

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 30

Citations Affected: IC 2-3.5-3-4; IC 5-10.2-3; IC 5-10.3-8; IC 5-10.4; IC 33-38-6-23; IC 33-39-7-11; IC 36-8-8.

Synopsis: Various PERF and TRF matters. Provides that certain members of the public employees' retirement fund (PERF) and the Indiana teachers' retirement fund (TRF) may withdraw the member's annuity savings account (ASA) if the member has separated employment and is not employed in a covered position for 30 days. (Current law provides that such members must have separated employment and not be in a covered position for 90 days.) Removes the requirement that certain members must be either a member of: (1) PERF after December 31, 2008; or (2) TRF after June 30, 2009; in order to request a distribution from the member's ASA. Authorizes the PERF and TRF to adopt rules to allow a member that designates more than one beneficiary to allocate benefit shares in percentage increments. Provides that, before July 1, 2012, an active member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who is eligible to receive an unreduced retirement benefit may elect to receive at retirement a partial lump sum distribution equal to the member's monthly benefit times the member's years of creditable service in exchange for an actuarially reduced monthly benefit. Provides that an annual cost of living adjustment for monthly retirement benefits received by a member or survivor of the 1977 fund may not be used to decrease the member's monthly benefit. Requires the PERF board of trustees, one time before January 1, 2015, and every five years thereafter, to evaluate statewide physical and mental examination standards used by the 1977 fund. Eliminates references to the treasurer of state's duties concerning the following pension funds administered by the public employees' retirement fund (PERF): (1) Legislators' retirement system. (2) Judges' retirement system. (3) Prosecuting attorneys retirement fund. (4) 1977 police officers' and firefighters' retirement and disability fund. (In 2009 the treasurer of state's role as treasurer of PERF was eliminated and those duties were assigned to the PERF board and executive director.) Provides that a PERF or TRF member may petition the board of trustees of the member's fund (board) to correct an error in a determination of the member's: (1) creditable service; or (2) benefit; at any time. Provides that if the board does not find an error in the determination and the member petitioned the board within six years after the determination, the member may appeal the board's decision under the administrative orders and procedures law. Updates language concerning the TRF board's distribution of TRF's investment earnings. Makes

a technical correction to resolve conflicting language. (The introduced version of this bill was prepared by the pension management oversight commission.) **(This conference report removes provisions that provide that, for TRF and funds managed by PERF, records concerning: (1) mandatory public retirement fund contributions that are paid by the state or another employer on behalf of, and are individually identifiable to, a fund member; and (2) the amount of an employer paid retirement or disability benefit; are public records.)**

Effective: Upon passage; July 1, 2010.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 30 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 retirement benefits.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 2-3.5-3-4 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The PERF board
- 7 shall administer the system, which may be commingled with the PERF
- 8 fund for investment purposes.
- 9 (b) The PERF board shall:
- 10 (1) determine eligibility for and make payments of benefits under
- 11 this chapter, IC 2-3.5-4, and IC 2-3.5-5;
- 12 (2) in accordance with the powers and duties granted in
- 13 IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3
- 14 through IC 5-10.3-5-6, administer the system; ~~and~~
- 15 (3) provide by rule for the implementation of this chapter,
- 16 IC 2-3.5-4, and IC 2-3.5-5; **and**
- 17 **(4) authorize deposits.**
- 18 (c) A determination by the PERF board may be appealed under
- 19 IC 4-21.5.
- 20 (d) The powers and duties of:
- 21 (1) the director and the actuary of the PERF board;
- 22 ~~(2) the treasurer of state;~~

1 ~~(3)~~ **(2)** the attorney general; and
 2 ~~(4)~~ **(3)** the auditor of state;
 3 with respect to the fund are those specified in IC 5-10.3-3 and
 4 IC 5-10.3-4.

5 (e) The PERF board may hire additional personnel, including
 6 hearing officers, to assist in the implementation of this chapter.

7 (f) Legislators' retirement system records of individual participants
 8 and participants' information are confidential, except for the name and
 9 years of service of a retirement system participant.

10 SECTION 2. IC 5-10.2-3-6.5, AS AMENDED BY P.L.115-2009,
 11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 UPON PASSAGE]: Sec. 6.5. ~~(a)~~ **This section applies:**

13 ~~(1)~~ **after December 31, 2008, to a member of the public**
 14 **employees' retirement fund; and**

15 ~~(2)~~ **after June 30, 2009, to a member of the Indiana state teachers'**
 16 **retirement fund.**

17 ~~(b)~~ **(a)** A member who meets all of the following requirements may
 18 elect to withdraw the entire amount in the member's annuity savings
 19 account before the member is eligible to do so at retirement under
 20 IC 5-10.2-4-2:

21 (1) The member has attained vested status in the fund.

22 (2) The member ~~terminates~~ **has terminated** employment with the
 23 applicable fund ~~after the date specified in subsection (a).~~ **and is**
 24 **not currently employed in a covered position.**

25 (3) The member has not performed any service in a position
 26 covered by the fund for at least ~~ninety (90)~~ **thirty (30)** days after
 27 the date the member terminates employment.

28 **(4) The member makes the election described in this**
 29 **subsection:**

30 **(A) after December 31, 2008, if the member is a member of**
 31 **the public employees' retirement fund; or**

32 **(B) after June 30, 2009, if the member is a member of the**
 33 **Indiana state teachers' retirement fund.**

34 **(5) Except as provided in subsection (b), the member is not**
 35 **eligible for a reduced or unreduced retirement on the date the**
 36 **fund receives notice of the election described in this**
 37 **subsection.**

38 **(b) The requirement described in subsection (a)(5) does not**
 39 **apply to a member of the public employees' retirement fund who:**

40 **(1) was eligible for a reduced or unreduced retirement; and**

41 **(2) received a distribution under this section;**

42 **after December 31, 2008, and before January 1, 2010.**

43 (c) A member who elects to withdraw the entire amount in the
 44 member's annuity savings account under subsection ~~(b)~~ **(a)** shall
 45 provide notice of the election on a form provided by the board.

46 (d) The election to withdraw the entire amount in the member's
 47 annuity savings account is irrevocable.

48 (e) The board shall pay the amount in the member's annuity savings
 49 account as a lump sum.

50 (f) Except as provided in subsection (g), a member who makes a
 51 withdrawal under this section is entitled to receive, when the member

1 becomes eligible to receive a retirement benefit under IC 5-10.2-4, a
 2 retirement benefit equal to the pension provided by employer
 3 contributions computed under IC 5-10.2-4.

4 (g) A member who:

5 (1) transfers creditable service earned under the fund to another
 6 governmental retirement plan under section 1(i) of this chapter;
 7 and

8 (2) withdraws the member's annuity savings account under this
 9 section to purchase the service;

10 may not use the transferred service in the computation of a retirement
 11 benefit payable under subsection (f).

12 SECTION 3. IC 5-10.2-3-7.5, AS AMENDED BY P.L.113-2009,
 13 SECTION 1, AND AS AMENDED BY P.L.115-2009, SECTION 2, IS
 14 CORRECTED AND AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) *This subsection applies to*
 16 *members who die after March 31, 1990, and before January 1, 2007.*

17 A surviving dependent or surviving spouse of a member who dies in
 18 service is entitled to a survivor benefit if:

19 ~~(1) the member dies after March 31, 1990;~~

20 ~~(1)~~ (1) the member has:

21 (A) at least ten (10) years of creditable service, if the member
 22 died in service as a member of the general assembly;

23 (B) at least fifteen (15) years of creditable service, if the
 24 member died in service in any other position covered by the
 25 retirement fund; or

26 (C) at least ten (10) years but not more than fourteen (14)
 27 years of creditable service if the member:

28 (i) was at least sixty-five (65) years of age; and

29 (ii) died in service in a position covered by the teachers'
 30 retirement fund; and

31 ~~(2)~~ (2) the surviving dependent or surviving spouse qualifies for
 32 a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d).

33 (b) *This subsection applies to members who die after December 31,*
 34 *2006. A surviving dependent or surviving spouse of a member who dies*
 35 *is entitled to a survivor benefit if:*

36 (1) the member has:

37 (A) at least ten (10) years of creditable service, if the member
 38 died in service as a member of the general assembly;

39 (B) at least ten (10) years but not more than fourteen (14)
 40 years of creditable service if the member was at least sixty-five
 41 (65) years of age and died in service in a position covered by
 42 the fund (other than a position described in clause (A)); or

43 (C) at least fifteen (15) years of creditable service, if the
 44 member died in service in a position covered by the fund
 45 (other than a position described in clause (A)); and

46 (2) the surviving dependent or surviving spouse qualifies for a
 47 survivor benefit under subsection (c) or (d).

48 ~~(b)~~ (c) If a member described in subsection (a) or (b) dies with a
 49 surviving spouse who was married to the member for at least two (2)
 50 years, the surviving spouse is entitled to a survivor benefit equal to the
 51 monthly *pension* benefit that would have been payable to the spouse

1 under the joint and survivor option of IC 5-10.2-4-7 upon the member's
2 death following retirement at:

- 3 (1) fifty (50) years of age; or
4 (2) the actual date of death;

5 whichever is later. However, benefits payable under this subsection are
6 subject to subsections ~~(e)~~ (f) and ~~(g)~~ (h).

7 ~~(c)~~ (d) If a member described in subsection (a) or (b) dies without
8 a surviving spouse who was married to the member for at least two (2)
9 years, but with a surviving dependent, the surviving dependent is
10 entitled to a survivor benefit in a monthly amount equal to the actuarial
11 equivalent of the monthly *pension* benefit that would have been
12 payable to the spouse (assuming the spouse would have had the same
13 birth date as the member) under the joint and survivor option of
14 IC 5-10.2-4-7 upon the member's death following retirement at:

- 15 (1) fifty (50) years of age; or
16 (2) the actual date of death;

17 whichever is later. If there are two (2) or more surviving dependents,
18 the actuarial equivalent of the benefit described in this subsection shall
19 be calculated and, considering the dependents' attained ages, an equal
20 dollar amount shall be determined as the monthly *pension* benefit to be
21 paid to each dependent. Monthly *pension* benefits under this subsection
22 are payable until the date the dependent becomes eighteen (18) years
23 of age or dies, whichever is earlier. However, if a dependent has a
24 permanent and total disability (using disability guidelines established
25 by the Social Security Administration) at the date the dependent
26 reaches eighteen (18) years of age, the monthly *pension* benefit is
27 payable until the date the dependent no longer has a disability (using
28 disability guidelines established by the Social Security Administration)
29 or dies, whichever is earlier. Benefits payable under this subsection are
30 subject to subsections ~~(e)~~ (f) and ~~(g)~~ (h).

31 ~~(d)~~ (e) *This subsection applies if a member did not designate a*
32 *beneficiary or the designated beneficiary does not survive the member.*
33 Except as provided in subsections ~~(e)~~ (f) and ~~(h)~~ (i), the surviving
34 spouse or surviving dependent of a member who is entitled to a
35 survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this
36 chapter may elect to receive a lump sum payment of the total amount
37 credited to the member in the member's annuity savings account or an
38 amount equal to the member's federal income tax basis in the member's
39 annuity savings account as of December 31, 1986. A surviving spouse
40 or surviving dependent who makes such an election is not entitled to an
41 annuity as part of the survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d)
42 or section 7.6 of this chapter to the extent of the lump sum payment.

43 ~~(e)~~ (f) If a member *described in subsection (a) or (b) or section*
44 *7.6(a) of this chapter* is survived by a designated beneficiary, *who is*
45 *not a surviving spouse or surviving dependent entitled to a survivor*
46 *benefit under subsection (e) or (d) or section 7.6 of this chapter,* the
47 following provisions apply:

- 48 (1) If the member is survived by one (1) designated beneficiary,
49 the designated beneficiary is entitled to receive in a lump sum or
50 over a period of up to five (5) years, as elected by the designated
51 beneficiary, the amount credited to the member's annuity savings

1 account, less any disability benefits paid to the member.

2 (2) If the member is survived by two (2) or more designated
3 beneficiaries, the designated beneficiaries are entitled to receive
4 in a lump sum or over a period of up to five (5) years, as elected
5 by the designated beneficiary, equal shares of the amount credited
6 to the member's annuity savings account **unless the member has**
7 **allocated the shares among the designated beneficiaries in a**
8 **manner authorized under IC 5-10.3-8-15 or IC 5-10.4-4-10,**
9 less any disability benefits paid to the member.

10 (3) If the member is also survived by a spouse or dependent who
11 is entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d)
12 or section 7.6 of this chapter, the surviving spouse or dependent
13 is not entitled to an annuity or a lump sum payment as part of the
14 survivor benefit, unless the surviving spouse or dependent is also
15 a designated beneficiary.

16 ~~(f)~~ (g) If a member dies:

17 (1) without a surviving spouse or surviving dependent who
18 qualifies for survivor benefits under subsection ~~(b)~~ (c) or ~~(c)~~ (d)
19 or section 7.6 of this chapter; and

20 (2) without a surviving designated beneficiary who is entitled to
21 receive the member's annuity savings account under subsection
22 ~~(c)~~ (f);

23 the amount credited to the member's annuity savings account, less any
24 disability benefits paid to the member, shall be paid to the member's
25 estate.

26 ~~(g)~~ (h) Survivor benefits payable under this section or section 7.6 of
27 this chapter shall be reduced by any disability benefits paid to the
28 member.

29 ~~(h)~~ (i) Additional annuity contributions, if any, shall not be included
30 in determining survivor benefits under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or
31 section 7.6 of this chapter, but are payable in a lump sum payment to:

32 (1) the member's surviving designated beneficiary; or

33 (2) the member's estate, if there is no surviving designated
34 beneficiary.

35 ~~(i)~~ (j) Survivor benefits provided under this section or section 7.6 of
36 this chapter are subject to IC 5-10.2-2-1.5.

37 ~~(j)~~ (k) A benefit specified in this section shall be forfeited and
38 credited to the member's retirement fund if no person entitled to the
39 benefit claims it within three (3) years after the member's death.
40 However, the board may honor a claim that is made more than three (3)
41 years after the member's death if the board finds, in the board's
42 discretion, that:

43 (1) the delay in making the claim was reasonable or other
44 extenuating circumstances justify the award of the benefit to the
45 claimant; and

46 (2) paying the claim would not cause a violation of the applicable
47 Internal Revenue Service rules.

48 SECTION 4. IC 5-10.3-8-5 IS AMENDED TO READ AS
49 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. ~~Claims of Error:~~ A
50 member may petition the board to correct an error in the determination
51 of ~~his~~ **the member's**:

1 (1) creditable service; or of his

2 (2) benefit;

3 within one (1) year after the determination: at any time. The petition
4 must contain the necessary information to sustain his the member's
5 claim of error. The board shall investigate the claim and, if error is
6 found, shall order the member's records corrected. **If no error is found
7 and the member petitioned the board to correct the error within
8 six (6) years after the determination of the member's creditable
9 service or benefit, the member may appeal the board's decision
10 under IC 4-21.5.**

11 SECTION 5. IC 5-10.3-8-15 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2010]: **Sec. 15. The board may adopt rules to allow a member
14 who designates more than one (1) beneficiary to allocate benefit
15 shares in percentage increments.**

16 SECTION 6. IC 5-10.4-2-6, AS ADDED BY P.L.2-2006, SECTION
17 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
18 PASSAGE]: Sec. 6. ~~(a)~~ The board shall do the following:

19 (1) Credit interest to the members' annuity savings accounts in the
20 guaranteed fund and actual earnings to the alternative investment
21 programs.

22 (2) After complying with subdivision (1), ~~distribute an amount up
23 to the interest credit rate; not to exceed any remaining earnings;
24 to the reserve accounts.~~

25 ~~(3) After complying with subdivisions (1) and (2); distribute any
26 remaining undistributed income reserve as of the end of each
27 fiscal year on a pro rata basis; based on fiscal year beginning
28 balances; to all reserve accounts in the pre-1996 account;
29 including the pension stabilization fund; and in the 1996 account.~~

30 ~~(b) Income may not be distributed under subsection (a)(2) or (a)(3)
31 to the following:~~

32 ~~(1) Members' annuity savings accounts in the guaranteed fund or
33 the alternative investment program.~~

34 ~~(2) The annuity reserve for benefits-in-force:~~

35 **accounting period as determined by the rules of the board.**

36 SECTION 7. IC 5-10.4-4-10, AS AMENDED BY P.L.115-2009,
37 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2010]: Sec. 10. (a) The director shall obtain a designation of
39 beneficiary as soon as possible from each member.

40 **(b) The board may adopt rules to allow a member who
41 designates more than one (1) beneficiary to allocate benefit shares
42 in percentage increments.**

43 ~~(b)(c)~~ Notwithstanding a contrary collateral agreement, court order,
44 process, attachment, or levy, the right to receive a death benefit under
45 IC 5-10.2 or this article vests with the designated beneficiary on file
46 with the fund at the time of the member's death. The fund shall
47 distribute the death benefit to the designated beneficiary or the
48 designated beneficiary's estate in accordance with IC 5-10.2 and this
49 article.

50 SECTION 8. IC 5-10.4-5-17 IS ADDED TO THE INDIANA CODE
51 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2010]: **Sec. 17. A member may petition the board to correct an error in the determination of the member's:**

- 3 (1) **creditable service; or**
- 4 (2) **benefit;**

5 **at any time. The petition must contain the necessary information**
6 **to sustain the member's claim of error. The board shall investigate**
7 **the claim and, if an error is found, shall order the member's**
8 **records corrected. If no error is found and the member petitioned**
9 **the board to correct the error within six (6) years after the**
10 **determination of the member's creditable service or benefit, the**
11 **member may appeal the board's decision under IC 4-21.5.**

12 SECTION 9. IC 33-38-6-23 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. (a) The board of
14 trustees of the public employees' retirement fund shall administer the
15 fund, which may be commingled with the public employees' retirement
16 fund for investment purposes.

17 (b) The board shall do the following:

- 18 (1) Determine eligibility for and make payments of benefits under
19 IC 33-38-7 and IC 33-38-8.
- 20 (2) In accordance with the powers and duties granted it in
21 IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3
22 through IC 5-10.3-5-6, administer the fund.
- 23 (3) Provide by rule for the implementation of this chapter and
24 IC 33-38-7 and IC 33-38-8.

25 **(4) Authorize deposits.**

26 (c) A determination by the board may be appealed under the
27 procedures in IC 4-21.5.

28 (d) The powers and duties of:

- 29 (1) the director and the actuary of the board;
- 30 ~~(2) the treasurer of state;~~
- 31 ~~(3) (2) the attorney general; and~~
- 32 ~~(4) (3) the auditor of state;~~

33 with respect to the fund are those specified in IC 5-10.3-3 and
34 IC 5-10.3-4.

35 (e) The board may hire additional personnel, including hearing
36 officers, to assist it in the implementation of this chapter.

37 (f) Fund records of individual participants and participants'
38 information are confidential, except for the name and years of service
39 of a fund participant.

40 SECTION 10. IC 33-39-7-11 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) The board shall
42 administer the fund, which may be commingled with the public
43 employees' retirement fund for investment purposes.

44 (b) The board shall do the following:

- 45 (1) Determine eligibility for and make payments of benefits under
46 this chapter.
- 47 (2) In accordance with the powers and duties granted the board in
48 IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3
49 through IC 5-10.3-5-6, administer the fund.
- 50 (3) Provide by rule for the implementation of this chapter.

51 **(4) Authorize deposits.**

1 (c) A determination by the board may be appealed under IC 4-21.5.

2 (d) The powers and duties of:

3 (1) the director and the actuary of the board;

4 ~~(2) the treasurer of state;~~

5 ~~(3) (2) the attorney general;~~ and

6 ~~(4) (3) the auditor of state;~~

7 with respect to the fund are those specified in IC 5-10.3-3 and
8 IC 5-10.3-4.

9 (e) The board may hire additional personnel, including hearing
10 officers, to assist in the implementation of this chapter.

11 (f) Fund records of individual participants and participants'
12 information are confidential, except for the name and years of service
13 of a fund participant.

14 SECTION 11. IC 36-8-8-5 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The PERF board
16 shall:

17 (1) determine eligibility for and make payments of benefits,
18 except as provided in section 12 of this chapter;

19 (2) in accordance with the powers and duties granted it in
20 IC 5-10.3-3-7, IC 5-10.3-3-8, and IC 5-10.3-5-3 through
21 IC 5-10.3-5-6, administer the 1977 fund; ~~and~~

22 (3) provide by rule for the implementation of this chapter; **and**

23 **(4) authorize deposits.**

24 (b) A determination by the PERF board may be appealed under the
25 procedures in IC 4-21.5.

26 (c) The powers and duties of the director and the actuary of the
27 PERF board, ~~the treasurer of state;~~ the attorney general, and the auditor
28 of state, with respect to the 1977 fund, are those specified in
29 IC 5-10.3-3 and IC 5-10.3-4.

30 (d) The PERF board may hire additional personnel, including
31 hearing officers, to assist it in the implementation of this chapter.

32 (e) The 1977 fund records of individual members and membership
33 information are confidential, except for the name and years of service
34 of a 1977 fund member.

35 SECTION 12. IC 36-8-8-11 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) Benefits paid
37 under this section are subject to section 2.5 of this chapter.

38 (b) **Except as provided in section 24 of this chapter,** each fund
39 member who qualifies for a retirement benefit payment under section
40 10(b) of this chapter is entitled to receive a monthly benefit equal to
41 fifty percent (50%) of the monthly salary of a first class patrolman or
42 firefighter in the year the member ended his active service plus:

43 (1) for a member who retires before January 1, 1986, two percent
44 (2%) of that salary for each full year of active service; or

45 (2) for a member who retires after December 31, 1985, one
46 percent (1%) of that salary for each six (6) months of active
47 service;

48 over twenty (20) years, to a maximum of twelve (12) years.

49 (c) Each fund member who qualifies for a retirement benefit
50 payment under section 10(c) of this chapter is entitled to receive a
51 monthly benefit equal to fifty percent (50%) of the monthly salary of

1 a first class patrolman or firefighter in the year the member ended ~~his~~
 2 **the member's** active service plus one percent (1%) of that salary for
 3 each six (6) months of active service over twenty (20) years, to a
 4 maximum of twelve (12) years, all actuarially reduced for each month
 5 (if any) of benefit payments prior to fifty-two (52) years of age, by a
 6 factor established by the fund's actuary from time to time.

7 SECTION 13. IC 36-8-8-15 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. Each year the PERF
 9 board shall determine if there has been an increase or decrease in the
 10 consumer price index (United States city average) prepared by the
 11 United States Department of Labor by comparing the arithmetic mean
 12 of the consumer price index for January, February, and March of that
 13 year with the arithmetic mean for the same three (3) months of the
 14 preceding year. If there has been an increase, or a decrease, it shall be
 15 stated as a percentage of the arithmetic mean for the preceding three
 16 (3) month period. The percentage shall be rounded to the nearest
 17 one-tenth of one percent (0.1%) and may not exceed three percent
 18 (3%). **If there is a percentage increase of the arithmetic mean for**
 19 **the preceding three (3) month period**, a fund member's or survivor's
 20 monthly benefit, beginning with the July payment, shall be increased
 21 ~~or decreased~~ by an amount equal to the June payment times the
 22 percentage increase. ~~or decrease~~. However, a fund member's or
 23 survivor's monthly benefit may not be increased ~~or decreased~~ under this
 24 section until July of the year following the year of the first monthly
 25 benefit payment to the fund member or survivor. In computing a fund
 26 member's benefit, the increase ~~or decrease~~ is based only on those years
 27 for which the fund member was eligible for benefit payments under this
 28 chapter. A monthly benefit may not be reduced ~~below the amount of~~
 29 ~~the first monthly benefit received by the fund member or survivor~~. **if**
 30 **there is a percentage decrease of the arithmetic mean for the**
 31 **preceding three (3) month period.**

32 SECTION 14. IC 36-8-8-19 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. (a) The baseline
 34 statewide physical examination required by section 7(a) of this chapter
 35 shall be prescribed by the PERF board and shall be administered by the
 36 appointing authority, as determined by the local board, after the
 37 appointing authority extends a conditional offer for employment. The
 38 baseline statewide physical examination shall be administered by a
 39 licensed physician and must include all of the following:

- 40 (1) A general medical history.
- 41 (2) The tests identified in rules that shall be adopted by the PERF
 42 board under IC 4-22-2.

43 (b) The PERF board shall adopt minimum standards by rule under
 44 IC 4-22-2 that a police officer or firefighter must meet for the baseline
 45 statewide physical examination described in subsection (a). The
 46 baseline statewide physical examination and related standards must:

- 47 (1) reflect the essential functions of the job;
- 48 (2) be consistent with business necessity; ~~and~~
- 49 (3) be reviewed by the 1977 fund advisory board; ~~and~~
- 50 **(4) be evaluated by the PERF board one (1) time before**
 51 **January 1, 2015, and every five (5) years thereafter.**

1 (c) The PERF board shall, in consultation with the commissioner of
 2 mental health, select the baseline statewide mental examination
 3 described in section 7(a) of this chapter. The standards for passing the
 4 baseline statewide mental examination shall be determined by the local
 5 board. The baseline statewide mental examination and related
 6 standards must:

- 7 (1) reflect the essential functions of the job;
- 8 (2) be consistent with business necessity; ~~and~~
- 9 (3) be reviewed by the 1977 fund advisory board; **and**
- 10 **(4) be evaluated by the PERF board one (1) time before**
- 11 **January 1, 2015, and every five (5) years thereafter.**

12 The purpose of the baseline statewide mental examination is to
 13 determine if the police officer or firefighter is mentally suitable to be
 14 a member of the department. The local board may designate a
 15 community mental health center or a managed care provider (as
 16 defined in IC 12-7-2-127(b)), a hospital, a licensed physician, or a
 17 licensed psychologist to administer the examination. However, the
 18 results of a baseline statewide mental examination shall be interpreted
 19 by a licensed physician or a licensed psychologist.

20 (d) The employer shall pay for no less than one-half (1/2) the cost
 21 of the examinations.

22 (e) Each local board shall name the physicians who will conduct the
 23 examinations under this section.

24 (f) If a local board determines that a candidate passes the local
 25 physical and mental standards, if any, established under IC 36-8-3.2-6,
 26 the baseline statewide physical examination described in subsection
 27 (a), and the baseline statewide mental examination described in
 28 subsection (c), the local board shall send the following to PERF:

- 29 (1) Copies and certification of the results of the baseline statewide
 30 physical examination described in subsection (a).
- 31 (2) Certification of the results of the physical agility examination
 32 required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5.
- 33 (3) Certification of the results of the baseline statewide mental
 34 examination described in subsection (c).

35 (g) The PERF board or the PERF board's designee shall then
 36 determine whether the candidate passes the baseline statewide physical
 37 standards adopted under subsection (b). If the candidate passes the
 38 baseline statewide standards, the PERF board or the PERF board's
 39 designee shall also determine whether the candidate has a Class 3
 40 excludable condition under section 13.6 of this chapter. The PERF
 41 board or the PERF board's designee shall retain the results of the
 42 examinations and all documents related to the examination until the
 43 police officer or firefighter retires or separates from the department.

44 (h) To the extent required by the federal Americans with Disabilities
 45 Act, the PERF board shall do the following:

- 46 (1) Treat the medical transcripts, reports, records, and other
 47 material compiled under this section as confidential medical
 48 records.
- 49 (2) Keep the transcripts, reports, records, and material described
 50 in subdivision (1) in separate medical files for each member.

51 (i) A local board may, at the request of an appointing authority or on

1 the local board's own motion, issue subpoenas, discovery orders, and
 2 protective orders in accordance with the Indiana Rules of Trial
 3 Procedure to facilitate the receipt of accurate and original documents
 4 necessary for the proper administration of this chapter. A subpoena or
 5 order issued under this subsection:

6 (1) must be served in accordance with the Indiana Rules of Trial
 7 Procedure; and

8 (2) may be enforced in the circuit or superior court with
 9 jurisdiction for the county in which the subpoena or order is
 10 served.

11 SECTION 15. IC 36-8-8-24.8 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2010]: **Sec. 24.8. (a) This section does not**
 14 **apply to a fund member who elects to enter the DROP (as defined**
 15 **in IC 36-8-8.5-4) under IC 36-8-8.5.**

16 **(b) Benefits paid under this section are subject to section 2.5 of**
 17 **this chapter.**

18 **(c) As used in this section, "partial lump sum distribution"**
 19 **means the amount calculated under subsection (f).**

20 **(d) After June 30, 2010, a fund member may elect to receive at**
 21 **retirement a partial lump sum distribution if the fund member**
 22 **meets all of the following requirements on the date of the election:**

23 **(1) The fund member is in active service.**

24 **(2) The fund member qualifies for a retirement fund benefit**
 25 **payment under section 10(b) of this chapter.**

26 **(e) A fund member's election under subsection (d):**

27 **(1) must be in writing;**

28 **(2) must be filed with the PERF board, on a form prescribed**
 29 **by the PERF board; and**

30 **(3) is irrevocable.**

31 **(f) The partial lump sum distribution for a fund member who**
 32 **makes an election described in subsection (d) is determined in**
 33 **STEP TWO of the following formula:**

34 **STEP ONE: Determine the lesser of the following:**

35 **(A) The fund member's years of service for which the fund**
 36 **member has received service credit in the fund.**

37 **(B) Thirty-two (32).**

38 **STEP TWO: Multiply the STEP ONE amount by the fund**
 39 **member's monthly benefit calculated under section 11(b) of**
 40 **this chapter.**

41 **(g) The monthly benefit of a fund member who receives a partial**
 42 **lump sum distribution under this section is actuarially reduced by**
 43 **subtracting an amount determined by dividing the partial lump**
 44 **sum distribution amount determined in subsection (f) by a rate,**
 45 **determined by the actuary for the fund, that is:**

46 **(1) based on the age of the fund member and, if applicable, the**
 47 **age of the fund member's spouse at the time the fund member**
 48 **elects to take the partial lump sum distribution; and**

49 **(2) computed to result in a monthly benefit amount that has**
 50 **an actuarial present value that approximates the partial lump**
 51 **sum distribution amount.**

1 **(h) A fund member who makes an election described in**
2 **subsection (d) must elect to receive the partial lump sum**
3 **distribution determined in subsection (f) as:**

4 **(1) a lump sum paid not later than thirty (30) days after the**
5 **fund member's retirement date; or**

6 **(2) three (3) equal annual payments commencing not later**
7 **than thirty (30) days after the fund member's retirement date**
8 **and thereafter paid on the anniversary of the fund member's**
9 **retirement date.**

10 **(i) This section expires July 1, 2012.**

11 **SECTION 16. An emergency is declared for this act.**

(Reference is to ESB 30 as reprinted February 23, 2010.)

Conference Committee Report
on
Engrossed Senate Bill 30

Signed by:

Senator Boots
Chairperson

Representative Niezgodski

Senator Tallian

Representative Espich

Senate Conferees

House Conferees