



Reprinted  
April 12, 2011

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# ENGROSSED HOUSE BILL No. 1048

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DIGEST OF HB 1048 (Updated April 11, 2011 3:00 pm - DI 102)

**Citations Affected:** IC 5-10.5; IC 36-8; noncode.

**Synopsis:** Public pension funds. Makes the following changes: (1) Allows a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) (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 (committee). Provides that the committee shall make an initial determination of whether the member's disability occurred in the line of duty. Provides that if the committee fails to timely provide an initial determination, the default determination will be made by the public employees' retirement fund (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  
(Continued next page)

**Effective:** Upon passage; July 1, 2011.

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**Niezgodski, Burton, Riecken,  
Speedy**

(SENATE SPONSORS — YOUNG R MICHAEL, BREAUX)

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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.

April 11, 2011, read second time, amended, ordered engrossed.

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EH 1048—LS 6125/DI 116+



to appeal: (A) a recommendation by the local board; (B) an initial determination by the 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. (2) 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. (3) Provides a thirteenth check to participants of the state excise police, gaming agent, gaming control officer, and conservation officers' retirement fund. (3) Repeals or deletes provisions in the statutes governing the following quasi-governmental entities that give those entities the option of establishing a code of ethics for their employees or being under the jurisdiction of the state ethics commission (the state ethics commission statute provides that these entities are "agencies" for purposes of the commission's jurisdiction): (A) Indiana finance authority. (B) Indiana bond bank. (C) PERF. (D) Indiana state teachers' retirement fund. (E) Board for depositories. (F) Indiana housing and community development authority. (G) Ports of Indiana. (H) Bureau of motor vehicles commission. (I) Indiana homeland security foundation. (J) Indiana natural resources foundation. (K) Indiana White River state park development commission. (L) State fair commission. (M) State student assistance commission. (N) Indiana grain indemnity corporation. (O) Indiana political subdivision risk management commission. (The introduced version of this bill was prepared by the pension management oversight commission.)

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Reprinted  
April 12, 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 5-10.5-4-1, AS ADDED BY SEA 549-2011,  
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 1. The board shall do all of the following:  
4 (1) Appoint and fix the salary of a director.  
5 (2) Employ or contract with employees, auditors, technical  
6 experts, legal counsel, and other service providers as the board  
7 considers necessary to transact the business of the fund without  
8 the approval of any state officer, and fix the compensation of  
9 those persons.  
10 (3) Establish a general office in Indianapolis for board meetings  
11 and for administrative personnel.  
12 (4) Provide for the installation in the general office of a complete  
13 system of:  
14 (A) books;  
15 (B) accounts, including reserve accounts; and

EH 1048—LS 6125/DI 116+



- 1 (C) records;
- 2 to give effect to all the requirements of this article and to ensure
- 3 the proper operation of the fund.
- 4 (5) Provide for a report at least annually to each member of the
- 5 amount credited to the member in the annuity savings account in
- 6 each investment program under IC 5-10.2-2.
- 7 (6) With the advice of the actuary, adopt actuarial tables and
- 8 compile data needed for actuarial studies that are necessary for
- 9 the fund's operation.
- 10 (7) Act on applications for benefits and claims of error filed by
- 11 members.
- 12 (8) Have the accounts of the fund audited annually by the state
- 13 board of accounts, and if the board determines that it is advisable,
- 14 have the operation of a public pension or retirement fund of the
- 15 system audited by a certified public accountant.
- 16 (9) Publish for the members a synopsis of the fund's condition.
- 17 (10) Adopt a budget on a calendar year or fiscal year basis that is
- 18 sufficient, as determined by the board, to perform the board's
- 19 duties and, as appropriate and reasonable, draw upon fund assets
- 20 to fund the budget.
- 21 (11) Expend money, including income from the fund's
- 22 investments, for effectuating the fund's purposes.
- 23 (12) Establish personnel programs and policies for the employees
- 24 of the system.
- 25 (13) Submit a financial report before November 1 each year to the
- 26 governor, the pension management oversight commission, and the
- 27 budget committee. The report under this subdivision must set
- 28 forth a complete operating and financial statement covering its
- 29 operations during the most recent fiscal year, and include any
- 30 other information requested by the chair of the pension
- 31 management oversight commission. The report must be submitted
- 32 to the pension management oversight commission in an electronic
- 33 format pursuant to IC 5-14-6.
- 34 ~~(14) Establish a code of ethics or decide to be under the~~
- 35 ~~jurisdiction and rules adopted by the state ethics commission.~~
- 36 ~~(15)~~ (14) Provide the necessary forms for administering the fund.
- 37 ~~(16)~~ (15) Submit to the auditor of state or the treasurer of state
- 38 vouchers or reports necessary to claim an amount due from the
- 39 state to the system.

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40 SECTION 2. IC 36-8-8-13.4 IS ADDED TO THE INDIANA CODE  
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 42 1, 2011]: **Sec. 13.4. (a) This section applies only to a fund member**



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or survivor of a fund member who is receiving a disability benefit under section 13.3(b) of this chapter.

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

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

(A) the direct result of:

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

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

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

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

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

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

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

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

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

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

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described in subsection (a) upon request.

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

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

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

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

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

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1 under subsection (b)(1). The 1977 fund advisory committee shall  
2 notify the PERF board, the local board, and the fund member or  
3 survivor of the fund member of its initial determination, and the  
4 PERF board or its designee will issue a final determination to the  
5 local board and the fund member or survivor of the fund member.  
6 If no objection is made to the initial determination under  
7 subsection (g) or (h), the PERF board must issue a final  
8 determination not later than thirty (30) days after receiving an  
9 initial determination.

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

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

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

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

41 (k) This section expires July 1, 2021.

42 SECTION 3. IC 36-8-8-24.8, AS ADDED BY P.L.99-2010,

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1 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 UPON PASSAGE]: Sec. 24.8. (a) This section does not apply to a fund  
3 member who elects to enter the DROP (as defined in IC 36-8-8.5-4)  
4 under IC 36-8-8.5 **after June 30, 2011.**

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

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

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

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

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

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

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

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

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

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

29 (1) must be in writing;

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

32 (3) is irrevocable.

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

36 STEP ONE: Determine the lesser of the following:

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

39 (B) Thirty-two (32).

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

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1           ~~(g)~~ **(h)** The monthly benefit of a fund member who receives a partial  
 2 lump sum distribution under this section is actuarially reduced by  
 3 subtracting an amount determined by dividing the partial lump sum  
 4 distribution amount determined in subsection ~~(f)~~ **(g)** by a rate,  
 5 determined by the actuary for the fund, that is:

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

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

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

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

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

21           ~~(i)~~ **(j)** This section expires July 1, 2012.

22           SECTION 4. IC 36-8-8.5-14, AS AMENDED BY P.L.148-2007,  
 23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 UPON PASSAGE]: Sec. 14. (a) Subject to subsection (b), a member  
 25 who enters the DROP established by this chapter shall exit the DROP  
 26 at the earliest of:

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

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

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

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

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

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

41           SECTION 5. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 42 JULY 1, 2011]: IC 4-4-11-15.1; IC 5-1.5-2-10; IC 5-13-12-3.1;

**EH 1048—LS 6125/DI 116+**



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1 IC 5-20-1-4.1; IC 8-10-1-7.1; IC 9-15-2-2.2; IC 10-15-2-11;  
2 IC 14-12-1-10.1; IC 14-13-1-14.5; IC 15-13-2-13; IC 21-11-9-3;  
3 IC 26-4-3-10; IC 27-1-29-27.1.

4 SECTION 6. [EFFECTIVE UPON PASSAGE] (a) As used in this  
5 SECTION, "participant" has the meaning set forth in  
6 IC 5-10-5.5-1.

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

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

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

20 If a Plan Participant's Creditable 21 Service Is:	22 The Amount Is
23 Less than ten (10) years 24 (only in the case of a plan participant 25 receiving disability retirement benefits)	26 \$125
27 At least ten (10) years, 28 but less than twenty (20) years	29 \$235
30 At least twenty (20) years, 31 but less than thirty (30) years	32 \$325
33 At least thirty (30) years	34 \$400

35 (e) The creditable service used to determine the amount paid to  
36 a plan participant (or a survivor or beneficiary of a plan  
37 participant) under this SECTION is the creditable service that was  
38 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 7. 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.

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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~~ **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."**

Re-number 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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SENATE MOTION

Madam President: I move that Engrossed House Bill 1048 be amended to read as follows:

Page 1, delete lines 1 through 15.

Delete pages 2 through 19.

Page 20, delete lines 1 through 38.

Page 26, delete lines 32 through 42.

Page 27, delete lines 1 through 14.

Re-number all SECTIONS consecutively.

(Reference is to EHB 1048 as printed April 1, 2011.)

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## SENATE MOTION

Madam President: I move that Engrossed House Bill 1048 be amended to read as follows:

Page 26, line 4, delete "July 1, 2011" and insert "**October 1, 2011**".

(Reference is to EHB 1048 as printed April 1, 2011.)

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 SENATE MOTION

Madam President: I move that Engrossed House Bill 1048 be amended to read as follows:

Page 11, between lines 3 and 4, begin a new paragraph and insert: "SECTION 4. IC 5-10.5-4-1, AS ADDED BY SEA 549-2011, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The board shall do all of the following:

- (1) Appoint and fix the salary of a director.
- (2) Employ or contract with employees, auditors, technical experts, legal counsel, and other service providers as the board considers necessary to transact the business of the fund without the approval of any state officer, and fix the compensation of those persons.
- (3) Establish a general office in Indianapolis for board meetings and for administrative personnel.
- (4) Provide for the installation in the general office of a complete system of:
  - (A) books;
  - (B) accounts, including reserve accounts; and
  - (C) records;

to give effect to all the requirements of this article and to ensure the proper operation of the fund.

- (5) Provide for a report at least annually to each member of the amount credited to the member in the annuity savings account in each investment program under IC 5-10.2-2.
- (6) With the advice of the actuary, adopt actuarial tables and compile data needed for actuarial studies that are necessary for the fund's operation.
- (7) Act on applications for benefits and claims of error filed by members.

**EH 1048—LS 6125/DI 116+**



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(8) Have the accounts of the fund audited annually by the state board of accounts, and if the board determines that it is advisable, have the operation of a public pension or retirement fund of the system audited by a certified public accountant.

(9) Publish for the members a synopsis of the fund's condition.

(10) Adopt a budget on a calendar year or fiscal year basis that is sufficient, as determined by the board, to perform the board's duties and, as appropriate and reasonable, draw upon fund assets to fund the budget.

(11) Expend money, including income from the fund's investments, for effectuating the fund's purposes.

(12) Establish personnel programs and policies for the employees of the system.

(13) Submit a financial report before November 1 each year to the governor, the pension management oversight commission, and the budget committee. The report under this subdivision must set forth a complete operating and financial statement covering its operations during the most recent fiscal year, and include any other information requested by the chair of the pension management oversight commission. The report must be submitted to the pension management oversight commission in an electronic format pursuant to IC 5-14-6.

~~(14) Establish a code of ethics or decide to be under the jurisdiction and rules adopted by the state ethics commission.~~

~~(15)~~ (14) Provide the necessary forms for administering the fund.

~~(16)~~ (15) Submit to the auditor of state or the treasurer of state vouchers or reports necessary to claim an amount due from the state to the system."

Page 25, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]: IC 4-4-11-15.1; IC 5-1.5-2-10; IC 5-13-12-3.1; IC 5-20-1-4.1; IC 8-10-1-7.1; IC 9-15-2-2.2; IC 10-15-2-11; IC 14-12-1-10.1; IC 14-13-1-14.5; IC 15-13-2-13; IC 21-11-9-3; IC 26-4-3-10; IC 27-1-29-27.1."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1048 as printed April 1, 2011.)

YOUNG R MICHAEL

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