

HOUSE BILL No. 1505

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-37; IC 33-39-6-5.5; IC 33-39-7.

Synopsis: Prosecuting attorneys retirement fund issues. Defines "salary", for purposes of computing a retirement benefit, to include the total salary paid to a participant in the prosecuting attorneys retirement fund (fund) by the state and by a county or counties. Eliminates contributions for a participant with at least 22 years of creditable service. For a participant who applies for a retirement benefit after December 31, 2010, bases the computation of the annual retirement benefit on the salary being paid for the office that the participant held at the time of the participant's separation from service. (Currently, the computation is based on the highest annual salary that was paid to the participant before separation from service.) Reduces from 0.25% to 0.10% per month the reduction factor for a retirement benefit computed for a participant who retires before 65 years of age. Provides a prorated retirement benefit for partial years of service. Makes changes to the fund's disability benefit by: (1) eliminating the minimum service required to receive a disability benefit; (2) redefining "disability"; and (3) increasing the salary percentages used to compute a disability benefit to equal the percentages used by the judges' retirement system for the same years of service. Increases the minimum annual survivor benefit from \$7,000 to \$12,000. Provides that benefit increases paid after December 31, 2010, to a participant who applied for a retirement benefit before January 1, 2011, or to certain terminated vested participants, are equal to the percentage by which the salary being paid for the office that the participant held at the time of the participant's separation from service increases. Increases the court administration fee from \$5 to \$7 for all courts except the Marion County small claims
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Effective: July 1, 2009; January 1, 2010.

GiaQuinta

January 14, 2009, read first time and referred to Committee on Ways and Means.



Digest Continued

court, and directs that the additional amount be paid into the fund. (The introduced version of this bill was prepared by the pension management oversight commission.)

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Introduced

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1505

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 33-37-5-27, AS AMENDED BY P.L.122-2008,
- 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2009]: Sec. 27. (a) This subsection does not apply to the
- 4 following:
- 5 (1) A criminal proceeding.
- 6 (2) A proceeding to enforce a statute defining an infraction.
- 7 (3) A proceeding for an ordinance violation.
- 8 In each action filed in a court described in IC 33-37-1-1, ~~and in each~~
- 9 ~~small claims action in a court described in IC 33-34~~, the clerk shall
- 10 collect a court administration fee of ~~five~~ **seven** dollars ~~(\$5)~~ **(\$7)**.
- 11 (b) In each action in which a person is:
- 12 (1) convicted of an offense;
- 13 (2) required to pay a pretrial diversion fee;
- 14 (3) found to have committed an infraction; or
- 15 (4) found to have violated an ordinance;



1 the clerk shall collect a court administration fee of ~~five seven~~ dollars
2 (~~\$5~~): **(\$7)**.

3 **(c) After June 30, 2009, the clerk shall collect a court**
4 **administration fee of five dollars (\$5) in each small claims action**
5 **filed in a court described in IC 33-34.**

6 SECTION 2. IC 33-37-7-9, AS AMENDED BY P.L.122-2008,
7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JANUARY 1, 2010]: Sec. 9. (a) On June 30 and on December 31 of
9 each year, the auditor of state shall transfer to the treasurer of state ~~nine~~
10 ~~ten~~ million ~~two three hundred seventy-seven~~ **twenty-one** thousand
11 ~~twenty-three~~ **one hundred fifty-two** dollars (~~\$9,277,023~~)
12 **(\$10,321,152)** for distribution under subsection (b).

13 (b) On June 30 and on December 31 of each year, the treasurer of
14 state shall deposit into:

15 (1) the family violence and victim assistance fund established by
16 IC 12-18-5-2 an amount equal to ~~eight seven~~ and
17 ~~three-hundredths~~ **twenty-two hundredths** percent (~~8.03%~~);
18 **(7.22%)**;

19 (2) the Indiana judges' retirement fund established by
20 IC 33-38-6-12 an amount equal to ~~thirty-eight~~ **thirty-four** and
21 ~~fifty-five~~ **sixty-six** hundredths percent (~~38.55%~~); **(34.66%)**;

22 (3) the law enforcement academy building fund established by
23 IC 5-2-1-13 an amount equal to two and ~~fifty-six~~ **thirty-one**
24 hundredths percent (~~2.56%~~); **(2.31%)**;

25 (4) the law enforcement training fund established by IC 5-2-1-13
26 an amount equal to ~~ten nine~~ and ~~twenty-seven~~ **twenty-four**
27 hundredths percent (~~10.27%~~); **(9.24%)**;

28 (5) the violent crime victims compensation fund established by
29 IC 5-2-6.1-40 an amount equal to ~~eleven ten~~ and ~~ninety-three~~
30 ~~seventy-three~~ hundredths percent (~~11.93%~~); **(10.73%)**;

31 (6) the motor vehicle highway account an amount equal to
32 ~~nineteen seventeen~~ and ~~forty-nine~~ **fifty-two** hundredths percent
33 (~~19.49%~~); **(17.52%)**;

34 (7) the fish and wildlife fund established by IC 14-22-3-2 an
35 amount equal to ~~twenty-five~~ **twenty-three** hundredths percent
36 (~~0.25%~~); **(0.23%)**;

37 (8) the Indiana judicial center drug and alcohol programs fund
38 established by IC 12-23-14-17 for the administration,
39 certification, and support of alcohol and drug services programs
40 under IC 12-23-14 an amount equal to one and ~~sixty-three~~
41 ~~forty-seven~~ hundredths percent (~~1.63%~~); **and (1.47%)**;

42 (9) the DNA sample processing fund established under

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1 IC 10-13-6-9.5 for the funding of the collection, shipment,
 2 analysis, and preservation of DNA samples and the conduct of a
 3 DNA data base program under IC 10-13-6 an amount equal to
 4 ~~seven six and twenty-nine~~ **fifty-six** hundredths percent (~~7.29%~~);
 5 **(6.56%); and**
 6 **(10) the prosecuting attorneys retirement fund established by**
 7 **IC 33-39-7-9 an amount equal to ten and six hundredths**
 8 **percent (10.06%);**

9 of the amount transferred by the auditor of state under subsection (a).

10 (c) On June 30 and on December 31 of each year, the auditor of
 11 state shall transfer to the treasurer of state for deposit into the public
 12 defense fund established under IC 33-40-6-1:

13 (1) after June 30, 2004, and before July 1, 2005, one million
 14 seven hundred thousand dollars (\$1,700,000); and

15 (2) after June 30, 2005, two million seven hundred thousand
 16 dollars (\$2,700,000).

17 SECTION 3. IC 33-39-6-5.5 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2009]: **Sec. 5.5. (a) In addition to the salary provided under**
 20 **section 2 or 5 of this chapter, a full-time prosecuting attorney or**
 21 **deputy prosecuting attorney may receive any additional salary**
 22 **provided by the county under IC 36-2-5-14 or IC 36-3-6-3(c).**

23 (b) Before November 2 each year, the county auditor of each
 24 county shall certify to the prosecuting attorneys council the
 25 amounts, if any, the county will provide during the ensuing
 26 calendar year for full-time prosecuting attorney and deputy
 27 prosecuting attorney salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

28 (c) The county council of a county that provides additional
 29 salary under IC 36-2-5-14 or IC 36-3-6-3(c) shall appropriate a
 30 sufficient amount to pay the additional salary provided by the
 31 county.

32 (d) The state shall deposit quarterly in the state general fund the
 33 money received from the counties under subsection (e) for
 34 additional salary provided under IC 36-2-5-14 or IC 36-3-6-3(c).

35 (e) A county that provides additional salary for a full-time
 36 prosecuting attorney or deputy prosecuting attorney under
 37 IC 36-2-5-14 or IC 36-3-6-3(c) shall determine for the prosecuting
 38 attorney and each deputy prosecuting attorney whether the total
 39 of:

40 (1) the payment made on behalf of that prosecuting attorney
 41 or deputy prosecuting attorney;

42 (2) previous payments made on behalf of that prosecuting

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1 attorney or deputy prosecuting attorney in the same calendar
 2 year; and
 3 (3) the state share of:
 4 (A) the prosecuting attorney's salary under section 5 of this
 5 chapter; or
 6 (B) the deputy prosecuting attorney's salary under section
 7 2 of this chapter;
 8 exceeds the Social Security wage base established by the federal
 9 government for that year. If the total does not exceed the Social
 10 Security wage base, the payment made under subsection (d) on
 11 behalf of that prosecuting attorney or deputy prosecuting attorney
 12 must also be accompanied by an amount equal to the employer's
 13 share of Social Security taxes and Medicare taxes. If the total
 14 exceeds the Social Security wage base, the part of the payment on
 15 behalf of the prosecuting attorney or deputy prosecuting attorney
 16 that is below the Social Security wage base must be accompanied
 17 by an amount equal to the employer's share of Social Security taxes
 18 and Medicare taxes, and the part of the payment on behalf of the
 19 prosecuting attorney or deputy prosecuting attorney that exceeds
 20 the Social Security wage base must be accompanied by an amount
 21 that is equal to the employer's share of Medicare taxes.

22 SECTION 4. IC 33-39-7-7 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. As used in this
 24 chapter, "salary" means:

- 25 (1) before January 1, 2011, the salary paid to a participant by the
 26 state; or
- 27 (2) after December 31, 2010, the total salary paid to a
 28 participant by the state plus any additional salary paid by a
 29 county or counties under IC 36-2-5-14(b) or IC 36-3-6-3(c);
 30 determined without regard to any salary reduction agreement
 31 established under Section 125 of the Internal Revenue Code. Before
 32 January 1, 2011, the term does not include an amount paid to a
 33 participant by a county or counties.

34 SECTION 5. IC 33-39-7-12 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Except as
 36 provided in subsection (b) or (c), each participant shall make
 37 contributions to the fund as follows:

- 38 (1) A participant described in section 8(a)(1) of this chapter shall
 39 make contributions of six percent (6%) of each payment of salary
 40 received for services after December 31, 1989.
- 41 (2) A participant described in section 8(a)(2) or 8(a)(3) of this
 42 chapter shall make contributions of six percent (6%) of each

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1 payment of salary received for services after June 30, 1994.
2 A participant's contributions shall be deducted from the participant's
3 monthly salary by the auditor of state and credited to the fund.

4 (b) The state may pay the contributions for a participant.

5 **(c) After December 31, 2010, a participant who completes**
6 **twenty-two (22) years of creditable service in the fund is not**
7 **required to make any additional contributions to the fund.**

8 SECTION 6. IC 33-39-7-16, AS AMENDED BY P.L.33-2006,
9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2009]: Sec. 16. (a) This section does not apply to a participant
11 who meets the requirements for disability benefits under section 17 of
12 this chapter.

13 (b) Except as provided in subsections (c) and ~~(d)~~; **(e)**, the amount of
14 the annual retirement benefit to which a participant who applies for a
15 retirement benefit and who is at least sixty-five (65) years of age is
16 entitled equals the product of:

17 (1) **one (1) of the following:**

18 **(A) before January 1, 2011**, the highest annual salary that
19 was paid to the participant before separation from service; **or**

20 **(B) after December 31, 2010, the applicable salary**
21 **determined under subsection (g);** multiplied by

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

Participant's Years of Service	Percentage
23 Less than 8	0
24 8	24%
25 9	27%
26 10	30%
27 11	33%
28 12	50%
29 13	51%
30 14	52%
31 15	53%
32 16	54%
33 17	55%
34 18	56%
35 19	57%
36 20	58%
37 21	59%
38 22 or more	60%

39 (c) If a participant who applies for a retirement benefit is not at least
40 sixty-five (65) years of age, the participant is entitled to receive a
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1 reduced annual retirement benefit that equals the benefit that would be
 2 payable if the participant were sixty-five (65) years of age reduced by
 3 ~~one-fourth percent (0.25%)~~ **one (1) of the following percentages** for
 4 each month that the participant's age at retirement precedes the
 5 participant's sixty-fifth birthday:

6 **(1) For a participant who applies for a retirement benefit**
 7 **before January 1, 2011, one-quarter percent (0.25%).**

8 **(2) For a participant who applies for a retirement benefit**
 9 **after December 31, 2010, one-tenth percent (0.1%).**

10 **(d) This subsection applies to a retirement benefit computed**
 11 **after December 31, 2010, under subsection (b) or (c). If a**
 12 **participant has a partial year of service in addition to at least eight**
 13 **(8) full years of service, a participant is entitled to have added to**
 14 **the percentage prescribed under subsection (b)(2) an additional**
 15 **amount that is determined by prorating between the applicable**
 16 **percentages based on the number of months in the partial year of**
 17 **service.**

18 ~~(d)~~ **(e)** Benefits payable to a participant under this section are
 19 reduced by the pension, if any, that would be payable to the participant
 20 from the public employees' retirement fund if the participant had retired
 21 from the public employees' retirement fund on the date of the
 22 participant's retirement from the prosecuting attorneys retirement fund.
 23 Benefits payable to a participant under this section are not reduced by
 24 annuity payments made to the participant from the public employees'
 25 retirement fund.

26 ~~(e)~~ **(f)** If benefits payable from the public employees' retirement
 27 fund exceed the benefits payable from the prosecuting attorneys
 28 retirement fund, the participant is entitled at retirement to withdraw
 29 from the prosecuting attorneys retirement fund the total sum
 30 contributed plus interest at the rate of five and one-half percent (5.5%)
 31 compounded annually.

32 **(g) The applicable salary is one (1) of the following:**

33 **(1) The highest annual salary that was paid to the participant**
 34 **before separation from service for:**

35 **(A) a participant who applies to receive a retirement**
 36 **benefit from the fund before January 1, 2011; or**

37 **(B) a participant who:**

38 **(i) before January 1, 2011, separates from service;**

39 **(ii) is entitled to receive a retirement benefit from the**
 40 **fund, but does not apply before January 1, 2011, to**
 41 **receive a retirement benefit from the fund; and**

42 **(iii) does not earn any service credit in the fund after**

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December 31, 2010.

(2) The salary being paid for the office that the participant held at the time of the participant's separation from service for a participant who:

(A) applies to receive a benefit after December 31, 2010; and

(B) is not a participant described in subdivision (1)(B).

SECTION 7. IC 33-39-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) Except as provided in subsection ~~(b)~~; **(c)**, a participant who becomes disabled **before January 1, 2011**, while in active service in a position described in section 8 of this chapter may retire for the duration of the disability if:

- (1) the participant has at least five (5) years of creditable service;
- (2) the participant has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and
- (3) at least once each year until the participant becomes sixty-five (65) years of age a representative of the board verifies the continued disability.

For purposes of this section, a participant who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the participant furnishes proof of the qualification to the board.

(b) Except as provided in subsection (c), a participant who becomes disabled after December 31, 2010, while in active service in a position described in section 8 of this chapter may retire for the duration of the disability if:

(1) the board determines that:

(A) the participant is incapacitated because of at least one (1) physical or mental condition that renders the participant unable to perform the essential duties of a prosecuting attorney; and

(B) the condition is likely to be permanent; and

(2) at least once each year until the participant becomes sixty-five (65) years of age the board verifies the continued disability.

~~(b)~~ **(c) Benefits may not be provided under this chapter for any disability that:**

- (1) results from an intentionally self-inflicted injury or attempted suicide while sane or insane;
- (2) results from the participant's commission or attempted

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1 commission of a felony; or
 2 (3) begins within two (2) years after a participant's entry or
 3 reentry into active service in a position described in section 8 of
 4 this chapter and was caused or contributed to by a mental or
 5 physical condition that manifested itself before the participant
 6 entered or reentered active service.

7 ~~(c)~~ (d) To the extent required by the Americans with Disabilities
 8 Act, the transcripts, reports, records, and other material generated to
 9 prove that an individual is qualified for disability benefits under this
 10 section shall be:

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

13 SECTION 8. IC 33-39-7-18 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) Except as
 15 provided in subsection ~~(b)~~; (c), the amount of the annual benefit
 16 payable to a participant who meets the requirements for disability
 17 benefits under section 17 of this chapter is equal to the product of:

- 18 (1) the annual salary that was paid to the participant at the time of
 19 separation from service; multiplied by
- 20 (2) the **applicable** percentage prescribed in **one (1)** of the
 21 following ~~table:~~ **tables:**

22 **(A) For a participant who applies for a disability benefit**
 23 **before January 1, 2011:**

24 Participant's Years	Percentage
25 of Service	
26 Less than 5	0
27 5-10	40%
28 11	41%
29 12	42%
30 13	43%
31 14	44%
32 15	45%
33 16	46%
34 17	47%
35 18	48%
36 19	49%
37 20 or more	50%

38 **(B) For a participant who applies for a disability benefit**
 39 **after December 31, 2010:**

40 Participant's Years	Percentage
41 of Service	
42 0-12	50%

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1	13	51%
2	14	52%
3	15	53%
4	16	54%
5	17	55%
6	18	56%
7	19	57%
8	20	58%
9	21	59%
10	22 or more	60%

(b) This subsection applies to a disability benefit computed after December 31, 2010, under subsection (a). If a participant has a partial year of service in addition to at least eight (8) full years of service, a participant is entitled to have added to the percentage prescribed under subsection (a)(2) an additional amount that is determined by prorating between the applicable percentages based on the number of months in the partial year of service.

~~(b)~~ (c) Benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

SECTION 9. IC 33-39-7-19, AS AMENDED BY P.L.33-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) The surviving spouse of a participant who:

- (1) dies; and
- (2) on the date of death:
 - (A) was receiving benefits under this chapter;
 - (B) had completed at least eight (8) years of service in a position described in section 8 of this chapter; or
 - (C) met the requirements for disability benefits under section 17 of this chapter;

is entitled, regardless of the participant's age, to the benefit prescribed by subsection (b) or (c).

(b) This subsection applies to the surviving spouse of a participant who dies before January 1, 2011. The surviving spouse is entitled to a benefit for life equal to the greater of:

- (1) seven thousand dollars (\$7,000); or
- (2) fifty percent (50%) of the amount of retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 16(c) of this chapter.

(c) This subsection applies to the surviving spouse of a

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1 participant who dies after December 31, 2010. The surviving
2 spouse is entitled to a benefit for life equal to the greater of:

- 3 (1) twelve thousand dollars (\$12,000); or
- 4 (2) fifty percent (50%) of the amount of retirement benefit the
- 5 participant was drawing at the time of death, or to which the
- 6 participant would have been entitled if the participant retired
- 7 and began receiving retirement benefits on the date of death,
- 8 with reductions as necessary under section 16(c) of this
- 9 chapter.

10 ~~(c)~~ (d) Benefits payable to a surviving spouse under this section are
11 reduced by the amounts, if any, that are payable to the surviving spouse
12 from the public employees' retirement fund as a result of the
13 participant's death.

14 SECTION 10. IC 33-39-7-26 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) This section applies:

- 17 (1) only to a participant:
 - 18 (A) who applies to receive a retirement benefit from the
 - 19 fund before January 1, 2011; or
 - 20 (B) who:
 - 21 (i) before January 1, 2011, separates from service;
 - 22 (ii) is entitled to receive a retirement benefit from the
 - 23 fund but does not apply before January 1, 2011, to
 - 24 receive a retirement benefit; and
 - 25 (iii) does not earn any service credit in the fund after
 - 26 December 31, 2010; and

27 (2) only in state fiscal years beginning after June 30, 2011.

28 (b) If a salary increase is provided in a particular state fiscal
29 year under IC 33-39-6-5 or any other provision enacted by the
30 general assembly in the state fiscal year, the monthly benefit
31 payable under this chapter to a participant described in subsection
32 (a) shall be increased by the same percentage by which salaries are
33 increased under IC 33-39-6-5 in that state fiscal year. The
34 percentage increase shall be applied to the monthly benefit
35 (including any previous increases to the monthly benefit received
36 under this section or under any other provision) received by the
37 participant as of June 30 of the immediately preceding state fiscal
38 year. The percentage increase to the monthly benefit takes effect
39 at the same time that the salary increase under IC 33-39-6-5 takes
40 effect.

41 (c) An increase payable under this section may not include any
42 amount based on the percentage by which any salary provided by

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1 a county or counties under IC 36-2-5-14 or IC 36-3-6-3(c) is
2 increased.
3 SECTION 11. [EFFECTIVE JULY 1, 2009] (a) As used in this
4 SECTION, "fund" refers to the prosecuting attorneys retirement
5 fund established by IC 33-39-7-9.
6 (b) IC 33-39-7-7, IC 33-39-7-12, IC 33-39-7-16, IC 33-39-7-17,
7 IC 33-39-7-18, and IC 33-39-7-19, all as amended by this act, apply
8 only to a participant who, after December 31, 2010, earns
9 creditable service in the fund for service in a position described in
10 IC 33-39-7-8(a).

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