 **is, despite the leave, considered to be a member of the department**
27 **during that time.**

28 (f) This subsection applies to leaves of absence granted under
29 subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive
30 compensation in an amount determined by the appointing authority, up
31 to a maximum amount that equals ~~his~~ **the member's** salary before the
32 leave began.

33 (g) This subsection applies only to members of the 1977 fund. The
34 local board may grant a leave of absence for purposes of disability to
35 full-time, fully paid police officers or firefighters (including the police
36 chief or fire chief). The leave is subject to the following conditions:

37 (1) The police chief or fire chief must make a written
38 determination that there is no suitable and available work on the
39 appropriate department for which the fund member is or may be
40 capable of becoming qualified.

41 (2) The leave must be approved by the local board after a hearing
42 conducted under IC 36-8-8-12.7.

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- 1 (3) The leave may not begin until the police officer or firefighter
- 2 has exhausted all paid leave for sickness.
- 3 (4) The leave shall continue until disability benefits are paid from
- 4 the 1977 fund. However, the leave may not continue for more
- 5 than six (6) months.
- 6 (5) During the leave, the police officer or firefighter is entitled to
- 7 receive compensation in an amount equal to fifty percent (50%)
- 8 of the salary of a first class patrolman or first class firefighter on
- 9 the date the leave begins.

10 Payments of compensation under this subsection may not be made from
 11 the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

12 (h) Determinations under subsection (g) are not reviewable by the
 13 board of trustees of the public employees' retirement fund.

14 SECTION 2. IC 36-8-5-10 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Except as
 16 provided in subsection (b) or (c), a member on leave under either
 17 section 2 or section 3 of this chapter is entitled to be credited with time
 18 spent in full-time employment for all purposes, including retirement
 19 and pension benefits.

20 (b) A member of the 1925 fund, the 1937 fund, the 1953 fund, or the
 21 1977 fund who is granted an unpaid leave of absence under the Family
 22 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) shall be credited
 23 with time spent on leave for the purposes of benefit eligibility and
 24 vesting to the extent required by the Family Medical Leave Act. The
 25 member shall not receive credit for purposes of accruing additional
 26 benefits, except to the extent required by the Family Medical Leave
 27 Act.

28 (c) **This subsection applies to a member of the 1925 fund, the**
 29 **1937 fund, the 1953 fund, or the 1977 fund who is granted a leave**
 30 **of absence for service in an elected office under section 2 of this**
 31 **chapter. In order to receive service credit in the 1925 fund, the**
 32 **1937 fund, the 1953 fund, or the 1977 fund for the period of the**
 33 **leave of absence, the member must pay to the applicable fund for**
 34 **or during the leave the assessment or contribution that the member**
 35 **would have paid during the period of the leave had the member not**
 36 **been on the leave during that time. The member's employer may**
 37 **pay all or a part of the assessment or contribution for the member.**

38 SECTION 3. IC 36-8-6-9.5 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2008]: Sec. 9.5. (a) **Not less than thirty (30) days after a member**
 41 **retires from a police department covered by this chapter, the**
 42 **member may:**

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- 1 **(1) be rehired by the same municipality that employed the**
- 2 **member as a police officer for a position other than that of a**
- 3 **full-time, fully paid police officer; and**
- 4 **(2) continue to receive the member's pension benefit under**
- 5 **this chapter.**

6 **(b) This section may be implemented only if the local board**
 7 **receives from the Internal Revenue Service any rulings or**
 8 **determination letter that the local board considers necessary or**
 9 **appropriate.**

10 SECTION 4. IC 36-8-7-12.7 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2008]: **Sec. 12.7. (a) Not less than thirty (30) days after a member**
 13 **retires from a fire department covered by this chapter, the member**
 14 **may:**

- 15 **(1) be rehired by the same unit that employed the member as**
- 16 **a firefighter for a position other than that of a full-time, fully**
- 17 **paid firefighter; and**
- 18 **(2) continue to receive the member's pension benefit under**
- 19 **this chapter.**

20 **(b) This section may be implemented only if the local board**
 21 **receives from the Internal Revenue Service any rulings or**
 22 **determination letter that the local board considers necessary or**
 23 **appropriate.**

24 SECTION 5. IC 36-8-7.5-12.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.5. (a) Not less than thirty (30)**
 26 **days after a member retires from a police department covered by**
 27 **this chapter, the member may:**

- 28 **(1) be rehired by the same consolidated city that employed the**
- 29 **member as a police officer for a position other than that of a**
- 30 **full-time, fully paid police officer; and**
- 31 **(2) continue to receive the member's pension benefit under**
- 32 **this chapter.**

33 **(b) This section may be implemented only if the local board**
 34 **receives from the Internal Revenue Service any rulings or**
 35 **determination letter that the local board considers necessary or**
 36 **appropriate.**

37 SECTION 6. IC 36-8-8-11.5 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 2008]: **Sec. 11.5. (a) Not less than thirty (30) days after a fund**
 40 **member retires from a position covered by this chapter, the fund**
 41 **member may:**

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- 1 **(1) be rehired by the same unit that employed the fund**
- 2 **member in a position covered by this chapter for a position**
- 3 **not covered by this chapter; and**
- 4 **(2) continue to receive the fund member's retirement benefit**
- 5 **under this chapter.**
- 6 **(b) This section may be implemented only if the PERF board**
- 7 **receives from the Internal Revenue Service any rulings or**
- 8 **determination letter that the local board considers necessary or**
- 9 **appropriate.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1119, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, after "9.5." insert "(a)".

Page 1, between lines 10 and 11, begin a new paragraph and insert:

"(b) This section may be implemented only if the local board receives from the Internal Revenue Service any rulings or determination letter that the local board considers necessary or appropriate."

Page 1, line 13, after "12.7." insert "(a)".

Page 2, between lines 3 and 4, begin a new paragraph and insert:

"(b) This section may be implemented only if the local board receives from the Internal Revenue Service any rulings or determination letter that the local board considers necessary or appropriate."

Page 2, line 6, after "12.5." insert "(a)".

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"(b) This section may be implemented only if the local board receives from the Internal Revenue Service any rulings or determination letter that the local board considers necessary or appropriate."

Page 2, line 16, after "11.5." insert "(a)".

Page 2, after line 23, begin a new paragraph and insert:

"(b) This section may be implemented only if the PERF board receives from the Internal Revenue Service any rulings or determination letter that the local board considers necessary or appropriate."

and when so amended that said bill do pass.

(Reference is to HB 1119 as introduced.)

NIEZGODSKI, Chair

Committee Vote: yeas 10, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1119, 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 36-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The police chief or fire chief may be granted a leave of absence by the authority who appointed ~~him~~ **the police chief or fire chief**. This appointing authority may also grant a leave of absence to any other full-time, fully paid police officer or firefighter.

(b) A leave of absence under subsection (a) shall be granted for service in the Indiana general assembly. ~~and~~ **A leave of absence under subsection (a)** may also be granted ~~only~~ **for service in any other elected office or** for one (1) of the following reasons:

- (1) Sickness.
- (2) Disability.
- (3) Sabbatical purposes.

However, a leave of absence because of disability may not be granted to a member of the 1977 fund under this subsection unless a leave granted under subsection (g) has expired without disability benefits having been paid from the 1977 fund. In the case of such an expiration, a leave for purposes of disability may be granted under this subsection but only until the member's eligibility for disability benefits is finally determined.

(c) Before a leave of absence may be granted for sabbatical purposes, the member must submit a written request explaining and justifying the leave to the appointing authority. Sabbatical purposes must be related to the improvement of the member's professional performance and skills, such as education, special training, work related experience, and exchange programs.

(d) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for a period of not more than one (1) year, determined by the appointing authority, and may be renewed upon written request of the member.

(e) This subsection applies to leaves of absence granted for service in ~~the Indiana general assembly~~. **If an elected office**. A police officer or firefighter **who** serves in the general assembly ~~he~~ shall be granted a leave for the time spent in this service, including the time spent for committee or legislative council meetings. **A police officer or**

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firefighter who serves in any other elected office may be granted a leave for the time spent in this service. Leave for service in an elected office does not diminish a police officer's or firefighter's rights under the police officer's or firefighter's retirement or pension fund, except as provided in section 10 of this chapter, or advancement on the police officer's or firefighter's department salary schedule. For these purposes, the police officer or firefighter is, despite the leave, considered to be a member of the department during that time.

(f) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive compensation in an amount determined by the appointing authority, up to a maximum amount that equals ~~his~~ **the member's** salary before the leave began.

(g) This subsection applies only to members of the 1977 fund. The local board may grant a leave of absence for purposes of disability to full-time, fully paid police officers or firefighters (including the police chief or fire chief). The leave is subject to the following conditions:

- (1) The police chief or fire chief must make a written determination that there is no suitable and available work on the appropriate department for which the fund member is or may be capable of becoming qualified.
- (2) The leave must be approved by the local board after a hearing conducted under IC 36-8-8-12.7.
- (3) The leave may not begin until the police officer or firefighter has exhausted all paid leave for sickness.
- (4) The leave shall continue until disability benefits are paid from the 1977 fund. However, the leave may not continue for more than six (6) months.
- (5) During the leave, the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins.

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the public employees' retirement fund.

SECTION 2. IC 36-8-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Except as provided in subsection (b) **or (c)**, a member on leave under either section 2 or section 3 of this chapter is entitled to be credited with time spent in full-time employment for all purposes, including retirement

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and pension benefits.

(b) A member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted an unpaid leave of absence under the Family Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) shall be credited with time spent on leave for the purposes of benefit eligibility and vesting to the extent required by the Family Medical Leave Act. The member shall not receive credit for purposes of accruing additional benefits, except to the extent required by the Family Medical Leave Act.

(c) This subsection applies to a member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted a leave of absence for service in an elected office under section 2 of this chapter. In order to receive service credit in the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund for the period of the leave of absence, the member must pay to the applicable fund for or during the leave the assessment or contribution that the member would have paid during the period of the leave had the member not been on the leave during that time. The member's employer may pay all or a part of the assessment or contribution for the member."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1119 as printed January 25, 2008.)

KRUSE, Chairperson

Committee Vote: Yeas 6, Nays 0.

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