



April 1, 2011

**ENGROSSED
HOUSE BILL No. 1048**

DIGEST OF HB 1048 (Updated March 30, 2011 12:27 pm - DI 102)

Citations Affected: IC 5-10; IC 5-10.2; IC 5-10.3; IC 33-38; IC 33-39; IC 36-8; noncode.

Synopsis: Public pension funds. Makes the following changes: (1) Establishes a defined contribution plan (plan) as an option for new state employees. A state employee who does not elect to become a member of the plan becomes a member of the public employees' retirement fund (PERF). Requires the PERF board of trustees (PERF board) to establish the same investment options for the plan that are available for the investment of a PERF member's annuity savings account. Provides that a member's contribution to the plan is 3% of the member's compensation and is paid by the state on behalf of the member. Provides that the state's employer contribution rate for the plan is equal to the state's employer contribution rate for PERF. Provides that the amount credited from the employer's contribution rate to the member's account shall not be greater than PERF's normal cost with any amount not credited to the member's account applied to PERF's unfunded accrued liability. Establishes a minimum state employer contribution of 3% of the members' compensation. Establishes a five year vesting
(Continued next page)

Effective: Upon passage; July 1, 2011.

**Niezgodski, Burton, Riecken,
Speedy**

(SENATE SPONSORS — YOUNG R MICHAEL, BREAUX)

January 5, 2011, read first time and referred to Committee on Veterans Affairs and Public Safety.

February 15, 2011, reported — Do Pass.

February 17, 2011, read second time, ordered engrossed. Engrossed.

February 21, 2011, read third time, passed. Yeas 100, nays 0.

SENATE ACTION

February 22, 2011, read first time and referred to Committee on Pensions and Labor.

March 31, 2011, amended, reported favorably — Do Pass.

EH 1048—LS 6125/DI 116+



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schedule for employer contributions, and requires a member who terminates state employment before the member is fully vested to forfeit amounts that are not vested. (2) Requires that the PERF board specify by rule the interest rate credited to a participant's contributions for: (A) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund (C & E fund); (B) the judges' retirement system; (C) the prosecuting attorneys retirement fund; and (D) the 1977 police officers' and firefighters' pension and disability fund (1977 fund). (3) Provides that a judge or a magistrate who is a participant in the judges' retirement system and who purchases prior PERF service credit waives credit for the PERF service only for the amount of PERF service purchased. (4) Allows a 1977 fund member (or survivor of a member) who applied for disability prior to 1990 and is receiving a disability benefit to apply to a local board for a recommendation as to whether the member's disability occurred in the line of duty. Provides that the local board shall make a recommendation of its findings to the 1977 fund advisory committee. Provides that the 1977 fund advisory committee shall make an initial determination of whether the member's disability occurred in the line of duty. Provides that if the 1977 fund advisory committee fails to timely provide an initial determination, the default determination will be made by the PERF medical authority. Provides that the PERF board makes a final determination of whether the member's disability occurred in the line of duty. Establishes procedures to appeal: (A) a recommendation by the local board; (B) an initial determination by the 1977 fund advisory committee; or (C) an initial default determination made by the PERF medical authority. Requires that a member or survivor apply to the local board within two years of the receipt of a PERF board's notice that the PERF board has received a favorable ruling from the Internal Revenue Service. (5) Provides that an active member of the 1977 fund who has entered the deferred retirement option plan (DROP) before July 1, 2011, may elect to exit the DROP and receive a partial lump sum distribution. Provides that a 1977 fund member who enters the DROP after June 30, 2011, may not elect to receive a partial lump sum distribution. (6) Provides a thirteenth check to C & E fund participants. (7) Urges the legislative council to assign to the pension management oversight commission the study of whether to create a defined contribution plan as an option for new employees of political subdivisions that participate in PERF and for new employees who are eligible to become members of the teachers' retirement fund. (8) Makes technical corrections. (The introduced version of this bill was prepared by the pension management oversight commission.)

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April 1, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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ENGROSSED HOUSE BILL No. 1048

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 5-10-5.5-1, AS AMENDED BY P.L.227-2007,
2 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 1. As used in this chapter and unless the context
4 clearly denotes otherwise:
5 (a) "Department" means the Indiana department of natural
6 resources.
7 (b) "Commission" means the alcohol and tobacco commission.
8 (c) "Officer" means any Indiana state excise police officer, any
9 Indiana state conservation enforcement officer, any gaming agent, or
10 any gaming control officer.
11 (d) "Participant" means any officer who has elected to participate in
12 the retirement plan created by this chapter.
13 (e) "Salary" means the total compensation, exclusive of expense
14 allowances, paid to any officer by the department or the commission,
15 determined without regard to any salary reduction agreement

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1 established under Section 125 of the Internal Revenue Code.

2 (f) "Average annual salary" means the average annual salary of an
3 officer during the five (5) years of highest annual salary in the ten (10)
4 years immediately preceding an officer's retirement date, determined
5 without regard to any salary reduction agreement established under
6 Section 125 of the Internal Revenue Code.

7 (g) "Public employees' retirement act" means IC 5-10.3.

8 (h) "Public employees' retirement fund" means the public
9 employees' retirement fund created by IC 5-10.3-2.

10 (i) "Interest" means the ~~same~~ rate of interest ~~as is specified under by~~
11 **rule by the board of trustees of the public employees' retirement law:**
12 **fund.**

13 (j) "Americans with Disabilities Act" refers to the Americans with
14 Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and
15 regulations related to the Act.

16 (k) Other words and phrases when used in this chapter shall, for the
17 purposes of this chapter, have the meanings respectively ascribed to
18 them as set forth in IC 5-10.3-1.

19 SECTION 2. IC 5-10.2-2-6 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The retirement
21 allowance account of the public employees' retirement fund consists of
22 the retirement fund, exclusive of the annuity savings account. **The**
23 **retirement allowance account also includes any amounts received**
24 **under IC 5-10.3-12-24(b).** For the public employees' retirement fund,
25 separate accounts within the retirement allowance account shall be
26 maintained for contributions made by the state and by each political
27 subdivision.

28 (b) The retirement allowance account of the pre-1996 account
29 consists of the pre-1996 account, exclusive of the annuity savings
30 account.

31 (c) The retirement allowance account of the 1996 account consists
32 of the 1996 account, exclusive of the annuity savings account. For the
33 1996 account, separate accounts within the retirement allowance
34 account shall be maintained for contributions made by the state, by
35 each school corporation, and by each institution.

36 SECTION 3. IC 5-10.3-12 IS ADDED TO THE INDIANA CODE
37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2011]:

39 **Chapter 12. Public Employees' Defined Contribution Plan**

40 **Sec. 1. (a) This chapter applies to an individual who, on or after**
41 **the effective date of the plan:**

42 **(1) becomes for the first time a full-time employee of the state**

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1 (as defined in IC 5-10.3-7-1(d)) in a position that would
 2 otherwise be eligible for membership in the fund under
 3 IC 5-10.3-7; and
 4 (2) makes the election described in section 20 of this chapter
 5 to become a member of the plan.
 6 (b) This chapter does not apply to an individual who:
 7 (1) before the effective date of the plan, is or was a member
 8 (as defined in IC 5-10.3-1-5) of the fund; or
 9 (2) on or after the effective date of the plan, does not elect to
 10 participate in the plan.
 11 Sec. 2. As used in this chapter, "account" means the plan
 12 account established for a member under section 21(b) of this
 13 chapter.
 14 Sec. 3. As used in this chapter, "annuity savings account" means
 15 the annuity savings account maintained under IC 5-10.2-2-2(a)(1).
 16 Sec. 4. As used in this chapter, "board" has the meaning set
 17 forth in IC 5-10.3-1-1.
 18 Sec. 5. As used in this chapter, "compensation" has the meaning
 19 set forth in IC 5-10.2-3-2(a).
 20 Sec. 6. As used in this chapter, "dies in the line of duty" has the
 21 meaning set forth in IC 5-10-11-2.
 22 Sec. 7. As used in this chapter, "effective date" means the first
 23 day of the month that is six (6) months after the month in which the
 24 Internal Revenue Service issues an approval of the plan.
 25 Sec. 8. As used in this chapter, "employer" means the state.
 26 Sec. 9. As used in this chapter, "employer contribution
 27 subaccount" means the subaccount in a member's plan account
 28 established under section 21(b)(2) of this chapter.
 29 Sec. 10. As used in this chapter, "fund" has the meaning set
 30 forth in IC 5-10.3-1-3.
 31 Sec. 11. As used in this chapter, "Internal Revenue Code" has
 32 the meaning set forth in IC 5-10.2-1-3.5.
 33 Sec. 12. As used in this chapter, "member" means an individual
 34 who has elected to participate in the plan.
 35 Sec. 13. As used in this chapter, "member contribution
 36 subaccount" means the subaccount in a member's plan account
 37 established under section 21(b)(1) of this chapter.
 38 Sec. 14. As used in this chapter, "normal retirement age" for a
 39 member means the member is at least sixty-two (62) years of age
 40 with at least ten (10) years of participation in the plan.
 41 Sec. 15. As used in this chapter, "plan" refers to the public
 42 employees' defined contribution plan established by section 18 of

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this chapter.

Sec. 16. As used in this chapter, "years of participation" means all periods of participation in the plan in a covered position, plus any additional service for which this chapter provides years of participation credit.

Sec. 17. Except as otherwise provided in this chapter or by federal law, and subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the provisions of this article that apply to the annuity savings account apply to an account established under this chapter.

Sec. 18. (a) The public employees' defined contribution plan is established for the purpose of providing amounts funded by an employer and a member for the use of the member or the member's beneficiaries or survivors after the member's retirement.

(b) The board shall adopt provisions to implement the plan established under subsection (a) as follows:

(1) The board shall initially offer the plan using the annuity savings account, subject to obtaining the approval of the Internal Revenue Service in a manner satisfactory to the board to preserve the qualified status of the plan and the fund. The plan as provided under this subdivision is a component within the fund.

(2) If the approval of the Internal Revenue Service to offer the plan using the annuity savings account cannot be obtained in a manner satisfactory to the board, the board shall offer the plan as a separate fund under Section 401(a) or another applicable section of the Internal Revenue Code.

(c) The board shall administer the plan.

(d) The board may adopt a plan document that it considers appropriate or necessary to administer the plan.

Sec. 19. The board may request from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate in order to implement or administer the plan.

Sec. 20. (a) An individual who, on or after the effective date of the plan, becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7 may elect to become a member of the plan. An election under this section:

- (1)** must be made in writing;
- (2)** must be filed with the board, on a form prescribed by the

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board; and
 (3) is irrevocable.
 (b) An individual who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund.

Sec. 21. (a) The plan consists of the following:

- (1) Each member's contributions to the plan under section 23 of this chapter.
- (2) Contributions made by an employer to the plan on behalf of each member under section 24 of this chapter.
- (3) Rollovers to the plan by a member under section 29 of this chapter.
- (4) All earnings on investments or deposits of the plan.
- (5) All contributions or payments to the plan made in the manner provided by the general assembly.

(b) The plan shall establish an account for each member. A member's account consists of two (2) subaccounts credited individually as follows:

- (1) The member contribution subaccount consists of:
 - (A) the member's contributions to the plan under section 23 of this chapter; and
 - (B) the net earnings on the contributions described in clause (A) as determined under section 22 of this chapter.
- (2) The employer contribution subaccount consists of:
 - (A) the employer's contributions made on behalf of the member to the plan under section 24 of this chapter; and
 - (B) the earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

The board may combine the two (2) subaccounts established under this subsection into a single account, if the board determines that a single account is administratively appropriate and permissible under applicable law.

(c) If a member makes rollover contributions under section 30 of this chapter, the plan shall establish a rollover account as a separate subaccount within the member's account.

Sec. 22. (a) Subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the board shall establish the alternative investment programs (as described by IC 5-10.2-2-3 and IC 5-10.2-2-4) within the annuity savings account as the initial alternative investment programs for the plan, except that the board shall maintain at least one (1) alternative investment program that is a stable value fund. If the board considers it necessary or appropriate, the board may

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1 establish different or additional alternative investment programs
2 for the plan. However, the guaranteed fund (as defined in
3 IC 5-10.2-2-3) shall not be offered as an investment option under
4 the plan.

5 (b) The requirements and rules that apply to the alternative
6 investment programs within the annuity savings account are the
7 initial requirements and rules that apply to the alternative
8 investment programs within the plan, including the following:

9 (1) The board's investment guidelines and limits for the
10 alternative investment programs.

11 (2) A member's selection of and changes to the member's
12 investment options.

13 (3) The valuation of a member's account.

14 (4) The allocation and payment of administrative expenses for
15 the alternative investment programs.

16 (c) If the board considers it necessary or appropriate, the board
17 may establish different or additional requirements and rules that
18 apply to the alternative investment programs within the plan.

19 (d) The board shall determine the appropriate administrative
20 fees to be charged to the member accounts.

21 Sec. 23. (a) Each member's contribution to the plan is equal to
22 three percent (3%) of the member's compensation. The state shall
23 pay the member's contribution on behalf of each member of the
24 plan each year.

25 (b) Member contributions shall be credited to the member's
26 account as specified in IC 5-10.2-3.

27 (c) Although designated as employee contributions, the
28 contributions made under subsection (a) are picked up and paid by
29 the state as the employer instead of the contributions being paid by
30 the employee in accordance with Section 414(h)(2) of the Internal
31 Revenue Code. A member may not receive any amounts paid by
32 the state under this section directly instead of having the amounts
33 paid to the plan.

34 Sec. 24. (a) The state shall make employer contributions to the
35 plan based on the rate determined under this section.

36 (b) The employer's contribution rate for the plan must be equal
37 to the employer's contribution rate for the fund as determined by
38 the board under IC 5-10.2-2-11(b). The amount credited from the
39 employer's contribution rate to the member's account may not be
40 greater than the normal cost of the fund. Any amount not credited
41 to the member's account shall be applied to the unfunded accrued
42 liability of the fund as determined under IC 5-10.2-2-11(a)(3) and

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1 **IC 5-10.2-2-11(a)(4).**

2 (c) The state's minimum contribution under this section is equal
3 to three percent (3%) of the compensation of all members of the
4 plan.

5 (d) The state shall submit the employer contributions
6 determined under this section as provided in IC 5-10.2-2-12.5.

7 **Sec. 25. (a) Member contributions and net earnings on the**
8 **member contributions in the member contribution subaccount**
9 **belong to the member at all times and do not belong to the state.**

10 (b) A member is vested in the employer contribution subaccount
11 in accordance with the following schedule:

12 Years of participation in the	Vested percentage of
13 plan	14 employer contributions
	15 and earnings
16 1	20%
17 2	40%
18 3	60%
19 4	80%
20 5	100%

21 For purposes of vesting in the employer contribution subaccount,
22 only a member's full years of participation in the plan may be
23 counted.

24 (c) The amount that a member may withdraw from the
25 member's account is limited to the vested portion of the account.

26 (d) A member who attains normal retirement age is fully vested
27 in all amounts in the member's account.

28 (e) If a member separates from service with the state before the
29 member is fully vested in the employer contribution subaccount,
30 the amount in the employer contribution subaccount that is not
31 vested is forfeited as of the date the member separates from
32 service.

33 (f) Amounts forfeited under subsection (e) must be used to
34 reduce the state's unfunded accrued liability of the fund as
35 determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

36 (g) A member may not earn creditable service (as defined in
37 IC 5-10.2-3-1(a)) under the plan.

38 **Sec. 26. (a) Subject to the provisions of the Internal Revenue**
39 **Code applicable to qualified plan distributions, a member who**
40 **terminates service in a covered position is entitled to withdraw**
41 **amounts in the member's account to the extent the member is**
42 **vested in the account. A member must make a required withdrawal**
from the member's account not later than the required beginning

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date under the Internal Revenue Code.

(b) A member may elect to have withdrawals paid as:

- (1) a lump sum;
- (2) a direct rollover to another eligible retirement plan; or
- (3) if the member has attained normal retirement age, a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. The board shall give members information about these forms of payment and any information required by federal law to accompany such distributions.

(d) Unless otherwise required by federal or state law, the requirements and rules that apply to the distribution of the annuity savings account apply to distributions from a member's account.

Sec. 27. (a) If a member dies:

- (1) while in service in a position covered by the plan but not in the line of duty; or
- (2) after terminating service in a position covered by the plan but before withdrawing the member's account;

to the extent that the member is vested, the member's account shall be paid to the beneficiary or beneficiaries designated by the member on a form prescribed by the board. The amount paid must be valued as provided in IC 5-10.2-2-3 and IC 5-10.2-2-4. The board shall invest the total amount in the member's account in the stable value fund not later than thirty (30) days after receiving notification of a member's death.

(b) If there is no properly designated beneficiary, or if no beneficiary survives the member, the member's account shall be paid to:

- (1) the surviving spouse of the member;
- (2) if there is not a surviving spouse, the surviving dependent or dependents of the member in equal shares; or
- (3) if there is not a surviving spouse or dependent, the member's estate.

(c) The beneficiary or beneficiaries designated under subsection (a) or a survivor determined under subsection (b) may elect to have the member's account paid as:

- (1) a lump sum;
- (2) a direct rollover to another eligible retirement plan; or
- (3) a monthly annuity in accordance with rules of the board.

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1 A monthly annuity is an option only on or after the beneficiary or
2 survivor attains sixty-two (62) years of age. The board shall
3 establish the forms of annuity by rule, in consultation with the
4 board's actuary. Further, the board may establish a minimum
5 account balance or a minimum monthly payment amount that is
6 required in order for a beneficiary or survivor to select the
7 monthly annuity option.

8 (d) If a member dies in the line of duty while in service in a
9 covered position, the designated beneficiary or beneficiaries or the
10 surviving spouse or dependents, as applicable, are entitled to
11 payment of the member's account as provided in this section. In
12 addition, if the member was not fully vested in the employer
13 contribution subaccount, the account is considered to be fully
14 vested for purposes of withdrawal under this section.

15 Sec. 28. (a) All assets in the plan are exempt from levy, sale,
16 garnishment, attachment, or other legal process.

17 (b) A member, beneficiary, or survivor may not assign any
18 payment under this chapter except for the following:

- 19 (1) Premiums on a life, hospitalization, surgical, or medical
- 20 group insurance plan maintained in part by a state agency.
- 21 (2) Dues to an association that proves to the board's
- 22 satisfaction that the association has as members at least
- 23 twenty percent (20%) of the retired members in the plan.

24 Sec. 29. (a) To the extent permitted by the Internal Revenue
25 Code and the applicable regulations and guidance, the plan may
26 accept, on behalf of any member who is employed in a covered
27 position, a rollover distribution from any of the following:

- 28 (1) A qualified plan described in Section 401(a) or Section
- 29 403(a) of the Internal Revenue Code.
- 30 (2) An annuity contract or account described in Section 403(b)
- 31 of the Internal Revenue Code.
- 32 (3) An eligible plan maintained by a state, a political
- 33 subdivision of a state, or an agency or instrumentality of a
- 34 state or political subdivision of a state under Section 457(b) of
- 35 the Internal Revenue Code.
- 36 (4) An individual retirement account or annuity described in
- 37 Section 408(a) or Section 408(b) of the Internal Revenue
- 38 Code.

39 (b) Any amounts rolled over under subsection (a) must be
40 accounted for in a "rollover account" that is separate from the
41 member's account in the plan. The member shall be fully vested in
42 the member's rollover account.

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1 (c) A member may direct the investment of the member's
2 rollover account into any alternative investment option that the
3 board may make available to the member's rollover account under
4 section 22 of this chapter.

5 (d) A member may withdraw the member's rollover account
6 from the plan in a lump sum or direct a rollover to an eligible
7 retirement plan at any time. Upon attainment of normal retirement
8 age, in addition to these payment options, the member may
9 withdraw the member's rollover account as a monthly annuity as
10 established by the board in accordance with the annuity options
11 that are available for the member's account in the plan. A member
12 must make a required withdrawal from the member's account in
13 the plan not later than the required beginning date under the
14 Internal Revenue Code.

15 Sec. 30. (a) If a member becomes disabled while in a covered
16 position, subject to any federal law limitations concerning qualified
17 plan distributions and the member's furnishing proof of the
18 member's qualification for Social Security disability benefits to the
19 board, to the extent that the member is vested, the member may
20 make a withdrawal from the member's account.

- 21 (b) The member may elect to have the withdrawal paid as:
22 (1) a lump sum;
23 (2) a direct rollover to another eligible retirement plan; or
24 (3) a monthly annuity in accordance with the rules of the
25 board.

26 (c) The board may establish a minimum account balance or a
27 minimum monthly payment amount in order for a member to
28 select the monthly annuity option.

29 Sec. 31. (a) If a member of the plan separates from employment
30 with the state and later returns to state employment in a position
31 covered by the plan, the member is entitled to receive credit for the
32 member's years of participation in the plan before the member's
33 separation. However, any amounts forfeited by the member under
34 section 25(e) of this chapter may not be restored to the member's
35 account.

36 (b) An individual who elected under section 20 of this chapter to
37 become a member of the plan resumes membership in the plan
38 upon the individual's return to state employment.

39 (c) An individual who did not elect to become a member of the
40 plan resumes membership in the fund.

41 (d) An individual who returns to state employment having had
42 an opportunity to make an election under section 20 of this chapter

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1 **during an earlier period of state employment is not entitled to a**
2 **second opportunity to make an election under section 20 of this**
3 **chapter.**

4 SECTION 4. IC 33-38-7-13 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Except as
6 otherwise provided in this chapter, a participant:

7 (1) whose employment as a judge is terminated regardless of
8 cause; and

9 (2) who has less than twelve (12) years service;
10 is entitled to withdraw from the fund, beginning on the date specified
11 by the participant in a written application. However, the date on which
12 the withdrawal begins may not be before the date of final termination
13 of employment of the participant, or the date thirty (30) days before the
14 receipt of the application by the board.

15 (b) Upon the withdrawal, a participant is entitled to receive out of
16 the fund an amount equal to the total sum contributed to the fund on
17 behalf of the participant **plus interest at a rate specified by rule by**
18 **the board**, payable within sixty (60) days after date of the withdrawal
19 application or in monthly installments as the participant may elect.

20 SECTION 5. IC 33-38-7-14 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Benefits
22 provided under this section are subject to IC 33-38-6-13 and section 16
23 of this chapter.

24 (b) If annuities are not payable to the survivors of a participant who
25 dies after July 1, 1983, the surviving spouse or child or children of the
26 participant, if any, as determined by the participant, and if none
27 survive, then any dependent or dependents surviving shall draw from
28 the fund the amount that the participant paid into the fund plus interest
29 **as determined at a rate specified by rule** by the board. If no spouse,
30 child or children, or other dependents survive, then the amount, plus
31 interest **at a rate specified by rule by the board and** minus any
32 payments made to the participant, shall be paid to the executor or
33 administrator of the participant's estate.

34 (c) The amount owed a spouse, child or children, or other
35 dependent, or estate under this section is payable within sixty (60) days
36 after date of the withdrawal application or in the monthly installments
37 as the recipient may elect.

38 SECTION 6. IC 33-38-7-19, AS AMENDED BY P.L.122-2008,
39 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2011]: Sec. 19. (a) This section applies only to a person who:

41 (1) is a judge participating under this chapter;

42 (2) before becoming a judge was a member of an Indiana public

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- 1 employees' retirement fund;
 2 (3) received credited service under an Indiana public employees'
 3 retirement fund for the employment described in subdivision (2),
 4 and the credited service is not eligible for service credit under
 5 section 18 of this chapter;
 6 (4) has not attained vested status under a public employees'
 7 retirement fund for the employment described in subdivision (2);
 8 and
 9 (5) has at least eight (8) years of service credit in the judges'
 10 retirement system.
- 11 (b) If a person becomes a participant in the judges' 1977 benefit
 12 system under this chapter, credit for service described in subsection (a)
 13 shall be granted under this chapter by the board if:
- 14 (1) the prior service was credited under an Indiana public
 15 employees' retirement fund; and
 16 (2) the judge pays in a lump sum or in a series of payments
 17 determined by the board, not exceeding five (5) annual payments,
 18 the amount determined by the actuary for the 1977 benefit system
 19 as the total actual cost of the service.
- 20 (c) If the requirements of subsection (b) are not satisfied, a
 21 participant is entitled to credit only for years of service after the date of
 22 participation in the 1977 benefit system.
- 23 (d) An amortization schedule for contributions paid under this
 24 section must include interest at a rate determined by the board.
- 25 (e) If the requirements of subsection (b) are satisfied, the
 26 appropriate board shall transfer from the retirement fund described in
 27 subsection (a)(2) to the judges' 1977 benefit system the amount
 28 credited to the judge's annuity savings account and the present value of
 29 the retirement benefit payable at sixty-five (65) years of age that is
 30 attributable to the transferring participant.
- 31 (f) The amount a participant must contribute to the judges' 1977
 32 benefit system under subsection (b) shall be reduced by the amount
 33 transferred to the judges' 1977 benefit system by the appropriate board
 34 under subsection (e).
- 35 (g) If the requirements of subsection (b) are satisfied, credit for prior
 36 service in a public employees' retirement fund **that is purchased**
 37 **under this section** is waived.
- 38 (h) To the extent permitted by the Internal Revenue Code and the
 39 applicable regulations, the judges' 1977 benefit system may accept, on
 40 behalf of a participant who is purchasing permissive service credit
 41 under subsection (b), a rollover of a distribution from any of the
 42 following:

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- 1 (1) A qualified plan described in Section 401(a) or Section 403(a)
- 2 of the Internal Revenue Code.
- 3 (2) An annuity contract or account described in Section 403(b) of
- 4 the Internal Revenue Code.
- 5 (3) An eligible plan that is maintained by a state, a political
- 6 subdivision of a state, or an agency or instrumentality of a state or
- 7 political subdivision of a state under Section 457(b) of the
- 8 Internal Revenue Code.
- 9 (4) An individual retirement account or annuity described in
- 10 Section 408(a) or Section 408(b) of the Internal Revenue Code.

11 (i) To the extent permitted by the Internal Revenue Code and the
 12 applicable regulations, the judges' 1977 benefit system may accept, on
 13 behalf of a participant who is purchasing permissive service credit
 14 under subsection (b), a trustee to trustee transfer from any of the
 15 following:

- 16 (1) An annuity contract or account described in Section 403(b) of
- 17 the Internal Revenue Code.
- 18 (2) An eligible deferred compensation plan under Section 457(b)
- 19 of the Internal Revenue Code.

20 SECTION 7. IC 33-38-8-12, AS AMENDED BY P.L.122-2008,
 21 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2011]: Sec. 12. (a) A participant who:

- 23 (1) ceases service:
- 24 (A) as a judge; or
- 25 (B) after December 31, 2010, as a judge or full-time
- 26 magistrate;
- 27 other than by death or disability; and
- 28 (2) is not eligible for a retirement benefit under this chapter;
- 29 is entitled to withdraw from the fund, beginning on the date specified
- 30 by the participant in a written application. The date on which the
- 31 withdrawal begins may not be before the date of final termination of
- 32 employment or the date thirty (30) days before the receipt of the
- 33 application by the board.

34 (b) Upon the withdrawal, the participant is entitled to receive the
 35 total sum contributed **plus interest at a rate specified by rule by the**
 36 **board**, payable within sixty (60) days from the date of the withdrawal
 37 application or in monthly installments as the participant may elect.

38 SECTION 8. IC 33-38-8-19 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. (a) Benefits
 40 provided under this section are subject to IC 33-38-6-13.

41 (b) If benefits are not payable to the survivors of a participant who
 42 dies, and if a withdrawal application is filed with the board, the total of

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1 the participant's contributions, plus interest ~~as determined at a rate~~
2 **specified by rule** by the board **and** minus any payments made to the
3 participant, shall be paid to:

- 4 (1) the surviving spouse of the participant or a child or children
- 5 of the participant, as designated by the participant;
- 6 (2) any other dependent or dependents of the participant, if a
- 7 spouse or designated child or children does or do not survive; or
- 8 (3) the participant's estate, if a spouse, designated child or
- 9 children, or other dependent does or do not survive.

10 (c) The amount owed a spouse, designated child or children, or
11 other dependent or dependents, or estate under subsection (b) is
12 payable within sixty (60) days from the date of receipt of the
13 withdrawal application or in the monthly installments as the recipient
14 elects.

15 SECTION 9. IC 33-38-8-22.5, AS ADDED BY P.L.122-2008,
16 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2011]: Sec. 22.5. (a) This section applies after December 31,
18 2010, only to a person who:

- 19 (1) is a full-time magistrate participating under this chapter;
- 20 (2) was appointed by a court to serve as:
 - 21 (A) a full-time referee or full-time commissioner; or
 - 22 (B) before January 1, 2011, a full-time magistrate;
- 23 (3) was a member of the public employees' retirement fund during
- 24 the employment described in subdivision (2); and
- 25 (4) received credited service under the public employees'
- 26 retirement fund for the employment described in subdivision (2).

27 (b) If a person becomes a participant as a full-time magistrate in the
28 judges' 1985 benefit system under section 1 of this chapter, credit for
29 service by the magistrate as a full-time referee, full-time commissioner,
30 or, before January 1, 2011, full-time magistrate shall be granted under
31 this chapter by the board if:

- 32 (1) the service was credited under the public employees'
- 33 retirement fund; and
- 34 (2) the magistrate pays in a lump sum or in a series of payments
- 35 determined by the board, not exceeding five (5) annual payments,
- 36 the amount determined by the actuary for the judges' 1985 benefit
- 37 system as the total cost of the service.

38 (c) If the requirements of subsection (b) are not satisfied, a
39 participant is entitled to credit only for years of service earned as a
40 participant in the judges' 1985 benefit system.

41 (d) An amortization schedule for contributions paid under this
42 section must include interest at a rate determined by the board.

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1 (e) The following provisions apply to a person described in
2 subsection (a):

3 (1) A minimum benefit applies to participants receiving credit in
4 the judges' 1985 benefit system from service covered by the
5 public employees' retirement fund. The minimum benefit is
6 payable at sixty-five (65) years of age or when the participant is
7 at least fifty-five (55) years of age and meets the requirements
8 under section 13(2)(B) of this chapter and equals the actuarial
9 equivalent of the vested retirement benefit that is:

10 (A) payable to the member at normal retirement under
11 IC 5-10.2-4-1 as of the day before the transfer; and

12 (B) based solely on:

13 (i) creditable service;

14 (ii) the average of the annual compensation; and

15 (iii) the amount credited under IC 5-10.2 and IC 5-10.3
16 the annuity savings account of the transferring member as of
17 the day before the transfer.

18 (2) If the requirements of subsection (b) are satisfied, the board
19 shall transfer from the public employees' retirement fund to the
20 judges' 1985 benefit system the amount credited to the annuity
21 savings account and the present value of the retirement benefit
22 payable at sixty-five (65) years of age or at least fifty-five (55)
23 years of age under section 13(2)(B) of this chapter that is
24 attributable to the transferring participant.

25 (3) The amount the participant must contribute to the judges' 1985
26 benefit system under subsection (b) shall be reduced by the
27 amount transferred to the judges' 1985 benefit system by the
28 board under subdivision (2).

29 (4) If the requirements of subsection (b) are satisfied, credit for
30 service in the public employees' retirement fund as a full-time
31 referee, full-time commissioner, or before July 1, 2010, full-time
32 magistrate **that is purchased under this section** is waived. Any
33 credit for the service under the judges' 1985 benefit system may
34 be granted only under subsection (b).

35 (f) To the extent permitted by the Internal Revenue Code and the
36 applicable regulations, the judges' 1985 benefit system may accept, on
37 behalf of a participant who is purchasing permissive service credit
38 under subsection (b), a rollover of a distribution from any of the
39 following:

40 (1) A qualified plan described in Section 401(a) or Section 403(a)
41 of the Internal Revenue Code.

42 (2) An annuity contract or account described in Section 403(b) of

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1 the Internal Revenue Code.

2 (3) An eligible plan that is maintained by a state, a political

3 subdivision of a state, or an agency or instrumentality of a state or

4 political subdivision of a state under Section 457(b) of the

5 Internal Revenue Code.

6 (4) An individual retirement account or annuity described in

7 Section 408(a) or Section 408(b) of the Internal Revenue Code.

8 (g) To the extent permitted by the Internal Revenue Code and the

9 applicable regulations, the judges' 1985 benefit system may accept, on

10 behalf of a participant who is purchasing permissive service credit

11 under subsection (b), a trustee to trustee transfer from any of the

12 following:

13 (1) An annuity contract or account described in Section 403(b) of

14 the Internal Revenue Code.

15 (2) An eligible deferred compensation plan under Section 457(b)

16 of the Internal Revenue Code.

17 SECTION 10. IC 33-38-8-23, AS AMENDED BY P.L.122-2008,

18 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

19 JULY 1, 2011]: Sec. 23. (a) This section applies only to a person who:

20 (1) is:

21 (A) a judge; or

22 (B) after December 31, 2010, a judge or full-time magistrate;

23 participating under this chapter;

24 (2) before becoming:

25 (A) a judge; or

26 (B) after December 31, 2010, a judge or full-time magistrate;

27 was a member of a public employees' retirement fund;

28 (3) received credited service under a public employees' retirement

29 fund for the employment described in subdivision (2), and the

30 credited service is not eligible for service credit under section 22

31 or 22.5 of this chapter;

32 (4) has not attained vested status under a public employees'

33 retirement fund for the employment described in subdivision (2);

34 and

35 (5) has at least eight (8) years of service credit in the judges'

36 retirement system.

37 (b) If a person becomes a participant in the judges' 1985 benefit

38 system under this chapter, credit for service described in subsection (a)

39 shall be granted under this chapter by the board if:

40 (1) the prior service was credited under a public employees'

41 retirement fund; and

42 (2) the judge or full-time magistrate pays in a lump sum or in a

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1 series of payments determined by the board, not exceeding five
 2 (5) annual payments, the amount determined by the actuary for
 3 the judges' 1985 benefit system as the total cost of the service.
 4 (c) If the requirements of subsection (b) are not satisfied, a
 5 participant is entitled to credit only for years of service after the date of
 6 participation in the judges' 1985 benefit system.
 7 (d) An amortization schedule for contributions paid under this
 8 section must include interest at a rate determined by the board.
 9 (e) If the requirements of subsection (b) are satisfied, the
 10 appropriate board shall transfer from the retirement fund described in
 11 subsection (a)(2) to the judges' 1985 benefit system the amount
 12 credited to the judge's or full-time magistrate's annuity savings account
 13 and the present value of the retirement benefit payable at sixty-five (65)
 14 years of age that is attributable to the transferring participant.
 15 (f) The amount a participant must contribute to the judges' 1985
 16 benefit system under subsection (b) shall be reduced by the amount
 17 transferred to the judges' 1985 benefit system by the appropriate board
 18 under subsection (e).
 19 (g) If the requirements of subsection (b) are satisfied, credit for prior
 20 service in a public employees' retirement fund **that is purchased**
 21 **under this section** is waived.
 22 (h) To the extent permitted by the Internal Revenue Code and the
 23 applicable regulations, the judges' 1985 benefit system may accept, on
 24 behalf of a participant who is purchasing permissive service credit
 25 under subsection (b), a rollover of a distribution from any of the
 26 following:
 27 (1) A qualified plan described in Section 401(a) or Section 403(a)
 28 of the Internal Revenue Code.
 29 (2) An annuity contract or account described in Section 403(b) of
 30 the Internal Revenue Code.
 31 (3) An eligible plan that is maintained by a state, a political
 32 subdivision of a state, or an agency or instrumentality of a state or
 33 political subdivision of a state under Section 457(b) of the
 34 Internal Revenue Code.
 35 (4) An individual retirement account or annuity described in
 36 Section 408(a) or Section 408(b) of the Internal Revenue Code.
 37 (i) To the extent permitted by the Internal Revenue Code and the
 38 applicable regulations, the judges' 1985 benefit system may accept, on
 39 behalf of a participant who is purchasing permissive service credit
 40 under subsection (b), a trustee to trustee transfer from any of the
 41 following:
 42 (1) An annuity contract or account described in Section 403(b) of

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1 the Internal Revenue Code.
 2 (2) An eligible deferred compensation plan under Section 457(b)
 3 of the Internal Revenue Code.
 4 SECTION 11. IC 33-39-7-13 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) A participant
 6 who:
 7 (1) ceases service in a position described in section 8 of this
 8 chapter, other than by death or disability; and
 9 (2) is not eligible for a retirement benefit under this chapter;
 10 is entitled to withdraw from the fund, beginning on the date specified
 11 by the participant in a written application. The date upon which the
 12 withdrawal begins may not be before the date of final termination of
 13 employment or the date thirty (30) days before the receipt of the
 14 application by the board. Upon withdrawal the participant is entitled to
 15 receive the total sum contributed plus interest at ~~the a rate of five and~~
 16 ~~one-half percent (5.5%) compounded annually~~ **specified by rule by**
 17 **the board**, payable not later than sixty (60) days from the date of the
 18 withdrawal application.
 19 (b) Notwithstanding section 8 of this chapter, a participant who
 20 withdraws from the fund under subsection (a) and becomes a
 21 participant again at a later date is not entitled to service credit for years
 22 of service before the withdrawal.
 23 SECTION 12. IC 33-39-7-14 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Interest shall be
 25 credited annually on June 30 at ~~the a rate of five and one-half percent~~
 26 ~~(5.5%)~~ **specified by rule by the board** on all amounts credited to the
 27 member as of June 30 of the preceding year.
 28 (b) Contributions begin to accumulate interest at the beginning of
 29 the fiscal year after the year in which the contributions are due.
 30 (c) When a member retires or withdraws, a proportional interest
 31 credit determined under this chapter shall be paid for the period
 32 elapsed since the last date on which interest was credited.
 33 SECTION 13. IC 33-39-7-16, AS AMENDED BY P.L.33-2006,
 34 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 16. (a) This section does not apply to a participant
 36 who meets the requirements for disability benefits under section 17 of
 37 this chapter.
 38 (b) Except as provided in subsections (c) and (d), the amount of the
 39 annual retirement benefit to which a participant who applies for a
 40 retirement benefit and who is at least sixty-five (65) years of age is
 41 entitled equals the product of:
 42 (1) the highest annual salary that was paid to the participant

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before separation from service; multiplied by
(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

(c) If a participant who applies for a retirement benefit is not at least sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

(d) Benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

(e) If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at ~~the a rate of five and one-half percent (5.5%) compounded annually.~~ **specified by rule by the board.**

SECTION 14. IC 33-39-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 21. (a) If benefits are

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1 not payable to the survivors of a participant who dies, and if a
 2 withdrawal application is filed with the board by the survivors or the
 3 participant's estate, the total of the participant's contributions, plus
 4 interest at ~~the a rate of five and one-half percent (5.5%) compounded~~
 5 ~~annually~~, **specified by rule by the board and** minus any payments
 6 made to the participant, shall be paid to:

- 7 (1) the surviving spouse of the participant;
 8 (2) any dependent or dependents of the participant, if a spouse
 9 does not survive; or
 10 (3) the participant's estate, if a spouse or dependent does not
 11 survive.

12 (b) The amount owed a spouse, dependent or dependents, or estate
 13 under subsection (a) is payable not later than sixty (60) days after the
 14 date of receipt of the withdrawal application.

15 SECTION 15. IC 36-8-8-8, AS AMENDED BY P.L.180-2007,
 16 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2011]: Sec. 8. (a) Each fund member shall contribute during
 18 the period of the fund member's employment or for thirty-two (32)
 19 years, whichever is shorter, an amount equal to six percent (6%) of the
 20 salary of a first class patrolman or firefighter. However, the employer
 21 may pay all or a part of the contribution for the member. The amount
 22 of the contribution, other than contributions paid on behalf of a
 23 member, shall be deducted each pay period from each fund member's
 24 salary by the disbursing officer of the employer. The employer shall
 25 send to the PERF board each year on March 31, June 30, September
 26 30, and December 31, for the calendar quarters ending on those dates,
 27 a certified list of fund members and a warrant issued by the employer
 28 for the total amount deducted for fund members' contributions.

29 (b) Except as provided in section 7.2 of this chapter, if a fund
 30 member ends the fund member's employment other than by death or
 31 disability before the fund member completes twenty (20) years of
 32 active service, the PERF board shall return to the fund member in a
 33 lump sum the fund member's contributions plus interest ~~as determined~~
 34 **at a rate specified by rule** by the PERF board. If the fund member
 35 returns to service, the fund member is entitled to credit for the years of
 36 service for which the fund member's contributions were refunded if the
 37 fund member repays the amount refunded to the fund member in either
 38 a lump sum or a series of payments determined by the PERF board.

39 SECTION 16. IC 36-8-8-13.4 IS ADDED TO THE INDIANA
 40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2011]: **Sec. 13.4. (a) This section applies only**
 42 **to a fund member or survivor of a fund member who is receiving**

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1 a disability benefit under section 13.3(b) of this chapter.

2 (b) A fund member or survivor of a fund member described in
3 subsection (a) may file an application, in accordance with this
4 section, requesting a determination that:

5 (1) the member's covered impairment, as determined under
6 section 13.3(b) of this chapter, was:

7 (A) the direct result of:

8 (i) a personal injury that occurred while the fund
9 member was on duty;

10 (ii) a personal injury that occurred while the fund
11 member was off duty and was responding to an offense
12 or a reported offense, in the case of a police officer, or an
13 emergency or reported emergency for which the fund
14 member was trained, in the case of a firefighter; or

15 (iii) an occupational disease (as defined in IC 22-3-7-10),
16 including a duty related disease that is also included
17 within clause (B);

18 (B) a duty related disease, which for purposes of this
19 section, means a disease arising out of the fund member's
20 employment. A disease is considered to arise out of the
21 fund member's employment if it is apparent to the rational
22 mind, upon consideration of all of the circumstances, that:

23 (i) there is a connection between the conditions under
24 which the fund member's duties are performed and the
25 disease;

26 (ii) the disease can be seen to have followed as a natural
27 incident of the fund member's duties as a result of the
28 exposure occasioned by the nature of the fund member's
29 duties; and

30 (iii) the disease can be traced to the fund member's
31 employment as the proximate cause; or

32 (C) a disability presumed incurred in the line of duty under
33 IC 5-10-13 or IC 5-10-15; or

34 (2) the member's covered impairment, as determined under
35 section 13.3(b) of this chapter, was not a covered impairment
36 described in subsection (b)(1).

37 The application must be filed with the local board that made the
38 determination of a covered impairment resulting in a disability
39 benefit under section 13.3(b) of this chapter. The application form
40 shall be prepared by the PERF board or its designee and be made
41 available to a fund member or survivor of a fund member
42 described in subsection (a) upon request.

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1 (c) A fund member or survivor of a fund member who files an
 2 application under this section has the burden of presenting
 3 sufficient evidence to support a finding that the member's covered
 4 impairment, as determined under section 13.3(b) of this chapter,
 5 satisfies the standard provided in subsection (b)(1). Such evidence
 6 may include any documents, materials, or other evidence provided
 7 in connection with the original hearing and determination of a
 8 covered impairment as determined under section 13.3(b) of this
 9 chapter, including any transcript from that proceeding. A fund
 10 member or a survivor of a fund member may include with an
 11 application any additional probative evidence that is relevant to
 12 the determination under subsection (b)(1). The local board may
 13 establish reasonable procedures with respect to the application
 14 process and may engage a medical authority to provide opinions
 15 relevant to making its determination. The local board may hold a
 16 hearing with respect to an application filed under this section if the
 17 fund member or survivor of a fund member shows good cause that
 18 documents or other probative evidence sufficient to make the
 19 showing required under this subsection is not reasonably
 20 obtainable and that holding a hearing would be reasonably likely
 21 to provide such probative evidence. If the local board conducts a
 22 hearing, it shall be subject to the provisions of section 12.7 of this
 23 chapter relating to the conduct of hearings on the determinations
 24 of covered impairments under this chapter.

25 (d) The local board shall make its recommendation, including
 26 findings of fact, in writing and shall provide copies of its
 27 recommendation to the fund member or survivor of the fund
 28 member, the 1977 fund advisory committee, and the PERF board
 29 no later than thirty (30) days after the:

- 30 (1) filing of the application, if no hearing is held; or
- 31 (2) hearing, if held.

32 (e) If the local board does not issue its recommendation within
 33 the time required under subsection (d), the member's covered
 34 impairment shall be considered to be a covered impairment
 35 described under subsection (b)(1) for purposes of the local board's
 36 recommendation.

37 (f) The 1977 fund advisory committee shall review the local
 38 board's recommendation, or the considered recommendation
 39 under subsection (e), not later than forty-five (45) days after
 40 receiving the recommendation and shall then issue an initial
 41 determination of whether the covered impairment is one described
 42 under subsection (b)(1). The 1977 fund advisory committee shall

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1 **notify the PERF board, the local board, and the fund member or**
 2 **survivor of the fund member of its initial determination, and the**
 3 **PERF board or its designee will issue a final determination to the**
 4 **local board and the fund member or survivor of the fund member.**
 5 **If no objection is made to the initial determination under**
 6 **subsection (g) or (h), the PERF board must issue a final**
 7 **determination not later than thirty (30) days after receiving an**
 8 **initial determination.**

9 **(g) The fund member or survivor of the fund member or the**
 10 **local board may object in writing to the 1977 fund advisory**
 11 **committee's initial determination under subsection (f) not later**
 12 **than fifteen (15) days after the initial determination is issued by**
 13 **filing an objection with the PERF board. If a written objection is**
 14 **not filed, the 1977 advisory committee's initial determination**
 15 **becomes final. If a timely written objection is filed, the PERF**
 16 **board shall issue a final determination after a hearing. Unless an**
 17 **administrative law judge orders a waiver or an extension of the**
 18 **period for cause shown, the final determination must be issued not**
 19 **later than one hundred eighty (180) days after the date of receipt**
 20 **of the local board's recommendation.**

21 **(h) If the 1977 fund advisory committee fails to issue an initial**
 22 **determination within forty-five (45) days after receiving the local**
 23 **board's recommendation, the default determination on whether the**
 24 **covered impairment is one described under subsection (b)(1) will**
 25 **be the determination made by PERF's medical authority. An**
 26 **objection to this determination may be filed in accordance with the**
 27 **provisions of subsection (g).**

28 **(i) A determination that a member's covered impairment is one**
 29 **described under subsection (b)(1) will apply only on a prospective**
 30 **basis beginning on January 1 of the calendar year in which the**
 31 **determination is made. The amount of the benefit will not be**
 32 **changed as a result of this determination.**

33 **(j) A fund member or survivor of a fund member described in**
 34 **subsection (a) must file an application under this section no later**
 35 **than two (2) years after the date the PERF board notifies the fund**
 36 **members and survivors described in subsection (a) that the board**
 37 **has received a favorable ruling from the Internal Revenue Service.**
 38 **The PERF board will provide notice of receipt of a favorable ruling**
 39 **within thirty (30) days of its receipt.**

40 **(k) This section expires July 1, 2021.**

41 SECTION 17. IC 36-8-8-24.8, AS ADDED BY P.L.99-2010,
 42 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 UPON PASSAGE]: Sec. 24.8. (a) This section does not apply to a fund
2 member who elects to enter the DROP (as defined in IC 36-8-8.5-4)
3 under IC 36-8-8.5 **after June 30, 2011.**

4 **(b) This subsection applies to a fund member who enters the**
5 **DROP (as defined in IC 36-8-8.5-4) before July 1, 2011, and:**

6 **(1) does not, before July 1, 2011, exit the DROP as provided**
7 **in IC 36-8-8.5-14; or**

8 **(2) before July 1, 2011, exits the DROP without retiring.**

9 **A fund member to whom this subsection applies may elect to**
10 **receive a partial lump sum distribution under this section. If a fund**
11 **member makes an election under this subsection and has not exited**
12 **the DROP, the fund member shall exit the DROP on the date the**
13 **fund member's election under this subsection is effective. The**
14 **retirement benefits of a fund member who makes an election under**
15 **this subsection are calculated as if the fund member had never**
16 **entered the DROP.**

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

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

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

24 (1) The fund member is in active service.

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

27 ~~(e)~~ **(f)** A fund member's election under subsection ~~(d)~~: **(e)**:

28 (1) must be in writing;

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

31 (3) is irrevocable.

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

35 STEP ONE: Determine the lesser of the following:

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

38 (B) Thirty-two (32).

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

42 ~~(g)~~ **(h)** The monthly benefit of a fund member who receives a partial

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1 lump sum distribution under this section is actuarially reduced by
2 subtracting an amount determined by dividing the partial lump sum
3 distribution amount determined in subsection ~~(f)~~ (g) by a rate,
4 determined by the actuary for the fund, that is:

5 (1) based on the age of the fund member and, if applicable, the
6 age of the fund member's spouse at the time the fund member
7 elects to take the partial lump sum distribution; and

8 (2) computed to result in a monthly benefit amount that has an
9 actuarial present value that approximates the partial lump sum
10 distribution amount.

11 ~~(f)~~ (i) A fund member who makes an election described in
12 subsection ~~(d)~~ (e) must elect to receive the partial lump sum
13 distribution determined in subsection ~~(f)~~ (g) as:

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

16 (2) three (3) equal annual payments commencing not later than
17 thirty (30) days after the fund member's retirement date and
18 thereafter paid on the anniversary of the fund member's retirement
19 date.

20 ~~(f)~~ (j) This section expires July 1, 2012.

21 SECTION 18. IC 36-8-8.5-14, AS AMENDED BY P.L.148-2007,
22 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 UPON PASSAGE]: Sec. 14. (a) Subject to subsection (b), a member
24 who enters the DROP established by this chapter shall exit the DROP
25 at the earliest of:

26 (1) the member's DROP retirement date;

27 (2) thirty-six (36) months after the member's DROP entry date;

28 (3) the mandatory retirement age applicable to the member, if
29 any; or

30 (4) the date the member retires because of a disability as provided
31 under section 16.5(d) of this chapter; or

32 **(5) the date determined under IC 36-8-8-24.8.**

33 (b) A member of the 1925 fund, the 1937 fund, or the 1953 fund
34 who enters the DROP established by this chapter must exit the DROP
35 on the date the authority of the board of trustees of the public
36 employees' retirement fund to distribute from the pension relief fund
37 established under IC 5-10.3-11-1 to units of local government
38 (described in IC 5-10.3-11-3) amounts determined under
39 IC 5-10.3-11-4.7 expires.

40 SECTION 19. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
41 **SECTION, "participant" has the meaning set forth in**
42 **IC 5-10-5.5-1.**

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1 (b) As used in this SECTION, "plan" refers to the state excise
2 police, gaming agent, gaming control officer, and conservation
3 enforcement officers' retirement plan established by IC 5-10-5.5-2.

4 (c) Not later than July 1, 2011, the board of trustees of the
5 public employees' retirement fund shall pay the amount
6 determined under subsection (d) to a plan participant (or to a
7 survivor or beneficiary of a plan participant) who retired or was
8 disabled on or before December 1, 2009, and who was entitled to
9 receive a monthly benefit on July 1, 2010. The amount is not an
10 increase in the annual retirement allowance.

11 (d) The amount paid under this SECTION to a plan participant
12 (or to a survivor or beneficiary of a plan participant) who meets
13 the requirements of subsection (c) is determined as follows:

14 If a Plan Participant's Creditable 15 Service Is:	The Amount Is
16 Less than ten (10) years 17 (only in the case of a plan participant 18 receiving disability retirement benefits)	\$125
19 At least ten (10) years, 20 but less than twenty (20) years	\$235
21 At least twenty (20) years, 22 but less than thirty (30) years	\$325
23 At least thirty (30) years	\$400

24 (e) The creditable service used to determine the amount paid to
25 a plan participant (or a survivor or beneficiary of a plan
26 participant) under this SECTION is the creditable service that was
27 used to compute the plan participant's retirement allowance under
28 IC 5-10-5.5-10 and IC 5-10-5.5-12 except that partial years of
29 creditable service may not be used to determine the amount paid
30 under this SECTION.

31 (f) This SECTION expires January 1, 2012.

32 SECTION 20. [EFFECTIVE JULY 1, 2011] (a) As used in this
33 SECTION, "commission" refers to the pension management
34 oversight commission established by IC 2-5-12-1.

35 (b) The general assembly urges the legislative council to assign
36 the commission the task of studying the issue of whether to
37 establish a defined contribution plan for:

- 38 (1) new employees of political subdivisions that participate in
39 the public employees' retirement fund established by
40 IC 5-10.3-2-1; and
- 41 (2) new employees who are eligible to become members of the
42 Indiana state teachers' retirement fund established by

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1 **IC 5-10.4-2-1.**
2 **The study must include a survey of the design and cost of the**
3 **pension and retirement plans used by other states.**
4 **(c) If the commission is assigned the topic described in**
5 **subsection (b), the commission shall issue a final report to the**
6 **legislative council containing the commission's findings and**
7 **recommendations, including any recommended legislation**
8 **concerning the topic, not later than November 1, 2011.**
9 **(d) This SECTION expires June 30, 2012.**
10 **SECTION 21. [EFFECTIVE JULY 1, 2011] (a) The legislative**
11 **services agency shall prepare legislation for introduction in the**
12 **2012 regular session of the general assembly to organize and**
13 **correct statutes affected by this act.**
14 **(b) This SECTION expires June 30, 2013.**
15 **SECTION 22. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1048, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BORDERS, Chair

Committee Vote: yeas 9, nays 0.

 COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1048, 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 5-10-5.5-1, AS AMENDED BY P.L.227-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

(a) "Department" means the Indiana department of natural resources.

(b) "Commission" means the alcohol and tobacco commission.

(c) "Officer" means any Indiana state excise police officer, any Indiana state conservation enforcement officer, any gaming agent, or any gaming control officer.

(d) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

(e) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(f) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(g) "Public employees' retirement act" means IC 5-10.3.

(h) "Public employees' retirement fund" means the public

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employees' retirement fund created by IC 5-10.3-2.

(i) "Interest" means the ~~same~~ rate of interest ~~as is specified under by rule by the board of trustees of the public employees' retirement law-~~ **fund.**

(j) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

(k) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

SECTION 2. IC 5-10.2-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The retirement allowance account of the public employees' retirement fund consists of the retirement fund, exclusive of the annuity savings account. **The retirement allowance account also includes any amounts received under IC 5-10.3-12-24(b).** For the public employees' retirement fund, separate accounts within the retirement allowance account shall be maintained for contributions made by the state and by each political subdivision.

(b) The retirement allowance account of the pre-1996 account consists of the pre-1996 account, exclusive of the annuity savings account.

(c) The retirement allowance account of the 1996 account consists of the 1996 account, exclusive of the annuity savings account. For the 1996 account, separate accounts within the retirement allowance account shall be maintained for contributions made by the state, by each school corporation, and by each institution.

SECTION 3. IC 5-10.3-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 12. Public Employees' Defined Contribution Plan

Sec. 1. (a) This chapter applies to an individual who, on or after the effective date of the plan:

(1) becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(2) makes the election described in section 20 of this chapter to become a member of the plan.

(b) This chapter does not apply to an individual who:

(1) before the effective date of the plan, is or was a member (as defined in IC 5-10.3-1-5) of the fund; or

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(2) on or after the effective date of the plan, does not elect to participate in the plan.

Sec. 2. As used in this chapter, "account" means the plan account established for a member under section 21(b) of this chapter.

Sec. 3. As used in this chapter, "annuity savings account" means the annuity savings account maintained under IC 5-10.2-2-2(a)(1).

Sec. 4. As used in this chapter, "board" has the meaning set forth in IC 5-10.3-1-1.

Sec. 5. As used in this chapter, "compensation" has the meaning set forth in IC 5-10.2-3-2(a).

Sec. 6. As used in this chapter, "dies in the line of duty" has the meaning set forth in IC 5-10-11-2.

Sec. 7. As used in this chapter, "effective date" means the first day of the month that is six (6) months after the month in which the Internal Revenue Service issues an approval of the plan.

Sec. 8. As used in this chapter, "employer" means the state.

Sec. 9. As used in this chapter, "employer contribution subaccount" means the subaccount in a member's plan account established under section 21(b)(2) of this chapter.

Sec. 10. As used in this chapter, "fund" has the meaning set forth in IC 5-10.3-1-3.

Sec. 11. As used in this chapter, "Internal Revenue Code" has the meaning set forth in IC 5-10.2-1-3.5.

Sec. 12. As used in this chapter, "member" means an individual who has elected to participate in the plan.

Sec. 13. As used in this chapter, "member contribution subaccount" means the subaccount in a member's plan account established under section 21(b)(1) of this chapter.

Sec. 14. As used in this chapter, "normal retirement age" for a member means the member is at least sixty-two (62) years of age with at least ten (10) years of participation in the plan.

Sec. 15. As used in this chapter, "plan" refers to the public employees' defined contribution plan established by section 18 of this chapter.

Sec. 16. As used in this chapter, "years of participation" means all periods of participation in the plan in a covered position, plus any additional service for which this chapter provides years of participation credit.

Sec. 17. Except as otherwise provided in this chapter or by federal law, and subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this

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chapter, the provisions of this article that apply to the annuity savings account apply to an account established under this chapter.

Sec. 18. (a) The public employees' defined contribution plan is established for the purpose of providing amounts funded by an employer and a member for the use of the member or the member's beneficiaries or survivors after the member's retirement.

(b) The board shall adopt provisions to implement the plan established under subsection (a) as follows:

(1) The board shall initially offer the plan using the annuity savings account, subject to obtaining the approval of the Internal Revenue Service in a manner satisfactory to the board to preserve the qualified status of the plan and the fund. The plan as provided under this subdivision is a component within the fund.

(2) If the approval of the Internal Revenue Service to offer the plan using the annuity savings account cannot be obtained in a manner satisfactory to the board, the board shall offer the plan as a separate fund under Section 401(a) or another applicable section of the Internal Revenue Code.

(c) The board shall administer the plan.

(d) The board may adopt a plan document that it considers appropriate or necessary to administer the plan.

Sec. 19. The board may request from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate in order to implement or administer the plan.

Sec. 20. (a) An individual who, on or after the effective date of the plan, becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7 may elect to become a member of the plan. An election under this section:

- (1) must be made in writing;
- (2) must be filed with the board, on a form prescribed by the board; and
- (3) is irrevocable.

(b) An individual who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund.

Sec. 21. (a) The plan consists of the following:

- (1) Each member's contributions to the plan under section 23 of this chapter.
- (2) Contributions made by an employer to the plan on behalf

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of each member under section 24 of this chapter.

(3) Rollovers to the plan by a member under section 29 of this chapter.

(4) All earnings on investments or deposits of the plan.

(5) All contributions or payments to the plan made in the manner provided by the general assembly.

(b) The plan shall establish an account for each member. A member's account consists of two (2) subaccounts credited individually as follows:

(1) The member contribution subaccount consists of:

(A) the member's contributions to the plan under section 23 of this chapter; and

(B) the net earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

(2) The employer contribution subaccount consists of:

(A) the employer's contributions made on behalf of the member to the plan under section 24 of this chapter; and

(B) the earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

The board may combine the two (2) subaccounts established under this subsection into a single account, if the board determines that a single account is administratively appropriate and permissible under applicable law.

(c) If a member makes rollover contributions under section 30 of this chapter, the plan shall establish a rollover account as a separate subaccount within the member's account.

Sec. 22. (a) Subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the board shall establish the alternative investment programs (as described by IC 5-10.2-2-3 and IC 5-10.2-2-4) within the annuity savings account as the initial alternative investment programs for the plan, except that the board shall maintain at least one (1) alternative investment program that is a stable value fund. If the board considers it necessary or appropriate, the board may establish different or additional alternative investment programs for the plan. However, the guaranteed fund (as defined in IC 5-10.2-2-3) shall not be offered as an investment option under the plan.

(b) The requirements and rules that apply to the alternative investment programs within the annuity savings account are the initial requirements and rules that apply to the alternative investment programs within the plan, including the following:

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- (1) The board's investment guidelines and limits for the alternative investment programs.
- (2) A member's selection of and changes to the member's investment options.
- (3) The valuation of a member's account.
- (4) The allocation and payment of administrative expenses for the alternative investment programs.

(c) If the board considers it necessary or appropriate, the board may establish different or additional requirements and rules that apply to the alternative investment programs within the plan.

(d) The board shall determine the appropriate administrative fees to be charged to the member accounts.

Sec. 23. (a) Each member's contribution to the plan is equal to three percent (3%) of the member's compensation. The state shall pay the member's contribution on behalf of each member of the plan each year.

(b) Member contributions shall be credited to the member's account as specified in IC 5-10.2-3.

(c) Although designated as employee contributions, the contributions made under subsection (a) are picked up and paid by the state as the employer instead of the contributions being paid by the employee in accordance with Section 414(h)(2) of the Internal Revenue Code. A member may not receive any amounts paid by the state under this section directly instead of having the amounts paid to the plan.

Sec. 24. (a) The state shall make employer contributions to the plan based on the rate determined under this section.

(b) The employer's contribution rate for the plan must be equal to the employer's contribution rate for the fund as determined by the board under IC 5-10.2-2-11(b). The amount credited from the employer's contribution rate to the member's account may not be greater than the normal cost of the fund. Any amount not credited to the member's account shall be applied to the unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(c) The state's minimum contribution under this section is equal to three percent (3%) of the compensation of all members of the plan.

(d) The state shall submit the employer contributions determined under this section as provided in IC 5-10.2-2-12.5.

Sec. 25. (a) Member contributions and net earnings on the member contributions in the member contribution subaccount

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belong to the member at all times and do not belong to the state.

(b) A member is vested in the employer contribution subaccount in accordance with the following schedule:

Years of participation in the plan	Vested percentage of employer contributions and earnings
1	20%
2	40%
3	60%
4	80%
5	100%

For purposes of vesting in the employer contribution subaccount, only a member's full years of participation in the plan may be counted.

(c) The amount that a member may withdraw from the member's account is limited to the vested portion of the account.

(d) A member who attains normal retirement age is fully vested in all amounts in the member's account.

(e) If a member separates from service with the state before the member is fully vested in the employer contribution subaccount, the amount in the employer contribution subaccount that is not vested is forfeited as of the date the member separates from service.

(f) Amounts forfeited under subsection (e) must be used to reduce the state's unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(g) A member may not earn creditable service (as defined in IC 5-10.2-3-1(a)) under the plan.

Sec. 26. (a) Subject to the provisions of the Internal Revenue Code applicable to qualified plan distributions, a member who terminates service in a covered position is entitled to withdraw amounts in the member's account to the extent the member is vested in the account. A member must make a required withdrawal from the member's account not later than the required beginning date under the Internal Revenue Code.

(b) A member may elect to have withdrawals paid as:

- (1) a lump sum;
- (2) a direct rollover to another eligible retirement plan; or
- (3) if the member has attained normal retirement age, a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to

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select the monthly annuity option. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. The board shall give members information about these forms of payment and any information required by federal law to accompany such distributions.

(d) Unless otherwise required by federal or state law, the requirements and rules that apply to the distribution of the annuity savings account apply to distributions from a member's account.

Sec. 27. (a) If a member dies:

- (1) while in service in a position covered by the plan but not in the line of duty; or
- (2) after terminating service in a position covered by the plan but before withdrawing the member's account;

to the extent that the member is vested, the member's account shall be paid to the beneficiary or beneficiaries designated by the member on a form prescribed by the board. The amount paid must be valued as provided in IC 5-10.2-2-3 and IC 5-10.2-2-4. The board shall invest the total amount in the member's account in the stable value fund not later than thirty (30) days after receiving notification of a member's death.

(b) If there is no properly designated beneficiary, or if no beneficiary survives the member, the member's account shall be paid to:

- (1) the surviving spouse of the member;
- (2) if there is not a surviving spouse, the surviving dependent or dependents of the member in equal shares; or
- (3) if there is not a surviving spouse or dependent, the member's estate.

(c) The beneficiary or beneficiaries designated under subsection (a) or a survivor determined under subsection (b) may elect to have the member's account paid as:

- (1) a lump sum;
- (2) a direct rollover to another eligible retirement plan; or
- (3) a monthly annuity in accordance with rules of the board.

A monthly annuity is an option only on or after the beneficiary or survivor attains sixty-two (62) years of age. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. Further, the board may establish a minimum account balance or a minimum monthly payment amount that is required in order for a beneficiary or survivor to select the monthly annuity option.

(d) If a member dies in the line of duty while in service in a

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covered position, the designated beneficiary or beneficiaries or the surviving spouse or dependents, as applicable, are entitled to payment of the member's account as provided in this section. In addition, if the member was not fully vested in the employer contribution subaccount, the account is considered to be fully vested for purposes of withdrawal under this section.

Sec. 28. (a) All assets in the plan are exempt from levy, sale, garnishment, attachment, or other legal process.

(b) A member, beneficiary, or survivor may not assign any payment under this chapter except for the following:

- (1)** Premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in part by a state agency.
- (2)** Dues to an association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the retired members in the plan.

Sec. 29. (a) To the extent permitted by the Internal Revenue Code and the applicable regulations and guidance, the plan may accept, on behalf of any member who is employed in a covered position, a rollover distribution from any of the following:

- (1)** A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
- (2)** An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3)** An eligible plan maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
- (4)** An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(b) Any amounts rolled over under subsection (a) must be accounted for in a "rollover account" that is separate from the member's account in the plan. The member shall be fully vested in the member's rollover account.

(c) A member may direct the investment of the member's rollover account into any alternative investment option that the board may make available to the member's rollover account under section 22 of this chapter.

(d) A member may withdraw the member's rollover account from the plan in a lump sum or direct a rollover to an eligible retirement plan at any time. Upon attainment of normal retirement age, in addition to these payment options, the member may

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withdraw the member's rollover account as a monthly annuity as established by the board in accordance with the annuity options that are available for the member's account in the plan. A member must make a required withdrawal from the member's account in the plan not later than the required beginning date under the Internal Revenue Code.

Sec. 30. (a) If a member becomes disabled while in a covered position, subject to any federal law limitations concerning qualified plan distributions and the member's furnishing proof of the member's qualification for Social Security disability benefits to the board, to the extent that the member is vested, the member may make a withdrawal from the member's account.

(b) The member may elect to have the withdrawal paid as:

- (1)** a lump sum;
- (2)** a direct rollover to another eligible retirement plan; or
- (3)** a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option.

Sec. 31. (a) If a member of the plan separates from employment with the state and later returns to state employment in a position covered by the plan, the member is entitled to receive credit for the member's years of participation in the plan before the member's separation. However, any amounts forfeited by the member under section 25(e) of this chapter may not be restored to the member's account.

(b) An individual who elected under section 20 of this chapter to become a member of the plan resumes membership in the plan upon the individual's return to state employment.

(c) An individual who did not elect to become a member of the plan resumes membership in the fund.

(d) An individual who returns to state employment having had an opportunity to make an election under section 20 of this chapter during an earlier period of state employment is not entitled to a second opportunity to make an election under section 20 of this chapter.

SECTION 4. IC 33-38-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Except as otherwise provided in this chapter, a participant:

- (1)** whose employment as a judge is terminated regardless of cause; and

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(2) who has less than twelve (12) years service; is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. However, the date on which the withdrawal begins may not be before the date of final termination of employment of the participant, or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, a participant is entitled to receive out of the fund an amount equal to the total sum contributed to the fund on behalf of the participant **plus interest at a rate specified by rule by the board**, payable within sixty (60) days after date of the withdrawal application or in monthly installments as the participant may elect.

SECTION 5. IC 33-38-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) If annuities are not payable to the survivors of a participant who dies after July 1, 1983, the surviving spouse or child or children of the participant, if any, as determined by the participant, and if none survive, then any dependent or dependents surviving shall draw from the fund the amount that the participant paid into the fund plus interest ~~as determined at a rate specified by rule~~ by the board. If no spouse, child or children, or other dependents survive, then the amount, plus interest **at a rate specified by rule by the board and** minus any payments made to the participant, shall be paid to the executor or administrator of the participant's estate.

(c) The amount owed a spouse, child or children, or other dependent, or estate under this section is payable within sixty (60) days after date of the withdrawal application or in the monthly installments as the recipient may elect.

SECTION 6. IC 33-38-7-19, AS AMENDED BY P.L.122-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. (a) This section applies only to a person who:

- (1) is a judge participating under this chapter;
- (2) before becoming a judge was a member of an Indiana public employees' retirement fund;
- (3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for service credit under section 18 of this chapter;
- (4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

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(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under an Indiana public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977 benefit system as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund **that is purchased under this section** is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

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(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 7. IC 33-38-8-12, AS AMENDED BY P.L.122-2008, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) A participant who:

(1) ceases service:

(A) as a judge; or

(B) after December 31, 2010, as a judge or full-time magistrate;

other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed **plus interest at a rate specified by rule by the board**, payable within sixty (60) days from the date of the withdrawal application or in monthly installments as the participant may elect.

SECTION 8. IC 33-38-8-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. (a) Benefits provided under this section are subject to IC 33-38-6-13.

(b) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board, the total of the participant's contributions, plus interest ~~as determined at a rate specified by rule~~ by the board **and** minus any payments made to the participant, shall be paid to:

- (1) the surviving spouse of the participant or a child or children of the participant, as designated by the participant;
- (2) any other dependent or dependents of the participant, if a spouse or designated child or children does or do not survive; or
- (3) the participant's estate, if a spouse, designated child or

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children, or other dependent does or do not survive.

(c) The amount owed a spouse, designated child or children, or other dependent or dependents, or estate under subsection (b) is payable within sixty (60) days from the date of receipt of the withdrawal application or in the monthly installments as the recipient elects.

SECTION 9. IC 33-38-8-22.5, AS ADDED BY P.L.122-2008, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 22.5. (a) This section applies after December 31, 2010, only to a person who:

- (1) is a full-time magistrate participating under this chapter;
- (2) was appointed by a court to serve as:
 - (A) a full-time referee or full-time commissioner; or
 - (B) before January 1, 2011, a full-time magistrate;
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant as a full-time magistrate in the judges' 1985 benefit system under section 1 of this chapter, credit for service by the magistrate as a full-time referee, full-time commissioner, or, before January 1, 2011, full-time magistrate shall be granted under this chapter by the board if:

- (1) the service was credited under the public employees' retirement fund; and
- (2) the magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the judges' 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service earned as a participant in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

- (1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter and equals the actuarial

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equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 13(2)(B) of this chapter that is attributable to the transferring participant.

(3) The amount the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b) are satisfied, credit for service in the public employees' retirement fund as a full-time referee, full-time commissioner, or before July 1, 2010, full-time magistrate **that is purchased under this section** is waived. Any credit for the service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the

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applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 10. IC 33-38-8-23, AS AMENDED BY P.L.122-2008, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 23. (a) This section applies only to a person who:

- (1) is:
 - (A) a judge; or
 - (B) after December 31, 2010, a judge or full-time magistrate; participating under this chapter;
- (2) before becoming:
 - (A) a judge; or
 - (B) after December 31, 2010, a judge or full-time magistrate; was a member of a public employees' retirement fund;
- (3) received credited service under a public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for service credit under section 22 or 22.5 of this chapter;
- (4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and
- (5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

- (1) the prior service was credited under a public employees' retirement fund; and
- (2) the judge or full-time magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the judges' 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

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(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's or full-time magistrate's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund **that is purchased under this section** is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
- (4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 11. IC 33-39-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) A participant who:

- (1) ceases service in a position described in section 8 of this chapter, other than by death or disability; and

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(2) is not eligible for a retirement benefit under this chapter; is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon withdrawal the participant is entitled to receive the total sum contributed plus interest at ~~the a rate of five and one-half percent (5.5%) compounded annually~~ **specified by rule by the board**, payable not later than sixty (60) days from the date of the withdrawal application.

(b) Notwithstanding section 8 of this chapter, a participant who withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for years of service before the withdrawal.

SECTION 12. IC 33-39-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Interest shall be credited annually on June 30 at ~~the a rate of five and one-half percent (5.5%)~~ **specified by rule by the board** on all amounts credited to the member as of June 30 of the preceding year.

(b) Contributions begin to accumulate interest at the beginning of the fiscal year after the year in which the contributions are due.

(c) When a member retires or withdraws, a proportional interest credit determined under this chapter shall be paid for the period elapsed since the last date on which interest was credited.

SECTION 13. IC 33-39-7-16, AS AMENDED BY P.L.33-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) This section does not apply to a participant who meets the requirements for disability benefits under section 17 of this chapter.

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

- (1) the highest annual salary that was paid to the participant before separation from service; multiplied by
- (2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%

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11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

(c) If a participant who applies for a retirement benefit is not at least sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

(d) Benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

(e) If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at ~~the a rate of five and one-half percent (5.5%) compounded annually; specified by rule by the board.~~

SECTION 14. IC 33-39-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 21. (a) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board by the survivors or the participant's estate, the total of the participant's contributions, plus interest at ~~the a rate of five and one-half percent (5.5%) compounded annually; specified by rule by the board and~~ minus any payments made to the participant, shall be paid to:

- (1) the surviving spouse of the participant;
- (2) any dependent or dependents of the participant, if a spouse

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does not survive; or

(3) the participant's estate, if a spouse or dependent does not survive.

(b) The amount owed a spouse, dependent or dependents, or estate under subsection (a) is payable not later than sixty (60) days after the date of receipt of the withdrawal application.

SECTION 15. IC 36-8-8-8, AS AMENDED BY P.L.180-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Each fund member shall contribute during the period of the fund member's employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The employer shall send to the PERF board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

(b) Except as provided in section 7.2 of this chapter, if a fund member ends the fund member's employment other than by death or disability before the fund member completes twenty (20) years of active service, the PERF board shall return to the fund member in a lump sum the fund member's contributions plus interest ~~as determined~~ **at a rate specified by rule** by the PERF board. If the fund member returns to service, the fund member is entitled to credit for the years of service for which the fund member's contributions were refunded if the fund member repays the amount refunded to the fund member in either a lump sum or a series of payments determined by the PERF board."

Page 2, line 7, delete "disease (for" and insert "**disease, which for**".

Page 2, line 7, after "section," delete "a".

Page 2, line 8, delete "'duty related disease'".

Page 2, line 21, delete "cause);" and insert "**cause;**".

Page 6, between lines 29 and 30, begin a new paragraph and insert:
"SECTION 19. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "participant" has the meaning set forth in IC 5-10-5.5-1.**

(b) **As used in this SECTION, "plan" refers to the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan established by IC 5-10-5.5-2.**

(c) **Not later than July 1, 2011, the board of trustees of the**

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public employees' retirement fund shall pay the amount determined under subsection (d) to a plan participant (or to a survivor or beneficiary of a plan participant) who retired or was disabled on or before December 1, 2009, and who was entitled to receive a monthly benefit on July 1, 2010. The amount is not an increase in the annual retirement allowance.

(d) The amount paid under this SECTION to a plan participant (or to a survivor or beneficiary of a plan participant) who meets the requirements of subsection (c) is determined as follows:

If a Plan Participant's Creditable Service Is:	The Amount Is
Less than ten (10) years (only in the case of a plan participant receiving disability retirement benefits)	\$125
At least ten (10) years, but less than twenty (20) years	\$235
At least twenty (20) years, but less than thirty (30) years	\$325
At least thirty (30) years	\$400

(e) The creditable service used to determine the amount paid to a plan participant (or a survivor or beneficiary of a plan participant) under this SECTION is the creditable service that was used to compute the plan participant's retirement allowance under IC 5-10-5.5-10 and IC 5-10-5.5-12 except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(f) This SECTION expires January 1, 2012.

SECTION 20. [EFFECTIVE JULY 1, 2011] (a) As used in this SECTION, "commission" refers to the pension management oversight commission established by IC 2-5-12-1.

(b) The general assembly urges the legislative council to assign the commission the task of studying the issue of whether to establish a defined contribution plan for:

- (1) new employees of political subdivisions that participate in the public employees' retirement fund established by IC 5-10.3-2-1; and
- (2) new employees who are eligible to become members of the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.

The study must include a survey of the design and cost of the pension and retirement plans used by other states.

(c) If the commission is assigned the topic described in

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subsection (b), the commission shall issue a final report to the legislative council containing the commission's findings and recommendations, including any recommended legislation concerning the topic, not later than November 1, 2011.

(d) This SECTION expires June 30, 2012.

SECTION 21. [EFFECTIVE JULY 1, 2011] (a) The legislative services agency shall prepare legislation for introduction in the 2012 regular session of the general assembly to organize and correct statutes affected by this act.

(b) This SECTION expires June 30, 2013."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1048 as printed February 15, 2011.)

BOOTS, Chairperson

Committee Vote: Yeas 8, Nays 0.

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