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# SENATE BILL No. 74

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8-3.5.

**Synopsis:** Police and firefighter merit systems. Requires all cities, towns, and townships that have full-time paid police or fire departments to use the statutory merit system or establish their own merit system for their police and fire departments not later than July 1, 2010.

**Effective:** July 1, 2008.

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January 8, 2008, read first time and referred to Committee on Local Government and Elections.

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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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## SENATE BILL No. 74



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

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

1 SECTION 1. IC 36-8-3.5-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This chapter  
3 applies to each municipality ~~or~~ **and** township that has a full-time paid  
4 police or fire department. ~~A Not later than July 1, 2010, each~~  
5 municipality ~~may exercise the power of establishing~~ **shall establish** a  
6 merit system for its police ~~or~~ **and** fire ~~department~~ **departments** under  
7 this chapter or by ordinance adopted under IC 36-1-4-14. ~~A Not later~~  
8 **than July 1, 2010, each** township ~~may exercise the power of~~  
9 ~~establishing~~ **shall establish** a merit system for its fire department under  
10 this chapter or by resolution under IC 36-1-4-14. This chapter does not  
11 affect merit systems established:  
12 (1) by ordinance under IC 36-1-4-14, except as provided by  
13 subsection (e);  
14 (2) by resolution under IC 36-1-4-14, except as provided by  
15 subsection (f); or  
16 (3) by a prior statute, except as provided by subsection (b).  
17 (b) If a city had a merit system for its police or fire department



1 under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2,  
 2 IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29,  
 3 IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain  
 4 that system by ordinance of the city legislative body passed before  
 5 January 1, 1983. The ordinance must initially incorporate all the  
 6 provisions of the prior statute but may be amended by the legislative  
 7 body after December 31, 1984. The ordinance retaining the system  
 8 must be amended, if necessary, to include a provision under which the  
 9 commission (or governing board of the merit system) has at least  
 10 one-third (1/3) of its members elected by the active members of the  
 11 department as prescribed by section 8 of this chapter. Each elected  
 12 commission member must:

- 13 (1) be a person of good moral character; and  
 14 (2) except for a member of a fire department having a merit  
 15 system established under **the former** IC 19-1-37.5, not be an  
 16 active member of a police or fire department or agency.

17 (c) After December 31, 1984, the legislative body also may repeal  
 18 the ordinance described in subsection (b), but the legislative body shall  
 19 in the repealing ordinance concurrently establish a new merit system  
 20 under section 3 of this chapter. (This subsection does not require the  
 21 legislative body to establish a new merit system when it exercises its  
 22 power to amend the ordinance under subsection (b).) After the new  
 23 merit system takes effect, all members of the department are entitled to  
 24 the same ranks and pay grades the members held under the prior  
 25 system, subject to changes made in accordance with this chapter.

26 (d) If a city had a merit system for its police or fire department  
 27 under a prior statute but fails to retain that system under subsection (b),  
 28 the city legislative body shall, before July 1, 1983, pass an ordinance  
 29 to establish a new merit system under section 3 of this chapter. If the  
 30 new merit system is approved as provided by section 4 of this chapter,  
 31 it takes effect as provided by that section. However, if the new merit  
 32 system is rejected under section 4 of this chapter, within thirty (30)  
 33 days the city legislative body shall adopt an ordinance to retain the  
 34 prior merit system. The prior merit system remains in effect until the  
 35 new merit system takes effect, after which time all members of the  
 36 department are entitled to the same ranks and pay grades the members  
 37 held under the prior system, subject to changes made in accordance  
 38 with this chapter.

39 (e) An ordinance adopted under IC 36-1-4-14 to establish a police  
 40 or fire merit system must include a provision under which the  
 41 commission, or governing board of the merit system, has at least  
 42 one-third (1/3) of its members elected by the active members of the

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1 department as prescribed by section 8 of this chapter. Each elected  
2 commission member must be a person of good moral character who is  
3 not an active member of a police or fire department or agency. If an  
4 ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the  
5 ordinance must be amended to include this requirement.

6 (f) This chapter does not prevent a township or other unit that has  
7 adopted a merit system under section 3 of this chapter from later  
8 amending or deleting any provisions of the merit system contained in  
9 this chapter. However, the merit system must include a provision under  
10 which the commission has at least one-third (1/3) of its members  
11 elected by the active members of the department, as set forth in section  
12 8 of this chapter and a provision that incorporates the requirements of  
13 section 6(a) of this chapter. This subsection does not require the  
14 legislative body to establish a new merit system when it exercises its  
15 power to amend under this subsection.

16 SECTION 2. IC 36-8-3.5-3 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) **Except as**  
18 **provided in section 1 of this chapter**, the legislative body of a unit  
19 (other than a township) may, by ordinance, establish a merit system  
20 under this chapter for the police or fire department of the unit. The  
21 legislative body of a township ~~may~~; **that does not establish a merit**  
22 **system for the township's fire department under IC 36-1-4-14 shall**,  
23 by resolution, establish, **not later than July 1, 2010**, a merit system  
24 under this chapter for the township's fire department. Before the merit  
25 system takes effect, however, the system must be approved by a  
26 majority of the active members of the department in a referendum.

27 (b) The legislative body shall specify in the adopting ordinance or  
28 resolution which of the provisions of this chapter that are left to its  
29 discretion are being adopted.

30 (c) If a merit system is established under this chapter for each  
31 department of a unit, each department has a separate merit system.

32 SECTION 3. IC 36-8-3.5-5 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) **Except as**  
34 **provided in section 1 of this chapter**, a majority of the active  
35 members of the department, by referendum under section 4 of this  
36 chapter, may request the unit's legislative body to establish a merit  
37 system for the department. The legislative body shall vote on the  
38 request within sixty (60) days after it is filed with the clerk of the  
39 legislative body of a county or a municipality or the executive of a  
40 township.

41 (b) If the legislative body votes to grant the request, the legislative  
42 body shall adopt an ordinance or resolution establishing a merit system

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1 under this chapter. A copy of the ordinance or resolution shall be  
2 distributed to each active member of the department, and another  
3 referendum under section 4 of this chapter is required before the merit  
4 system takes effect.

5 (c) If the legislative body votes to deny the request, the request may  
6 not be resubmitted to the legislative body for one (1) year. Before the  
7 request may be resubmitted, another referendum under section 4 of this  
8 chapter must be held.

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