



March 29, 2011

**ENGROSSED
SENATE BILL No. 12**

DIGEST OF SB 12 (Updated March 29, 2011 9:18 am - DI 96)

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

Synopsis: PERF and TRF administrative matters. Removes a provision requiring the teachers' retirement fund (TRF) to maintain separate accounts for each employer within the retirement allowance account of the 1996 account. Permits a member of the public employees' retirement fund (PERF) or TRF who is eligible for an early retirement to withdraw the member's annuity savings account without applying for a retirement benefit. Requires, after December 31, 2011, that an employer of participants in: (1) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund; (2) the judges' retirement system; (3) the prosecuting attorneys' retirement fund (PARF); and (4) the 1977 police officers' and firefighters' pension and disability fund (1977 Fund); submit contributions, reports, and records electronically. Authorizes the PERF board of trustees to establish due dates for contributions, reports, and records submitted by an employer. Permits an administrative law judge, for cause shown, to order the waiver or extension of the 180-day limit
(Continued next page)

Effective: Upon passage; July 1, 2011.

**Boots, Buck, Tallian, Kruse,
Randolph**

(HOUSE SPONSORS — CROUCH, NIEZGODSKI)

January 5, 2011, read first time and referred to Committee on Pensions and Labor.
January 12, 2011, amended, reported favorably — Do Pass.
January 18, 2011, read second time, ordered engrossed. Engrossed.
January 20, 2011, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Employment, Labor and Pensions.
March 29, 2011, reported — Do Pass.

ES 12—LS 6146/DI 102+

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in which the PERF board of trustees is required to issue a final order after the date the PERF board receives a local board's initial disability determination or the PERF director initiates a review of a default disability award for a 1977 Fund member. Makes technical corrections to remove references to the auditor of state in connection with the administration of PERF. Codifies P.L.33-2006, Section 4, concerning PARF and repeals the noncode provision. Makes technical corrections in conformity with amendments in P.L.22-1998 to the 1977 Fund that reduced from 55 to 52 the age at which a fund member reaches regular retirement status. (The introduced version of this bill was prepared by the pension management oversight commission.)

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March 29, 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.

ENGROSSED SENATE BILL No. 12

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 5-10-5.5-8, AS AMENDED BY P.L.180-2007,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 8. (a) Except as provided in subsection (c), every
4 participant shall contribute four percent (4%) of the participant's annual
5 salary to the participants' savings fund.
6 (b) Contributions shall be made in the form of payroll deductions
7 from each and every payment of salary received by the participant.
8 Every participant shall, as a condition precedent to becoming a
9 participant, consent to the payroll deductions.
10 (c) An employer may pay all or a part of the contributions for the
11 participant. All contributions made by an employer under this
12 subsection shall be treated as pick-up contributions under Section
13 414(h)(2) of the Internal Revenue Code.
14 (d) **After December 31, 2011, an employer shall submit the**
15 **contributions paid by or on behalf of a participant under this**
16 **section by electronic funds transfer in accordance with section 8.5**
17 **of this chapter.**

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1 SECTION 2. IC 5-10-5.5-8.5 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: Sec. 8.5. (a) This section applies to
4 reports, records, and contributions submitted after December 31,
5 2011.

6 (b) As used in this section, "electronic funds transfer" has the
7 meaning set forth in IC 4-8.1-2-7(f).

8 (c) An employer shall submit through the use of electronic funds
9 transfer:

10 (1) employer contributions, determined by the board, to fund
11 the retirement, disability, and survivor benefits described in
12 this chapter; and

13 (2) contributions paid by or on behalf of a participant under
14 section 8 of this chapter.

15 (d) An employer shall submit in a uniform format through a
16 secure connection over the Internet or through other electronic
17 means specified by the board the reports and records required by
18 the board under this chapter.

19 (e) The board shall establish by rule the due dates for all
20 reports, records, and contributions required under this chapter.

21 SECTION 3. IC 5-10.2-2-6 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The retirement
23 allowance account of the public employees' retirement fund consists of
24 the retirement fund, exclusive of the annuity savings account. For the
25 public employees' retirement fund, separate accounts within the
26 retirement allowance account shall be maintained for contributions
27 made by the state and by each political 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 4. IC 5-10.2-3-6.5, AS AMENDED BY P.L.99-2010,
37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2011]: Sec. 6.5. (a) A member who meets all of the following
39 requirements may elect to withdraw the entire amount in the member's
40 annuity savings account: ~~before the member is eligible to do so at~~
41 ~~retirement under IC 5-10.2-4-2:~~

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

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- 1 (2) The member has terminated employment with the applicable
- 2 fund and is not currently employed in a covered position.
- 3 (3) The member has not performed any service in a position
- 4 covered by the fund for at least thirty (30) days after the date the
- 5 member terminates employment.
- 6 (4) The member makes the election described in this subsection:
- 7 (A) after December 31, 2008, if the member is a member of
- 8 the public employees' retirement fund; or
- 9 (B) after June 30, 2009, if the member is a member of the
- 10 Indiana state teachers' retirement fund.
- 11 (5) Except as provided in subsection (b), the member is not
- 12 eligible for:
- 13 (A) **before July 1, 2011**, a reduced or unreduced retirement;
- 14 **or**
- 15 (B) **after June 30, 2011, an unreduced retirement;**
- 16 **under IC 5-10.2-4** on the date the fund receives notice of the
- 17 election described in this subsection.
- 18 (b) The requirement described in subsection (a)(5) does not apply
- 19 to a member of the public employees' retirement fund who:
- 20 (1) was eligible for a reduced or unreduced retirement; and
- 21 (2) received a distribution under this section;
- 22 after December 31, 2008, and before ~~January 1,~~ **June 30, 2010.**
- 23 (c) A member who elects to withdraw the entire amount in the
- 24 member's annuity savings account under subsection (a) shall provide
- 25 notice of the election on a form provided by the board.
- 26 (d) The election to withdraw the entire amount in the member's
- 27 annuity savings account is irrevocable.
- 28 (e) The board shall pay the amount in the member's annuity savings
- 29 account as a lump sum.
- 30 (f) Except as provided in subsection (g), a member who makes a
- 31 withdrawal under this section is entitled to receive, when the member
- 32 becomes eligible to receive **and applies for** a retirement benefit under
- 33 IC 5-10.2-4, a retirement benefit equal to the pension provided by
- 34 employer contributions computed under IC 5-10.2-4.
- 35 (g) A member who:
- 36 (1) transfers creditable service earned under the fund to another
- 37 governmental retirement plan under section 1(i) of this chapter;
- 38 and
- 39 (2) withdraws the member's annuity savings account under this
- 40 section to purchase the service;
- 41 may not use the transferred service in the computation of a retirement
- 42 benefit payable under subsection (f).

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1 SECTION 5. IC 33-38-6-2.5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2011]: **Sec. 2.5. As used in this chapter, IC 33-38-7, and**
 4 **IC 33-38-8, "electronic funds transfer" has the meaning set forth**
 5 **in IC 4-8.1-2-7(f).**

6 SECTION 6. IC 33-38-6-21 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 21. (a) When drawing
 8 a salary warrant for a participant, the auditor of state and the county
 9 auditor shall deduct from the amount of the warrant the participant's
 10 contribution, if any, to the fund in the amount certified in the vouchers
 11 or an order issued by the director.

12 (b) The auditor of state and the county auditor shall draw a warrant
 13 to the fund for the total contributions withheld from the participants
 14 each month. The warrant drawn to the fund together with a list of
 15 participants and the amount withheld from each participant shall be
 16 transmitted immediately to the director.

17 (c) The auditor of state shall draw warrants upon the treasurer of
 18 state, payable from the fund, for purposes provided for in this chapter,
 19 upon the presentation of vouchers or an order signed by the director of
 20 the board in accordance with resolutions of the board:

21 (c) After December 31, 2011, the auditor of state and the county
 22 auditor shall submit the contributions paid by or on behalf of a
 23 participant under this section by electronic funds transfer in
 24 accordance with section 21.5 of this chapter.

25 SECTION 7. IC 33-38-6-21.5 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2011]: **Sec. 21.5. (a) This section applies to**
 28 **reports, records, and contributions submitted after December 31,**
 29 **2011, under this chapter, IC 33-38-7, and IC 33-38-8.**

30 (b) An employer shall submit through the use of electronic funds
 31 transfer:

32 (1) employer payments made to fund the retirement,
 33 disability, and survivor benefits described in this chapter,
 34 IC 33-38-7, and IC 33-38-8; and

35 (2) contributions paid by or on behalf of a participant under
 36 section 21 of this chapter, IC 33-38-7-10, or IC 33-38-8-11.

37 (c) An employer shall submit in a uniform format through a
 38 secure connection over the Internet or through other electronic
 39 means specified by the board the reports and records required by
 40 the board under this chapter, IC 33-38-7, or IC 33-38-8.

41 (d) The board shall establish by rule the due dates for all
 42 reports, records, and contributions required under this chapter,

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1 **IC 33-38-7, or IC 33-38-8.**

2 SECTION 8. IC 33-38-6-23, AS AMENDED BY P.L.99-2010,
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2011]: Sec. 23. (a) The board of trustees of the public
5 employees' retirement fund shall administer the fund, which may be
6 commingled with the public employees' retirement fund for investment
7 purposes.

8 (b) The board shall do the following:

9 (1) Determine eligibility for and make payments of benefits under
10 IC 33-38-7 and IC 33-38-8.

11 (2) In accordance with the powers and duties granted it in
12 IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3
13 through IC 5-10.3-5-6, administer the fund.

14 (3) Provide by rule for the implementation of this chapter and
15 IC 33-38-7 and IC 33-38-8.

16 (4) Authorize deposits.

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

19 (d) The powers and duties of:

20 (1) the director and the actuary of the board; **and**

21 (2) the attorney general; ~~and~~

22 ~~(3) the auditor of state;~~

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

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

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

30 SECTION 9. IC 33-38-7-10 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) A person who
32 completed at least eight (8) years of service as a judge before July 1,
33 1953, may become a participant in the fund and be subject to this
34 chapter if the person qualifies for benefits under section 11 of this
35 chapter. A person who is a judge on July 1, 1953, shall become a
36 participant in the fund and be subject to this chapter, beginning on July
37 1, 1953, unless twenty (20) days before July 1, 1953, the judge files
38 with the board a written notice of election not to participate in the fund.

39 (b) A person who:

40 (1) becomes a judge after July 1, 1953, and before September 1,
41 1985; and

42 (2) is not a participant in the fund;

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1 becomes a participant in the fund and is subject to this chapter,
2 beginning on the date the person becomes a judge, unless within twenty
3 (20) days after that date the judge files with the board a written notice
4 of election not to participate in the fund. An election filed under this
5 subsection is irrevocable.

6 (c) A person who irrevocably:
7 (1) elects not to participate in the fund; or
8 (2) withdraws from the fund under section 13 of this chapter;
9 is ineligible to participate and to receive benefits under this chapter.

10 (d) Participation of a judge in the fund continues until the date on
11 which the judge:

- 12 (1) becomes an annuitant;
- 13 (2) dies; or
- 14 (3) accepts a refund;

15 but a person is not required to pay into the fund during any period that
16 the person is not serving as a judge, except as otherwise provided in
17 this chapter.

18 (e) A participant is considered to have made a one (1) time
19 irrevocable salary reduction agreement of six percent (6%) of each
20 payment of salary that a participant would otherwise have received for
21 services as a judge.

22 (f) The auditor of state and the county auditor shall pay and credit
23 to the fund the amounts described in subsection (e) as provided in
24 IC 33-38-6-21 and IC 33-38-6-22. **After December 31, 2011, the**
25 **auditor of state and the county auditor shall submit the**
26 **contributions paid by or on behalf of a participant under**
27 **subsection (e) by electronic funds transfer in accordance with**
28 **IC 33-38-6-21.5.** However, no amounts shall be paid on behalf of a
29 participant for more than twenty-two (22) years.

30 SECTION 10. IC 33-38-8-11, AS AMENDED BY P.L.122-2008,
31 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2011]: Sec. 11. (a) A participant shall make contributions to
33 this fund of six percent (6%) of each payment of salary received for
34 services as judge or, after December 31, 2010, as a judge or full-time
35 magistrate. However, the employer may elect to pay the contribution
36 for the participant as a pickup under Section 414(h) of the Internal
37 Revenue Code.

38 (b) Participants' contributions, other than participants' contributions
39 paid by the employer, shall be deducted from the monthly salary of
40 each participant by the auditor of state and by the county auditor and
41 credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22.
42 **After December 31, 2011, the auditor of state and the county**

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1 **auditor shall submit the contributions paid by or on behalf of a**
 2 **participant under subsection (a) by electronic funds transfer in**
 3 **accordance with IC 33-38-6-21.5.** However, a contribution is not
 4 required:

5 (1) because of any salary received after the participant has
 6 contributed to the fund for twenty-two (22) years; or

7 (2) during any period that the participant is not serving as judge
 8 or, after December 31, 2010, as a judge or full-time magistrate.

9 SECTION 11. IC 33-39-7-0.1 IS ADDED TO THE INDIANA
 10 CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 0.1. The amendments made**
 11 **to sections 15, 16, and 19 of this chapter by P.L.33-2006 apply to a**
 12 **participant in the fund who:**

13 **(1) is serving on July 1, 2006; or**

14 **(2) begins service after July 1, 2006;**

15 **in a position described in section 8 of this chapter.**

16 SECTION 12. IC 33-39-7-11, AS AMENDED BY P.L.99-2010,
 17 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2011]: Sec. 11. (a) The board shall administer the fund, which
 19 may be commingled with the public employees' retirement fund for
 20 investment purposes.

21 (b) The board shall do the following:

22 (1) Determine eligibility for and make payments of benefits under
 23 this chapter.

24 (2) In accordance with the powers and duties granted the board in
 25 IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3
 26 through IC 5-10.3-5-6, administer the fund.

27 (3) Provide by rule for the implementation of this chapter.

28 (4) Authorize deposits.

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

30 (d) The powers and duties of:

31 (1) the director and the actuary of the board; **and**

32 (2) the attorney general; ~~and~~

33 ~~(3) the auditor of state;~~

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

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

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

41 SECTION 13. IC 33-39-7-12 IS AMENDED TO READ AS
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1 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) Except as
2 provided in subsection (b), each participant shall make contributions
3 to the fund as follows:

4 (1) A participant described in section 8(a)(1) of this chapter shall
5 make contributions of six percent (6%) of each payment of salary
6 received for services after December 31, 1989.

7 (2) A participant described in section 8(a)(2) or 8(a)(3) of this
8 chapter shall make contributions of six percent (6%) of each
9 payment of salary received for services after June 30, 1994.

10 A participant's contributions shall be deducted from the participant's
11 monthly salary by the auditor of state and credited to the fund.

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

13 (c) **After December 31, 2011, the auditor of state shall submit**
14 **the contributions paid by or on behalf of a participant under this**
15 **section by electronic funds transfer in accordance with section 12.5**
16 **of this chapter.**

17 SECTION 14. IC 33-39-7-12.5 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2011]: **Sec. 12.5. (a) This section applies to**
20 **reports, records, and contributions submitted after December 31,**
21 **2011, under this chapter.**

22 (b) **As used in this section, "electronic funds transfer" has the**
23 **meaning set forth in IC 4-8.1-2-7(f).**

24 (c) **The state shall submit through the use of electronic funds**
25 **transfer contributions paid by or on behalf of a participant under**
26 **section 12 of this chapter.**

27 (d) **The state shall submit in a uniform format through a secure**
28 **connection over the Internet or through other electronic means**
29 **specified by the board the reports and records required by the**
30 **board under this chapter.**

31 (e) **The board shall establish by rule the due dates for all**
32 **reports, records, and contributions required under this chapter.**

33 SECTION 15. IC 36-8-8-1.5 IS ADDED TO THE INDIANA CODE
34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
35 1, 2011]: **Sec. 1.5. As used in this chapter, "electronic funds**
36 **transfer" has the meaning set forth in IC 4-8.1-2-7(f).**

37 SECTION 16. IC 36-8-8-6 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Each employer
39 shall annually on March 31, June 30, September 30, and December 31,
40 for the calendar quarters ending on those dates, **or an alternate date**
41 **established by the rules of the PERF board,** pay into the 1977 fund
42 an amount determined by the PERF board:

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- 1 (1) for administration expenses; and
- 2 (2) sufficient to maintain level cost funding during the period of
- 3 employment on an actuarial basis for members hired after April
- 4 30, 1977.

5 **(b) After December 31, 2011, each employer shall submit the**
 6 **payments required by subsection (a) by electronic funds transfer.**

7 ~~(b)~~ (c) If an employer fails to make the payments required by
 8 subsection (a) or fails to send the fund members' contributions required
 9 by section 8(a) of this chapter, the amount payable, on request of the
 10 PERF board, may be withheld by the auditor of state from money
 11 payable to the employer and transferred to the fund. In the alternative,
 12 the amount payable may be recovered in the circuit or superior court of
 13 the county in which the employer is located, in an action by the state on
 14 the relation of the PERF board, prosecuted by the attorney general.

15 SECTION 17. 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 **or an alternate date established by the rules of the PERF board,** a
 28 certified list of fund members and a warrant issued by the employer for
 29 the total amount deducted for fund members' contributions.

- 30 **(b) After December 31, 2011, an employer shall submit:**
- 31 **(1) the list described in subsection (a) in a uniform format**
 - 32 **through a secure connection over the Internet or through**
 - 33 **other electronic means specified by the PERF board; and**
 - 34 **(2) the contributions paid by or on behalf of a member under**
 - 35 **subsection (a) by electronic funds transfer.**

36 ~~(b)~~ (c) Except as provided in section 7.2 of this chapter, if a fund
 37 member ends the fund member's employment other than by death or
 38 disability before the fund member completes twenty (20) years of
 39 active service, the PERF board shall return to the fund member in a
 40 lump sum the fund member's contributions plus interest as determined
 41 by the PERF board. If the fund member returns to service, the fund
 42 member is entitled to credit for the years of service for which the fund

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1 member's contributions were refunded if the fund member repays the
2 amount refunded to the fund member in either a lump sum or a series
3 of payments determined by the PERF board.

4 SECTION 18. IC 36-8-8-12, AS AMENDED BY P.L.34-2009,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2011]: Sec. 12. (a) Benefits paid under this section are subject
7 to sections 2.5 and 2.6 of this chapter.

8 (b) If an active fund member has a covered impairment, as
9 determined under sections 12.3 through 13.1 of this chapter, the
10 member is entitled to receive the benefit prescribed by section 13.3 or
11 13.5 of this chapter. A member who has had a covered impairment and
12 returns to active duty with the department shall not be treated as a new
13 applicant seeking to become a member of the 1977 fund.

14 (c) If a retired fund member who has not yet reached the member's
15 fifty-second birthday is found by the PERF board to be permanently or
16 temporarily unable to perform all suitable work for which the member
17 is or may be capable of becoming qualified, the member is entitled to
18 receive during the disability the retirement benefit payments payable
19 at fifty-two (52) years of age. During a reasonable period in which a
20 fund member with a disability is becoming qualified for suitable work,
21 the member may continue to receive disability benefit payments.
22 However, benefits payable for disability under this subsection are
23 reduced by amounts for which the fund member is eligible from:

- 24 (1) a plan or policy of insurance providing benefits for loss of
- 25 time because of disability;
- 26 (2) a plan, fund, or other arrangement to which the fund member's
- 27 employer has contributed or for which the fund member's
- 28 employer has made payroll deductions, including a group life
- 29 policy providing installment payments for disability, a group
- 30 annuity contract, or a pension or retirement annuity plan other
- 31 than the fund established by this chapter;
- 32 (3) the federal Social Security Act (42 U.S.C. 401 et seq.), the
- 33 Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States
- 34 Department of Veterans Affairs, or another federal, state, local, or
- 35 other governmental agency;
- 36 (4) worker's compensation payable under IC 22-3; and
- 37 (5) a salary or wage, including overtime and bonus pay and extra
- 38 or additional remuneration of any kind, the fund member receives
- 39 or is entitled to receive from the member's employer.

40 For the purposes of this subsection, a retired fund member is
41 considered eligible for benefits from subdivisions (1) through (5)
42 whether or not the member has made application for the benefits.

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1 (d) Notwithstanding any other law, a plan, policy of insurance, fund,
 2 or other arrangement:
 3 (1) delivered, issued for delivery, amended, or renewed after
 4 April 9, 1979; and
 5 (2) described in subsection (c)(1) or (c)(2);
 6 may not provide for a reduction or alteration of benefits as a result of
 7 benefits for which a fund member may be eligible from the 1977 fund
 8 under subsection (c).
 9 (e) Time spent receiving disability benefits, not to exceed twenty
 10 (20) years, is considered active service for the purpose of determining
 11 retirement benefits. A fund member's retirement benefit shall be based
 12 on:
 13 (1) the member's years of active service; plus
 14 (2) if applicable, the period, not to exceed twenty (20) years,
 15 during which the member received disability benefits.
 16 (f) A fund member who is receiving disability benefits:
 17 (1) under section 13.3(d) of this chapter; or
 18 (2) based on a determination under this chapter that the fund
 19 member has a Class 3 impairment;
 20 shall be transferred from disability to regular retirement status when the
 21 member becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age.
 22 (g) A fund member who is receiving disability benefits:
 23 (1) under section 13.3(c) of this chapter; or
 24 (2) based on a determination under this chapter that the fund
 25 member has a Class 1 or Class 2 impairment;
 26 is entitled to receive a disability benefit for the remainder of the fund
 27 member's life in the amount determined under the applicable sections
 28 of this chapter.
 29 SECTION 19. IC 36-8-8-13.1, AS AMENDED BY P.L.29-2006,
 30 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2011]: Sec. 13.1. (a) If:
 32 (1) the local board has determined under this chapter that a
 33 covered impairment exists and the safety board has determined
 34 that there is no suitable and available work within the department,
 35 considering reasonable accommodation to the extent required by
 36 the Americans with Disabilities Act; or
 37 (2) the fund member has filed an appeal under section 12.7(o) of
 38 this chapter;
 39 the local board shall submit the local board's determinations and the
 40 safety board's determinations to the PERF board's director.
 41 (b) Whenever a fund member is determined to have an impairment
 42 under section 12.7(i) of this chapter, the PERF board's director shall

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1 initiate a review of the default award not later than sixty (60) days after
2 the director learns of the default award.

3 (c) After the PERF board's director receives the determinations
4 under subsection (a) or initiates a review under subsection (b), the fund
5 member must submit to an examination by a medical authority selected
6 by the PERF board. The authority shall determine if there is a covered
7 impairment. With respect to a fund member who is covered by sections
8 12.5 and 13.5 of this chapter, the authority shall determine the degree
9 of impairment. The PERF board shall adopt rules under IC 4-22-2 to
10 establish impairment standards, such as the impairment standards
11 contained in the United States Department of Veterans Affairs
12 Schedule for Rating Disabilities. The report of the examination shall be
13 submitted to the PERF board's director. If a fund member refuses to
14 submit to an examination, the authority may find that no impairment
15 exists.

16 (d) The PERF board's director shall review the medical authority's
17 report and the local board's determinations and issue an initial
18 determination within sixty (60) days after receipt of the local board's
19 determinations. The PERF board's director shall notify the local board,
20 the safety board, and the fund member of the initial determination. The
21 following provisions apply if the PERF board's director does not issue
22 an initial determination within sixty (60) days and if the delay is not
23 attributable to the fund member or the safety board:

24 (1) In the case of a review initiated under subsection (a)(1):

25 (A) the determinations of the local board and the chief of the
26 police or fire department are considered to be the initial
27 determination; and

28 (B) for purposes of section 13.5(d) of this chapter, the fund
29 member is considered to be totally impaired.

30 (2) In the case of an appeal submitted under subsection (a)(2), the
31 statements made by the fund member under section 12.7(o) of this
32 chapter are considered to be the initial determination.

33 (3) In the case of a review initiated under subsection (b), the
34 initial determination is the impairment determined under section
35 12.7(i) of this chapter.

36 (e) The fund member, the safety board, or the local board may
37 object in writing to the director's initial determination within fifteen
38 (15) days after the determination is issued. If no written objection is
39 filed, the initial determination becomes the final order of the PERF
40 board. If a timely written objection is filed, the PERF board shall issue
41 the final order after a hearing. **Unless an administrative law judge**
42 **orders a waiver or an extension of the period for cause shown,** the

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1 final order shall be issued not later than one hundred eighty (180) days
2 after the date of receipt of the local board's determination or the date
3 the PERF board's director initiates a review under subsection (b). The
4 following provisions apply if a final order is not issued within ~~one~~
5 ~~hundred eighty (180) days~~ **the time limit described in this subsection**
6 and if the delay is not attributable to the fund member or the chief of
7 the police or fire department:

- 8 (1) In the case of a review initiated under subsection (a)(1):
 - 9 (A) the determinations of the local board and the chief of the
 - 10 police or fire department are considered to be the final order;
 - 11 and
 - 12 (B) for purposes of section 13.5(d) of this chapter, the fund
 - 13 member is considered to be totally impaired.
- 14 (2) In the case of an appeal submitted under subsection (a)(2), the
- 15 statements made by the fund member under section 12.7(o) of this
- 16 chapter are considered to be the final order.
- 17 (3) In the case of a review initiated under subsection (b), the
- 18 impairment determined under section 12.7(i) of this chapter is
- 19 considered to be the final order.

20 (f) If the PERF board approves the director's initial determination,
21 then the PERF board shall issue a final order adopting the initial
22 determination. The local board and the chief of the police or fire
23 department shall comply with the initial determination. If the PERF
24 board does not approve the initial determination, the PERF board may
25 receive additional evidence on the matter before issuing a final order.

26 (g) Appeals of the PERF board's final order may be made under
27 IC 4-21.5.

28 (h) The transcripts, records, reports, and other materials compiled
29 under this section must be retained in accordance with the procedures
30 specified in section 12.7(p) of this chapter.

31 SECTION 20. IC 36-8-8-18, AS AMENDED BY P.L.148-2007,
32 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2011]: Sec. 18. (a) Except as provided in subsection (b), if a
34 unit becomes a participant in the 1977 fund, credit for prior service by
35 police officers (including prior service as a full-time, fully paid town
36 marshal or full-time, fully paid deputy town marshal by a police officer
37 employed by a metropolitan board of police commissioners) or by
38 firefighters before the date of participation may be given by the PERF
39 board only if:

- 40 (1) the unit contributes to the 1977 fund the amount necessary to
- 41 amortize prior service liability over a period of not more than
- 42 forty (40) years, the amount and period to be determined by the

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1 PERF board; and
2 (2) the police officers or firefighters pay, either in a lump sum or
3 in a series of payments determined by the PERF board, the
4 amount that they would have contributed if they had been
5 members of the 1977 fund during their prior service.
6 If the requirements of subdivisions (1) and (2) are not met, a fund
7 member is entitled to credit only for years of service after the date of
8 participation.
9 (b) If a unit becomes a participant in the 1977 fund under section
10 3(c) of this chapter, or if a firefighter becomes a member of the 1977
11 fund under section 7(g) of this chapter, credit for prior service before
12 the date of participation or membership shall be given by the PERF
13 board as follows:
14 (1) For a member who will accrue twenty (20) years of service
15 credit in the 1977 fund by the time the member reaches the
16 earliest retirement age under the fund at the time of the member's
17 date of participation in the 1977 fund, the member will be given
18 credit in the 1977 fund for one-third (1/3) of the member's years
19 of participation in PERF as a police officer, a firefighter, or an
20 emergency medical technician.
21 (2) For a member who will not accrue twenty (20) years of service
22 credit in the 1977 fund by the time the member reaches the
23 earliest retirement age under the fund at the time of the member's
24 date of participation in the 1977 fund, such prior service shall be
25 given only if:
26 (A) The unit contributes to the 1977 fund the amount
27 necessary to fund prior service liability amortized over a
28 period of not more than ten (10) years. The amount of
29 contributions must be based on the actual salary earned by a
30 first class firefighter at the time the unit becomes a participant
31 in the 1977 fund, or the firefighter becomes a member of the
32 1977 fund, or if no such salary designation exists, the actual
33 salary earned by the firefighter. The limit on credit for prior
34 service does not apply if the firefighter was a member of the
35 1937 fund or 1977 fund whose participation was terminated
36 due to the creation of a new fire protection district under
37 IC 36-8-11-5 and who subsequently became a member of the
38 1977 fund. A firefighter who was a member of or reentered the
39 1937 fund or 1977 fund whose participation was terminated
40 due to the creation of a new fire protection district under
41 IC 36-8-11-5 is entitled to full credit for prior service in an
42 amount equal to the firefighter's years of service before

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becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter.

(B) The amount the firefighter would have contributed if the firefighter had been a member of the 1977 fund during the firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the PERF board.

(3) If, at the time a unit entered the 1977 fund, the unit contributed the amount required by subdivision (2) so that a fund member received the maximum prior service credit allowed by subdivision (2) and, at a later date, the earliest retirement age was lowered, the unit may contribute to the 1977 fund on the fund member's behalf an additional amount that is determined in the same manner as under subdivision (2) with respect to the additional prior service, if any, available as a result of the lower retirement age. If the unit pays the additional amount described in this subdivision in accordance with the requirements of subdivision (2), the fund member shall receive the additional service credit necessary for the fund member to retire at the lower earliest retirement age.

(c) This subsection applies to a unit that:

(1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and

(2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age, whichever is less.

(d) The unit shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection (c), amortized over a period not to exceed ten (10) years with interest at a rate determined by the PERF board.

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1 (e) If the township or municipality has accumulated money in its
2 1937 fund, any amount accumulated that exceeds the present value of
3 all projected future benefits from the 1937 plan shall be paid by the
4 township or municipality to the unit for the sole purpose of making the
5 contributions determined in subsection (d).

6 (f) To the extent permitted by the Internal Revenue Code and the
7 applicable regulations, the 1977 fund may accept, on behalf of a fund
8 member who is purchasing permissive service credit under this chapter,
9 a rollover of a distribution from any of the following:

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

20 (g) To the extent permitted by the Internal Revenue Code and the
21 applicable regulations, the 1977 fund may accept, on behalf of a fund
22 member who is purchasing permissive service credit under this chapter,
23 a trustee to trustee transfer from any of the following:

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

28 SECTION 21. IC 36-8-8-18.1 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 18.1. (a) As used in this
30 section, "police officer" includes a former full-time, fully paid town
31 marshal or full-time, fully paid deputy town marshal who is employed
32 as a police officer by a metropolitan board of police commissioners.

33 (b) If a unit becomes a participant in the 1977 fund and the unit
34 previously covered police officers, firefighters, or emergency medical
35 technicians in PERF, or if the employees of the unit become members
36 of the 1977 fund under section 7(g) of this chapter, the following
37 provisions apply:

- 38 (1) A minimum benefit applies to members electing to transfer or
39 being transferred to the 1977 fund from PERF. The minimum
40 benefit, payable at age ~~fifty-five (55)~~ **fifty-two (52)**, for such a
41 member equals the actuarial equivalent of the vested retirement
42 benefit payable to the member upon normal retirement under

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1 IC 5-10.2-4-1 as of the day before the transfer, based solely on:
 2 (A) creditable service;
 3 (B) the average of the annual compensation; and
 4 (C) the amount credited to the annuity savings account;
 5 of the transferring member as of the day before the transfer under
 6 IC 5-10.2 and IC 5-10.3.
 7 (2) The PERF board shall transfer from PERF to the 1977 fund
 8 the amount credited to the annuity savings accounts and the
 9 present value of the retirement benefits payable at age sixty-five
 10 (65) attributable to the transferring members.
 11 (3) The amount the unit and the member must contribute to the
 12 1977 fund under section 18 of this chapter, if any service credit
 13 is to be given under that section, will be reduced by the amounts
 14 transferred to the 1977 fund by the PERF board under subdivision
 15 (2).
 16 (4) Credit for prior service in PERF of a member as a police
 17 officer, a firefighter, or an emergency medical technician is
 18 waived in PERF. Any credit for that service under the 1977 fund
 19 shall only be given in accordance with section 18 of this chapter.
 20 (5) Credit for prior service in PERF of a member, other than as a
 21 police officer, a firefighter, or an emergency medical technician,
 22 remains in PERF and may not be credited under the 1977 fund.
 23 SECTION 22. P.L.33-2006, SECTION 4, IS REPEALED
 24 [EFFECTIVE UPON PASSAGE].
 25 SECTION 23. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 12, 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 3, line 22, strike "January 1," and insert "**June 30**,".

and when so amended that said bill do pass.

(Reference is to SB 12 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 10, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 12, 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.

GUTWEIN, Chair

Committee Vote: yeas 13, nays 0.

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