

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 172, 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:**

- 1           Replace the effective date in SECTION 1 with "[EFFECTIVE JULY  
2           1, 2009 (RETROACTIVE)]".
- 3           Page 1, between the enacting clause and line 1, begin a new  
4           paragraph and insert:
- 5           "SECTION 1. IC 36-8-8-13.8, AS AMENDED BY P.L.1-2007,  
6           SECTION 242, IS AMENDED TO READ AS FOLLOWS  
7           [EFFECTIVE UPON PASSAGE]: Sec. 13.8. (a) This section applies  
8           to an active or retired member who dies other than in the line of duty  
9           (as defined in section 14.1 of this chapter) after August 31, 1982.
- 10          (b) If a fund member dies while receiving retirement or disability  
11          benefits, the following apply:
- 12               (1) Except as otherwise provided in this subsection, each of the  
13               member's surviving children is entitled to a monthly benefit equal  
14               to twenty percent (20%) of the fund member's monthly benefit:
- 15                       (A) until the child becomes eighteen (18) years of age; or  
16                       (B) until the child becomes twenty-three (23) years of age if  
17                       the child is enrolled in and regularly attending a secondary  
18                       school or is a full-time student at an accredited college or  
19                       university;

1           whichever period is longer. However, if the board finds upon the  
2           submission of satisfactory proof that a child who is at least  
3           eighteen (18) years of age is mentally or physically incapacitated,  
4           is not a ward of the state, and is not receiving a benefit under  
5           clause (B), the child is entitled to receive an amount each month  
6           that is equal to the greater of thirty percent (30%) of the monthly  
7           pay of a first class patrolman or first class firefighter or fifty-five  
8           percent (55%) of the monthly benefit the deceased member was  
9           receiving or was entitled to receive on the date of the member's  
10          death as long as the mental or physical incapacity of the child  
11          continues. Benefits paid for a child shall be paid to the surviving  
12          parent as long as the child resides with and is supported by the  
13          surviving parent. If the surviving parent dies, the benefits shall be  
14          paid to the legal guardian of the child.

15          (2) The member's surviving spouse is entitled to a monthly benefit  
16          equal to sixty percent (60%) of the fund member's monthly  
17          benefit during the spouse's lifetime. If the spouse remarried before  
18          September 1, 1983, and benefits ceased on the date of remarriage,  
19          the benefits for the surviving spouse shall be reinstated on July 1,  
20          1997, and continue during the life of the surviving spouse.

21          If a fund member dies while receiving retirement or disability benefits,  
22          there is no surviving eligible child or spouse, and there is proof  
23          satisfactory to the local board, subject to review in the manner  
24          specified in section 13.1(c) of this chapter, that the parent was wholly  
25          dependent on the fund member, the member's surviving parent is  
26          entitled, or both surviving parents if qualified are entitled jointly, to  
27          receive fifty percent (50%) of the fund member's monthly benefit  
28          during the parent's or parents' lifetime. **As used in this subsection, a**  
29          **parent is wholly dependent on a fund member if the fund member**  
30          **claimed the parent as a dependent on the federal income tax return**  
31          **filed by the fund member in the year before the year in which the**  
32          **fund member died.**

33          (c) Except as otherwise provided in this subsection, if a fund  
34          member dies while on active duty or while retired and not receiving  
35          benefits, the member's children and the member's spouse, or the  
36          member's parent or parents are entitled to receive a monthly benefit  
37          determined under subsection (b). If the fund member did not have at  
38          least twenty (20) years of service or was not at least fifty-two (52) years

1 of age, the benefit is computed as if the member:

- 2 (1) did have twenty (20) years of service; and  
 3 (2) was fifty-two (52) years of age.

4 SECTION 2. IC 36-8-8-13.9, AS AMENDED BY P.L.1-2007,  
 5 SECTION 243, IS AMENDED TO READ AS FOLLOWS  
 6 [EFFECTIVE UPON PASSAGE]: Sec. 13.9. (a) This section applies  
 7 to an active member who died in the line of duty (as defined in section  
 8 14.1 of this chapter) before September 1, 1982.

9 (b) Except as otherwise provided in this subsection, if a fund  
 10 member dies in the line of duty, the following apply:

11 (1) Each of the member's surviving children is entitled to a  
 12 monthly benefit equal to twenty percent (20%) of the fund  
 13 member's monthly benefit:

- 14 (A) until the child becomes eighteen (18) years of age; or  
 15 (B) until the child becomes twenty-three (23) years of age if  
 16 the child is enrolled in and regularly attending a secondary  
 17 school or is a full-time student at an accredited college or  
 18 university;

19 whichever period is longer. However, if the board finds upon the  
 20 submission of satisfactory proof that a child who is at least  
 21 eighteen (18) years of age is mentally or physically incapacitated,  
 22 is not a ward of the state, and is not receiving a benefit under  
 23 clause (B), the child is entitled to receive an amount each month  
 24 that is equal to the greater of thirty percent (30%) of the monthly  
 25 pay of a first class patrolman or first class firefighter or fifty-five  
 26 percent (55%) of the monthly benefit the deceased member was  
 27 receiving or was entitled to receive on the date of the member's  
 28 death as long as the mental or physical incapacity of the child  
 29 continues. Benefits paid for a child shall be paid to the surviving  
 30 parent as long as the child resides with and is supported by the  
 31 surviving parent. If the surviving parent dies, the benefits shall be  
 32 paid to the legal guardian of the child.

33 (2) The member's surviving spouse is entitled to a monthly benefit  
 34 equal to sixty percent (60%) of the fund member's monthly  
 35 benefit during the spouse's lifetime. If the spouse remarried before  
 36 September 1, 1983, and benefits ceased on the date of remarriage,  
 37 the benefits for the surviving spouse shall be reinstated on July 1,  
 38 1997, and continue during the life of the surviving spouse.

1 If there is no surviving eligible child or spouse, and there is proof  
 2 satisfactory to the local board, subject to review in the manner  
 3 specified in section 13.1(c) of this chapter, that the parent was wholly  
 4 dependent on the fund member, the member's surviving parent is  
 5 entitled, or both surviving parents if qualified are entitled jointly, to  
 6 receive fifty percent (50%) of the fund member's monthly benefit  
 7 during the parent's or parents' lifetime. **As used in this subsection, a**  
 8 **parent is wholly dependent on a fund member if the fund member**  
 9 **claimed the parent as a dependent on the federal income tax return**  
 10 **filed by the fund member in the year before the year in which the**  
 11 **fund member died.**

12 (c) If the fund member did not have at least twenty (20) years of  
 13 service or was not at least fifty-two (52) years of age, the benefit under  
 14 subsection (b) is computed as if the member:

- 15 (1) did have twenty (20) years of service; and
- 16 (2) was fifty-two (52) years of age.

17 (d) The unit of local government that employed the deceased  
 18 member shall after December 31, 2003, offer to provide and pay for  
 19 health insurance coverage for the member's surviving spouse and for  
 20 each natural child, stepchild, or adopted child of the member:

- 21 (1) until the child becomes eighteen (18) years of age;
- 22 (2) until the child becomes twenty-three (23) years of age if the  
 23 child is enrolled in and regularly attending a secondary school or  
 24 is a full-time student at an accredited college or university; or
- 25 (3) during the entire period of the child's physical or mental  
 26 disability;

27 whichever period is longest. If health insurance coverage is offered by  
 28 the unit to active members, the health insurance provided to a surviving  
 29 spouse and child under this subsection must be equal in coverage to  
 30 that offered to active members. The offer to provide and pay for health  
 31 insurance coverage shall remain open for as long as there is a surviving  
 32 spouse or as long as a natural child, stepchild, or adopted child of the  
 33 member is eligible for coverage under subdivision (1), (2), or (3).

34 SECTION 3. IC 36-8-8-14.1, AS AMENDED BY P.L.1-2007,  
 35 SECTION 244, IS AMENDED TO READ AS FOLLOWS  
 36 [EFFECTIVE UPON PASSAGE]: Sec. 14.1. (a) Benefits paid under  
 37 this section are subject to section 2.5 of this chapter.

38 (b) This section applies to an active member who dies in the line of

1 duty after August 31, 1982.

2 (c) If a fund member dies in the line of duty after August 31, 1982,  
3 the member's surviving spouse is entitled to a monthly benefit during  
4 the spouse's lifetime, equal to the benefit to which the member would  
5 have been entitled on the date of the member's death, but not less than  
6 the benefit payable to a member with twenty (20) years service at  
7 fifty-two (52) years of age. If the spouse remarried before September  
8 1, 1983, and benefits ceased on the date of remarriage, the benefits for  
9 the surviving spouse shall be reinstated on July 1, 1997, and continue  
10 during the life of the surviving spouse.

11 (d) If a fund member dies in the line of duty, each of the member's  
12 surviving children is entitled to a monthly benefit equal to twenty  
13 percent (20%) of the fund member's monthly benefit:

- 14 (1) until the child reaches eighteen (18) years of age; or  
15 (2) until the child reaches twenty-three (23) years of age if the  
16 child is enrolled in and regularly attending a secondary school or  
17 is a full-time student at an accredited college or university;

18 whichever period is longer. However, if the board finds upon the  
19 submission of satisfactory proof that a child who is at least eighteen  
20 (18) years of age is mentally or physically incapacitated, is not a ward  
21 of the state, and is not receiving a benefit under subdivision (2), the  
22 child is entitled to receive an amount each month that is equal to the  
23 greater of thirty percent (30%) of the monthly pay of a first class  
24 patrolman or first class firefighter or fifty-five percent (55%) of the  
25 monthly benefit the deceased member was receiving or was entitled to  
26 receive on the date of the member's death as long as the mental or  
27 physical incapacity of the child continues. Benefits paid for a child  
28 shall be paid to the surviving parent as long as the child resides with  
29 and is supported by the surviving parent. If the surviving parent dies,  
30 the benefits shall be paid to the legal guardian of the child.

31 (e) If there is no surviving eligible child or spouse, and there is  
32 proof satisfactory to the local board, subject to review in the manner  
33 specified in section 13.1(c) of this chapter, that the parent was wholly  
34 dependent on the fund member, the member's surviving parent is  
35 entitled, or both surviving parents if qualified are entitled jointly, to  
36 receive fifty percent (50%) of the fund member's monthly benefit  
37 during the parent's or parents' lifetime. **As used in this subsection, a**  
38 **parent is wholly dependent on a fund member if the fund member**

1 **claimed the parent as a dependent on the federal income tax return**  
 2 **filed by the fund member in the year before the year in which the**  
 3 **fund member died.**

4 (f) If the fund member did not have at least twenty (20) years of  
 5 service or was not at least fifty-two (52) years old, the benefit is  
 6 computed as if the member:

- 7 (1) did have twenty (20) years of service; and
- 8 (2) was fifty-two (52) years of age.

9 (g) For purposes of this section, "dies in the line of duty" means  
 10 death that occurs as a direct result of personal injury or illness caused  
 11 by incident, accident, or violence that results from:

12 (1) any action that the member, in the member's capacity as a  
 13 police officer:

- 14 (A) is obligated or authorized by rule, regulation, condition of
- 15 employment or service, or law to perform; or
- 16 (B) performs in the course of controlling or reducing crime or
- 17 enforcing the criminal law; or

18 (2) any action that the member, in the member's capacity as a  
 19 firefighter:

- 20 (A) is obligated or authorized by rule, regulation, condition of
- 21 employment or service, or law to perform; or
- 22 (B) performs while on the scene of an emergency run
- 23 (including false alarms) or on the way to or from the scene.

24 The term includes a death presumed incurred in the line of duty under  
 25 IC 5-10-13.

26 (h) The unit of local government that employed the deceased  
 27 member shall after December 31, 2003, offer to provide and pay for  
 28 health insurance coverage for the member's surviving spouse and for  
 29 each natural child, stepchild, or adopted child of the member:

- 30 (1) until the child becomes eighteen (18) years of age;
- 31 (2) until the child becomes twenty-three (23) years of age if the
- 32 child is enrolled in and regularly attending a secondary school or
- 33 is a full-time student at an accredited college or university; or
- 34 (3) during the entire period of the child's physical or mental
- 35 disability;

36 whichever period is longest. If health insurance coverage is offered by  
 37 the unit to active members, the health insurance provided to a surviving  
 38 spouse and child under this subsection must be equal in coverage to

1 that offered to active members. The offer to provide and pay for health  
 2 insurance coverage shall remain open for as long as there is a surviving  
 3 spouse or as long as a natural child, stepchild, or adopted child of the  
 4 member is eligible for coverage under subdivision (1), (2), or (3)."

5 Page 2, between lines 4 and 5, begin a new paragraph and insert:

6 **"(d) Whenever a fund member does not designate a beneficiary**  
 7 **under this section and has no survivors entitled to receive a benefit**  
 8 **under section 13.8, 13.9, or 14.1 of this chapter, the PERF board**  
 9 **shall refund to the fund member's estate:**

10 **(1) the fund member's contributions; plus**

11 **(2) interest at a rate determined by the PERF board."**

12 Renumber all SECTIONS consecutively.

(Reference is to SB 172 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 7, Nays 0.

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**Boots**

**Chairperson**