Reprinted
February 8, 2011

SENATE BILL No. 549

DIGEST OF SB 549 (Updated February 7, 2011 4:32 pm - DI 102)

Citations Affected: IC 2-3.5; IC 4-2; IC 5-10; IC 5-10.2; IC 5-10.3; IC 5-10.4; IC 5-10.5; IC 33-38; IC 33-39; IC 36-8; noncode.

Synopsis: Indiana public retirement system. Establishes the Indiana public retirement system (system) to administer and manage: (1) the public employees' retirement fund (PERF); (2) the teachers' retirement fund (TRF); (3) the judges' retirement fund; (4) the prosecuting attorneys retirement fund; (5) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund; (6) the 1977 police officers' and firefighters' pension and disability fund (1977 Fund); (7) the legislators' retirement system; (8) the pension relief fund; (9) the special death benefit fund; and (10) the state employees' death benefit fund. Creates a nine member board of trustees (board) for the system appointed by the governor as follows: (1) at least one member with experience in economics, finance, or investments; (2) at least one member with experience in executive management or benefits administration; (3) the director of the budget agency (or designee) serving as an ex officio voting member; (4) two members nominated by the speaker of the house of representatives: one an active or retired police officer or firefighter who is a member of the 1977 Fund and one TRF member; (5) two members nominated by the president pro tempore of the senate: one PERF member and one TRF member; (6) one member nominated by the auditor of state: the auditor of state or an individual with experience in professional financial accounting or actuarial science; and (7) one member nominated by the

(Continued next page)

Effective: July 1, 2011.

Boots, Buck, Walker,
Young R Michael

January 20, 2011, read first time and referred to Committee on Pensions and Labor.
January 27, 2011, amended, reported favorably — Do Pass.
February 7, 2011, read second time, amended, ordered engrossed.

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Digest Continued

treasurer of state: the treasurer of state or an individual with experience in economics, finance, or investments. Requires that initial appointments to the board give a preference for those individuals who, on June 30, 2011, are serving as trustees of PERF and TRF, and provides that a PERF or TRF trustee appointed to the board serves until the trustee's term would have expired under prior law. Provides for a four year term for trustees. Provides that a trustee is strongly encouraged to complete annually at least 12 hours of trustee education. Provides that five trustees constitute a quorum and requires a majority vote of the trustees present in order for the board to adopt a resolution or take other action at a regular or special meeting. Requires the system's chief investment officer and the officer's staff to file annual financial disclosure statements with the inspector general. Provides that the board's powers and duties are the combined powers and duties of the PERF and TRF boards. Provides that each retirement fund continues as a separate fund managed by the board. Provides for a director of the system who is appointed by and serves at the pleasure of the board. Provides that employees of PERF and TRF remain members of those funds. Provides that new hires of the system become PERF members, unless the director expressly determines otherwise. Allows the board to establish contribution rate groups for PERF, and removes the requirement that each employer have a separate account within the retirement allowance account. Eliminates the 1977 Fund advisory committee. Authorizes the board to adopt rules without complying with IC 4-22-2 in establishing impairment standards, a list of excludable medical conditions, and standards and tests for the baseline statewide physical examination for the 1977 Fund. Repeals provisions that establish the PERF and TRF boards and require PERF and TRF to hire a common director. Repeals corresponding definitions and cross-references.

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Reprinted
February 8, 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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SENATE BILL No. 549

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-3.5-2-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2.7. (a) "Board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.**

(b) References in this article to the PERF board or TRF board shall be considered after June 30, 2011, to be references to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

SECTION 2. IC 4-2-6-8, AS AMENDED BY P.L.89-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) The following persons shall file a written financial disclosure statement:

(1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction.

(2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.

(3) Any person who is the appointing authority of an agency.

(4) The director of each division of the department of administration.

(5) Any purchasing agent within the procurement division of the department of administration.

(6) Any agency employee, special state appointee, former agency employee, or former special state appointee with final purchasing authority.

(7) The chief investment officer employed by the Indiana public retirement system.

(8) Any employee of the Indiana public retirement system whose duties include the recommendation, selection, and management of:

(A) the investments of the funds administered by the Indiana public retirement system;

(B) the investment options offered in the annuity savings accounts in the public employees' retirement fund and the Indiana state teachers' retirement fund;

(C) the investment options offered in the legislators' defined contribution plan; or

(D) investment managers, investment advisors, and other investment service providers of the Indiana public retirement system.

~~(7)~~ **(9)** An employee required to do so by rule adopted by the inspector general.

(b) The statement shall be filed with the inspector general as follows:

(1) Not later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).

(2) If the individual has not previously filed under subdivision (1) during the present calendar year and is filing as a candidate for a state office listed in subsection (a)(1), before filing a declaration of candidacy under IC 3-8-2 or IC 3-8-4-11, petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-7-8, in the case of a candidate for one (1) of the state offices (unless the statement has already been filed when required under IC 3-8-4-11).

(3) Not later than sixty (60) days after employment or taking office, unless the previous employment or office required the

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filing of a statement under this section.

(4) Not later than thirty (30) days after leaving employment or office, unless the subsequent employment or office requires the filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

(1) The name and address of any person known:

(A) to have a business relationship with the agency of the state officer or employee or the office sought by the candidate; and

(B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars ($100).

(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars ($5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children. An individual's primary personal residence need not be listed, unless it also serves as income property.

(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse.

(4) The following information about any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse:

(A) The name of the sole proprietorship or professional practice.

(B) The nature of the business.

(C) Whether any clients are known to have had a business relationship with the agency of the state officer or employee or the office sought by the candidate.

(D) The name of any client or customer from whom the state officer, candidate, employee, or that individual's spouse received more than thirty-three percent (33%) of the state officer's, candidate's, employee's, or that individual's spouse's nonstate income in a year.

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(5) The name of any partnership of which the state officer, candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.

(6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars ($10,000). However, if the stock is held in a blind trust, the name of the administrator of the trust must be disclosed on the statement instead of the name of the corporation. A time or demand deposit in a financial institution or insurance policy need not be listed.

(8) The name and address of the most recent former employer.

(9) Additional information that the person making the disclosure chooses to include.

Any such state officer, candidate, or employee may file an amended statement upon discovery of additional information required to be reported.

(d) A person who:

(1) fails to file a statement required by rule or this section in a timely manner; or

(2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars ($10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars ($1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

SECTION 3. 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:

(1) "Board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

~~(a)~~ **(2)** "Department" means the Indiana department of natural resources.

~~(b)~~ **(3)** "Commission" means the alcohol and tobacco commission.

~~(c)~~ **(4)** "Officer" means any Indiana state excise police officer, any Indiana state conservation enforcement officer, any gaming agent,

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or any gaming control officer.

~~(d)~~ **(5)** "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

~~(e)~~ **(6)** "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)~~ **(7)** "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)~~ **(8)** "Public employees' retirement act" means IC 5-10.3.

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

~~(i)~~ **(10)** "Interest" means the same rate of interest as is specified under the public employees' retirement law.

~~(j)~~ **(11)** "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)~~ **(12)** 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 4. IC 5-10-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The management administration of the retirement plan created by this chapter is hereby vested in the board. ~~of trustees of the public employees' retirement fund.~~

(b) Records of individual participants in the retirement plan created by this chapter and participants' information are confidential, except for the name and years of service of a retirement plan participant.

SECTION 5. IC 5-10-5.5-7.5, AS ADDED BY P.L.180-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7.5. (a) As used in this section, "board" refers to the board of trustees of the ~~public employees' retirement fund established by IC 5-10.3-3-1.~~ **Indiana public retirement system established by IC 5-10.5-3-1.**

(b) As used in this section, "public retirement fund" refers collectively to:

(1) the public employees' retirement fund (IC 5-10.3);

(2) the Indiana state teachers' retirement fund (IC 5-10.4);

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(3) the state police pension trust (IC 10-12); and

(4) the 1977 police officers' and firefighters' pension and disability fund (IC 36-8-8).

(c) Subject to this section, a participant may purchase service credit for the participant's prior service in a position covered by a public retirement fund.

(d) To purchase the service credit described in subsection (c), a participant must meet the following requirements:

(1) The participant has at least one (1) year of creditable service in the retirement plan created by this chapter.

(2) The participant has not attained vested status in and is not an active participant in the public retirement fund from which the participant is purchasing the service credit.

(3) Before the participant retires, the participant makes contributions to the retirement plan created by this chapter as follows:

(A) Contributions that are equal to the product of the following:

(i) The participant's salary at the time the participant actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary for the retirement plan created by this chapter, based on the age of the participant at the time the participant actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the participant intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the retirement plan created by this chapter, for the period from the participant's initial participation in the retirement plan created by this chapter to the date payment is made by the participant.

(e) At the request of the participant purchasing service credit under this section, the amount a participant is required to contribute under subsection (d)(3) may be reduced by a trustee to trustee transfer from a public retirement fund in which the participant has an account that contains amounts attributable to member contributions (plus any credited earnings) to the retirement plan created by this chapter. The participant may direct the transfer of an amount only to the extent necessary to fund the service purchase under subsection (d)(3). The participant shall complete any forms required by the public retirement

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fund from which the participant is requesting a transfer or the retirement plan created by this chapter before the transfer is made.

(f) At least ten (10) years of service in the retirement plan created by this chapter is required before a participant may receive a benefit based on service credit purchased under this section.

(g) A participant who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive an annual retirement allowance; or

(2) receives an annual retirement allowance for the same service from another tax supported governmental retirement plan other than under the federal Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the retirement plan created by this chapter.

(h) The following may apply to the purchase of service credit under this section:

(1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A participant may not claim the service credit for purposes of determining eligibility for a benefit or computing benefits unless the participant has made all payments required for the purchase of the service credit.

(i) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, 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

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

(j) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, 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 6. IC 5-10.2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. ~~Board.~~ "Board", as used in this article, means the board of trustees of the ~~Indiana state teachers' retirement fund and the board of trustees of the public employees' retirement fund.~~ **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 7. IC 5-10.2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. ~~Scope; Purpose.~~ (a) This article applies to the Indiana state teachers' retirement fund and the public employees' retirement fund. Each retirement fund covered by this article is a separate retirement fund managed by ~~its~~ **the** board under ~~its~~ **the fund's** retirement fund law. ~~Each~~ **The** board shall make and publish regulations which are appropriate to the efficient administration of this article. The obligations of the state and political subdivisions for benefit payments are specified in each retirement fund law.

(b) ~~Each fund~~ **The Indiana public retirement system** is an independent body corporate and politic. ~~A fund~~ **The Indiana public retirement system** is not a department or agency of the state but is an independent instrumentality exercising essential government functions.

~~(c) For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, each board, each fund, and all employees of each board or fund are public employees (as defined in IC 34-6-2-38). All employees of each board or fund employed within a classification covered by a labor agreement to which the state is a party shall continue to remain subject to the terms and conditions of that agreement and any successor labor agreements entered into by the state.~~

~~(d)~~ **(c)** The benefits specified in this article and the benefits from the Social Security Act provide the retirement, disability, and survivor benefits for public employees and teachers. However, this article does not prohibit a political subdivision from establishing and providing before January 1, 1995, and continuing to provide after January 1,

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1995, retirement, disability, and survivor benefits for the public employees of the political subdivision independent of this article if the political subdivision took action before January 1, 1995, and was not a participant in the public employees' retirement fund on January 1, 1995, under this article or IC 5-10.3.

SECTION 8. IC 5-10.2-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The board ~~of the public employees' retirement fund~~ shall maintain the following separate accounts **in the public employees' retirement fund:**

(1) The annuity savings account.

(2) The retirement allowance account.

(b) The board ~~of the Indiana state teachers' retirement fund~~ shall maintain the following two (2) separate accounts **in the Indiana state teachers' retirement fund:**

(1) The pre-1996 account.

(2) The 1996 account.

(c) Within each account specified in subsection (b), the board ~~of the Indiana state teachers' retirement fund~~ shall maintain the following separate subaccounts:

(1) The annuity savings account.

(2) The retirement allowance account.

SECTION 9. 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. 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.~~ **each contribution rate group.**

(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 10. IC 5-10.2-2-11, AS AMENDED BY P.L.182-2009(ss), SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) Based on the actuarial investigation and valuation in section 9 of this chapter, each board shall determine:

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(1) the normal contribution for ~~the employer,~~ **each contribution rate group,** which is the amount necessary to fund the pension portion of the retirement benefit;

(2) the rate of normal contribution;

(3) the unfunded accrued liability of the public employees' retirement fund, the pre-1996 account, and the 1996 account, which is the excess of total accrued liability over the fund's or account's total assets, respectively; and

(4) the ~~rates of contribution for the state expressed as a proportion of compensation of members, which would be~~ **period, which must be thirty (30) years or a shorter period,** necessary to

~~(A)~~ amortize the unfunded accrued liability ~~of the state for~~ **determined in subdivision (3).** ~~thirty (30) years or for a shorter time period. requested by the budget agency or the governor. and~~

~~(B) prevent the state's unfunded accrued liability from increasing.~~

(b) Based on the information in subsection (a), each board may determine, in its sole discretion, contributions and contribution rates for individual employers or for a group of employers.

(c) The board's determinations under subsection (a):

(1) are subject to sections 1.5 and 11.5 of this chapter; and

(2) for an employer making a contribution to the Indiana state teachers' retirement fund, may not include an amount for a retired member of the Indiana state teachers' retirement fund for whom the employer may not make contributions during the member's period of reemployment as provided under IC 5-10.2-4-8(d).

SECTION 11. IC 5-10.2-9-2, AS ADDED BY P.L.149-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. As used in this chapter, "board" refers to the ~~following.~~

~~(1) The board of trustees of the Indiana state teachers' retirement fund.~~

~~(2) The board of trustees of the public employees' retirement fund.~~ **board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 12. IC 5-10.2-10-3, AS ADDED BY P.L.67-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. As used in this chapter, "board" refers to the ~~following.~~

~~(1) The board of trustees of the Indiana state teachers' retirement fund.~~

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~~(2) the board of trustees of the public employees' retirement fund.~~ **board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 13. IC 5-10.3-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. ~~Board.~~ "Board" as used in this article means the board of trustees of the ~~public employees' retirement fund.~~ **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 14. IC 5-10.3-1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.5. As used in this article, "director" refers to the director of the ~~fund.~~ **Indiana public retirement system established by IC 5-10.5-2-1.**

SECTION 15. IC 5-10.3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. ~~Establishment of Fund and Board.~~ (a) The public employees' retirement fund of Indiana, referred to as the fund, is established to pay benefits to officers and employees of the state and its political subdivisions after specified years of service and under other specified circumstances. The purpose of the fund is to promote economy and efficiency in the administration of state and local government by providing an orderly way for members to be retired without prejudice and without inflicting hardship on the retired member.

(b) The fund is a trust. The board of trustees of the ~~public employees' retirement fund, referred to as the board,~~ **Indiana public retirement system** shall administer the fund and implement this article, without the supervision of the department of insurance.

SECTION 16. IC 5-10.3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. ~~The Actuary. The actuary is the technical advisor on the operation of the fund.~~ The actuary shall perform the duties specified in this article and in IC 5-10.2 and all other duties assigned by the board.

SECTION 17. IC 5-10.3-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. ~~Preliminary Survey.~~ The governing body may request a preliminary survey, at its expense **as determined by the board,** to determine the estimated cost of participation. The board and its actuary shall give an estimate of the costs, the benefits, and other appropriate information. ~~However, a governing body of a unit that is participating in the fund is not required to request a survey, and the board and its actuary are not required to give an estimate when:~~

~~(1) the unit adopts a resolution or ordinance providing that additional classifications of employees will become members of~~

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~~the fund; and~~

~~(2) the actuary for the fund finds there would be no material change in the current or continued employer contribution rate for that unit because of the additional classification.~~

SECTION 18. IC 5-10.3-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. ~~Accounts.~~ The board shall maintain separate accounts for each ~~political subdivision.~~ **contribution rate group.** Credits and charges to these accounts shall be made as prescribed in IC 5-10.2-2.

SECTION 19. IC 5-10.3-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. ~~Transfer of Assets.~~ (a) If a political subdivision with a retirement system becomes a participant, the moneys and securities in the retirement system shall be transferred to the fund. If the securities to be transferred are not acceptable to the board, they shall be converted to cash, which shall be transferred to the fund.

~~(b) Moneys received by the fund shall first be applied to set up a reserve equal to the present value of benefits payable to retired members. The excess of the moneys shall be used to offset the charge to the political subdivision for unfunded accrued liability for active members.~~

~~(c)~~ **(b)** If there are insufficient funds ~~for the reserve required in subsection (b) of this section,~~ **transferred under subsection (a),** then the political subdivision shall pay the fund, either in a single payment or in installment payments approved by the board, the amount needed. ~~to establish the reserve.~~ If the political subdivision is unable to make any payment, the board may reduce proportionately each benefit payable to retired members.

~~(d)~~ **(c)** The liabilities of a retirement system which is transferred to the fund are not liabilities of the fund, except as provided by agreement between the fund and the political subdivision.

SECTION 20. IC 5-10.3-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. There is created within the public employees' retirement fund a separate account known as the pension relief fund. This fund is administered by the board of trustees of the ~~public employees' retirement fund,~~ **Indiana public retirement system,** referred to as the "state board" in this chapter. The pension relief fund consists of revenues received under IC 6-7-1-28.1(4), IC 7.1-4-12-1, any appropriations to the fund, and earnings on these revenues.

SECTION 21. IC 5-10.4-1-5, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2011]: Sec. 5. "Board" refers to the board of trustees of the ~~Indiana state teachers' retirement fund.~~ **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 22. IC 5-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

ARTICLE 10.5. INDIANA PUBLIC PENSION MODERNIZATION ACT

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Board" refers to the board of trustees of the system established by IC 5-10.5-3-1.

Sec. 3. "Director" refers to the director of the system.

Sec. 4. "Public employees' retirement fund" means the public employees' retirement fund established under IC 5-10.2 and IC 5-10.3.

Sec. 5. "Public pension and retirement funds of the system" means the public pension and retirement funds listed in IC 5-10.5-2-2.

Sec. 6. "System" refers to the Indiana public retirement system established by IC 5-10.5-2-1.

Sec. 7. "Teachers' retirement fund" means the Indiana state teachers' retirement fund established under IC 5-10.2 and IC 5-10.4.

Chapter 2. Indiana Public Retirement System

Sec. 1. On July 1, 2011, the Indiana public retirement system is established.

Sec. 2. The system consists of the following public pension or retirement funds:

(1) The public employees' retirement fund established under IC 5-10.2 and IC 5-10.3.

(2) The Indiana state teachers' retirement fund established under IC 5-10.2 and IC 5-10.4.

(3) The Indiana judges' retirement fund established under IC 33-38-6.

(4) The prosecuting attorneys retirement fund established under IC 33-39-7.

(5) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund established under IC 5-10-5.5.

(6) The 1977 police officers' and firefighters' pension and

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disability fund established under IC 36-8-8.

(7) The legislators' retirement system established under IC 2-3.5.

(8) The pension relief fund established under IC 5-10.3-11.

(9) The special death benefit fund established under IC 5-10-10.

(10) The state employees' death benefit fund established under IC 5-10-11.

Sec. 3. The system is an independent body corporate and politic. The system is not a department or agency of the state but is an independent instrumentality exercising essential government functions.

Sec. 4. For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, the board, the system, and all employees of the board or the system are public employees (as defined in IC 34-6-2-38). All employees of the board or a fund administered by the board who are employed within a classification covered by a labor agreement to which the state is a party shall continue to remain subject to the terms and conditions of that agreement and any successor labor agreements entered into by the state.

Sec. 5. The system shall be managed and administered by a board of trustees established under IC 5-10.5-3.

Sec. 6. Each public pension or retirement fund listed in section 2 of this chapter is a separate fund managed by the board under this article and the retirement law applicable to the public pension or retirement fund. The obligations of the state and political subdivisions for benefit payments are specified in the retirement law applicable to each public pension or retirement fund.

Chapter 3. Board of Trustees

Sec. 1. (a) The board of trustees of the Indiana public retirement system is established.

(b) The board shall manage and administer each public pension or retirement fund that comprises the system in accordance with:

(1) this article; and

(2) the retirement law applicable to the public pension or retirement fund.

Sec. 2. (a) The board is composed of nine (9) trustees appointed by the governor as follows:

(1) At least one (1) trustee must have experience in economics, finance, or investments.

(2) At least one (1) trustee must have experience in executive management or benefits administration.

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(3) The director of the budget agency or the budget agency director's designee serving as an ex officio voting member of the board. An individual appointed under this subdivision to serve as the budget agency director's designee:

(A) is subject to section 5 of this chapter; and

(B) serves as a permanent designee until replaced by the budget agency director.

(4) Two (2) trustees nominated by the speaker of the house of representatives as follows:

(A) One (1) must be an active or retired police officer or firefighter who is a member of the 1977 police officers' and firefighters' pension and disability fund.

(B) One (1) must be a member of the teachers' retirement fund with at least ten (10) years of creditable service.

(5) Two (2) trustees nominated by the president pro tempore of the senate as follows:

(A) One (1) must be a member of the public employees' retirement fund with at least ten (10) years of creditable service.

(B) One (1) must be a member of the teachers' retirement fund with at least ten (10) years of creditable service.

(6) One (1) trustee nominated by the auditor of state. The individual nominated under this subdivision may be the auditor of state or another individual who has experience in professional financial accounting or actuarial science.

(7) One (1) trustee nominated by the treasurer of state. The individual nominated under this subdivision may be the treasurer of state or another individual who has experience in economics, finance, or investments.

(b) If a vacancy on the board occurs, the governor shall, not later than forty-five (45) days after the date the vacancy occurs, appoint an individual to fill the vacancy using the criteria in subsection (a).

(c) During the first year after an individual's initial appointment as a trustee and each year thereafter during which the individual serves as a trustee, the individual is strongly encouraged to complete at least twelve (12) hours of trustee education, at least two (2) hours in each of the following areas:

(1) Fiduciary duties and responsibilities of a trustee.

(2) Ethics.

(3) Governance process and procedures.

(4) Retirement plan design and administration.

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(5) Investments.

(6) Actuarial principles and methods.

(d) Subject to the director's approval, each trustee is entitled to reimbursement for reasonable expenses actually incurred in fulfilling the educational requirements under subsection (c). The director shall give a preference for reimbursement for in-state training that meets the requirements under subsection (c), if in-state training is available.

Sec. 3. (a) A trustee shall serve a term of four (4) years, beginning on July 1 following the trustee's appointment.

(b) Whenever a trustee is appointed to fill a vacancy caused by death or resignation, the trustee shall serve the unexpired term of the trustee's predecessor.

(c) A trustee shall serve until the trustee's successor is appointed and qualified.

Sec. 4. (a) In making the initial appointments to the board under section 2(a) of this chapter, the governor shall do the following:

(1) Appoint individuals to the initial terms of office under section 2 of this chapter not later than July 15, 2011.

(2) In making appointments under subdivision (1), give a preference for appointment, consistent with the criteria in section 2(a) of this chapter, to those individuals who, on June 30, 2011, are serving as trustees of the public employees' retirement fund and the teachers' retirement fund.

(b) A trustee appointed under subsection (a)(2) shall serve until the trustee's term would have expired under IC 5-10.3-3-2 (repealed) and IC 5-10.4-3-2 (repealed).

(c) The initial terms of office for the individuals appointed under subsection (a) begin July 1, 2011.

(d) This section expires January 1, 2016.

Sec. 5. (a) Each trustee shall take an oath of office. The oath must be:

(1) subscribed to by the trustee making the oath;

(2) certified by the officer before whom the trustee takes the oath; and

(3) filed with the secretary of state.

(b) A trustee is qualified for membership on the board when the trustee's oath is filed with the secretary of state.

Sec. 6. (a) Each trustee is entitled to reimbursement for necessary expenses actually incurred through service on the board.

(b) Trustee expenses shall be paid from fund assets.

Sec. 7. (a) Not later than June 30 each year, the board shall elect

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a chair and vice chair from its members to serve as the officers of the board.

(b) An officer shall serve for one (1) year or until the officer's successor is elected and qualified.

Sec. 8. (a) The board shall hold regular meetings at least quarterly.

(b) The board may hold special meetings:

(1) at the call of the chair; or

(2) with a written request signed by at least five (5) trustees.

(c) The board may hold its meetings at the system's general offices or at any other place in Indiana that the board designates.

(d) All meetings must be open to the public in accordance with IC 5-14-1.5.

(e) The board shall keep a record of its proceedings.

Sec. 9. (a) This section applies to any meeting of the board.

(b) A member of the board may participate in a meeting of the board using any means of communication that permits:

(1) all other board members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with the member during the meeting.

(c) A member of the board who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memorandum of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting using a means of communication described in subsection (b); or

(3) was absent.

Sec. 10. (a) Five (5) trustees constitute a quorum for the transaction of business.

(b) Each trustee is entitled to one (1) vote.

(c) A majority vote of the trustees present is required for the board to adopt a resolution or take other action at a regular or special meeting.

Chapter 4. Board Powers and Duties

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

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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.

(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

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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) Provide the necessary forms for administering the fund.

(16) 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.

Sec. 2. (a) The board may do any of the following:

(1) Establish and amend rules and regulations:

(A) for the administration and regulation of the fund and the board's affairs; and

(B) to effectuate the powers and purposes of the board;

without adopting a rule under IC 4-22-2.

(2) Make contracts and sue and be sued as the board of trustees of the Indiana public retirement system.

(3) Delegate duties to its employees.

(4) Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, dental, vision, long term care, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired members of the fund, and, upon authorization of the respective member, deduct premium payments for such policies from the members' retirement benefits and remit the payments to the insurance companies.

(5) Enter into agreements with one (1) or more insurance companies to provide annuities for retired members of the fund, and, upon a member's authorization, transfer the amount credited to the member in the annuity savings account to the insurance companies.

(6) For the 1977 police officers' and firefighters' pension and disability fund, deduct from benefits paid and remit to the appropriate entities amounts authorized by IC 36-8-8-17.2.

(7) Whenever the fund's membership is sufficiently large for actuarial valuation, establish an employer's contribution rate for all employers, including employers with special benefit provisions for certain employees.

(8) Amortize prior service liability over a period of forty (40) years or less.

(9) Recover payments made under false or fraudulent representation.

(10) Give bond for an employee for the fund's protection.

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(11) Receive the state's share of the cost of the pension contribution from the federal government for a member on leave of absence in order to work in a federally supported educational project.

(12) Summon and examine witnesses when adjusting claims.

(13) When adjusting disability claims, require medical examinations by doctors approved or appointed by the board. Not more than two (2) examinations may be conducted in one (1) year.

(14) Conduct investigations to help determine the merit of a claim.

(15) Meet an emergency that may arise in the administration of the board's trust.

(16) Determine other matters regarding the board's trust that are not specified.

(17) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.

(b) This subsection does not apply to investments of the board. A contract under subsection (a)(2) may be for a term of not more than five (5) years, with an ability to renew thereafter.

(c) An agreement under subsection (a)(4) may be for a duration of three (3) years.

Sec. 3. The board's powers as specified in this article or the retirement law applicable to a public pension or retirement fund of the system:

(1) shall be interpreted broadly to accomplish the purposes of this article or the applicable retirement law; and

(2) may not be construed as a limitation of powers.

Chapter 5. Investments

Sec. 1. The board has the powers, duties, restrictions, limitations, and penalties in connection with the board's investment and management of the assets of the public pension and retirement funds of the system under the following provisions:

(1) IC 5-10.2-2-2.5.

(2) IC 5-10.2-2-13.

(3) IC 5-10.2-2-18.

(4) IC 5-10.3-3-7.1.

(5) IC 5-10.3-5-3.

(6) IC 5-10.3-5-3.1.

(7) IC 5-10.3-5-4.

(8) IC 5-10.3-5-5.

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(9) IC 5-10.3-5-6.
(10) IC 5-10.4-3-7.
(11) IC 5-10.4-3-9.
(12) IC 5-10.4-3-10.
(13) IC 5-10.4-3-11.
(14) IC 5-10.4-3-12.
(15) IC 5-10.4-3-13.
(16) IC 5-10.4-3-14.
(17) IC 5-10.4-3-15.
(18) IC 5-10.4-3-16.

Sec. 2. The board's transactions under this chapter are subject to IC 2-3.5-3-3, IC 5-10-5.5-2.5, IC 5-10.2-2-1.5, IC 33-38-6-13, IC 33-39-7-22, and IC 36-8-8-2.5.

Chapter 6. Director; Reports and Administration

Sec. 1. (a) The director is the executive officer of the system and is responsible for the administration of the system.

(b) The director is appointed by and serves at the pleasure of the board.

Sec. 2. The director shall do the following:

(1) Maintain a record of the board's proceedings.
(2) Keep the books and records of the system.
(3) Deposit payments made to the system with the custodian for the system's accounts.
(4) Sign vouchers for the payment of money from the system as authorized by the board.
(5) Execute a corporate surety bond in an amount specified by the board. The premium for the bond is an administrative expense of the system.
(6) Perform other duties as assigned by the board.

Sec. 3. (a) The board shall maintain individual records for each member of a public pension or retirement fund of the system administered by the board.

(b) A member's record must include at least the following information:

(1) The member's name.
(2) Date of birth.
(3) Age at beginning service.
(4) Service record.
(5) Address.
(6) Contributions.
(7) Amounts withdrawn.
(8) Benefits paid.

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(9) Social Security number.

(10) Any other information necessary for the fund to administer the member's account.

Sec. 4. (a) Records of:

(1) individual members of; and

(2) membership information concerning;

a public pension or retirement fund administered by the board are confidential, except for the name and years of service of a member.

(b) This section does not prohibit the board from providing fund records to an association or organization described in IC 2-3.5-4-12, IC 2-3.5-5-10, IC 5-10.3-8-10, IC 5-10.4-5-14, or IC 36-8-8-17.2.

Sec. 5. (a) Each public pension and retirement fund of the system shall pay the expenses of administration attributable to that public pension or retirement fund.

(b) The board shall:

(1) prorate the expenses of administration of the system that cannot be attributed to a particular public pension or retirement fund and the bond of the director among; and

(2) pay the prorated expenses from;

the public pension and retirement funds of the system.

Chapter 7. Short Title and Saving Provisions

Sec. 1. This article shall be known as and may be cited as the Indiana public pension modernization act.

Sec. 2. (a) All powers, duties, liabilities, property, equipment, records, rights, and contracts of the:

(1) board of trustees of the public employees' retirement fund; and

(2) board of trustees of the teachers' retirement fund;

are transferred to or assumed by the board on July 1, 2011.

(b) The board shall provide indemnification of:

(1) the board of trustees of the public employees' retirement fund; and

(2) the board of trustees of the teachers' retirement fund;

as necessary or appropriate in regard to any liabilities of the public employees' retirement fund or the teachers' retirement fund assumed by the board.

Sec. 3. Any amounts transferred under this subsection to the system that represent balances in any fund or account of the public employees' retirement fund or the teachers' retirement fund for the administration of the public pension and retirement funds administered by the public employees' retirement fund or the

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teachers' retirement fund before July 1, 2011, including any related services, shall be:

(1) deposited in a fund or account designed by the board; and

(2) used by the system for the administration of the public pension and retirement funds of the system and related services.

Sec. 4. The employees of the:

(1) public employees' retirement fund; and

(2) teachers' retirement fund;

become employees of the system on July 1, 2011, without change in compensation, seniority, or benefits. An employee of the public employees' retirement fund who is a member of the public employees' retirement fund before July 1, 2011, and becomes an employee of the system after June 30, 2011, remains a member of the public employees' retirement fund after June 30, 2011. An employee of the teachers' retirement fund who is a member of the teachers' retirement fund before July 1, 2011, and becomes an employee of the system after June 30, 2011, remains a member of the teachers' retirement fund after June 30, 2011. An employee who becomes an employee of the system after June 30, 2011, is a member of the public employees' retirement fund, unless the director expressly determines otherwise.

Sec. 5. Rules and regulations of:

(1) the public employees' retirement fund; and

(2) the teachers' retirement fund;

in effect before July 1, 2011, are considered, after June 30, 2011, rules and regulations of the system.

Sec. 6. (a) Any reference or cross-reference to:

(1) the board of trustees of the public employees' retirement fund; or

(2) the board of trustees of the teachers' retirement fund;

in the Indiana Code shall be treated after June 30, 2011, as a reference or cross-reference to the board.

(b) Any reference or cross-reference to:

(1) the director of the public employees' retirement fund; or

(2) the director of the teachers' retirement fund;

in the Indiana Code shall be treated after June 30, 2011, as a reference or cross-reference to the director.

Sec. 7. If any provision in this article conflicts with a provision in IC 5-10.2, IC 5-10.3, or IC 5-10.4, the provisions shall be read together to the extent possible with any conflict resolved in favor of the provision in this article.

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SECTION 23. IC 33-38-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. As used in this chapter, "board" refers to the board of trustees of the ~~public employees' retirement fund.~~ **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 24. IC 33-38-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. As used in this chapter, "board" refers to the board of trustees of the ~~public employees' retirement fund.~~ **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 25. IC 33-38-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. As used in this chapter, "board" refers to the board of trustees of the ~~public employees' retirement fund.~~ **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 26. IC 33-39-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. As used in this chapter, "board" refers to the board of trustees of the ~~public employees' retirement fund.~~ **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 27. IC 36-8-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) There is established a police officers' and firefighters' pension and disability fund to be known as the 1977 fund. The 1977 fund consists of fund member and employer contributions, plus the earnings on them, to be used to make benefit payments to fund members and their survivors in the amounts and under the conditions specified in this chapter.

(b) The board of trustees of the ~~public employees' retirement fund (referred to in this chapter as the "PERF board")~~ **Indiana public retirement system (referred to in this chapter as the "system board")** shall administer the 1977 fund, which may be commingled with the public employees' retirement fund for investment purposes. All actuarial data shall be computed on the total membership of the fund, and the cost of participation is the same for all employers in the fund. The fund member and employer contributions shall be recorded separately for each employer.

~~(c) The 1977 fund advisory committee, referred to as the committee, is established. The PERF board shall consult with the committee on matters pertaining to the administration of this chapter and IC 5-10.3-11. The committee shall consist of the following members appointed by the governor every two (2) years for a term of two (2) years:~~

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~~(1) Two (2) firefighters:~~

~~(A) each of whom must be an active or retired member of the 1937 fund or the 1977 fund; and~~

~~(B) neither of whom may be in an upper level policymaking position.~~

~~(2) Two (2) police officers:~~

~~(A) each of whom must be an active or retired member of the 1925 fund, the 1953 fund, or the 1977 fund; and~~

~~(B) neither of whom may be in an upper level policymaking position.~~

~~(3) Two (2) members, each of whom must be an executive of an employer.~~

~~(4) Two (2) members, each of whom must be a member of the legislative body of an employer.~~

~~The term of each member begins on July 1 following appointment and continues until his successor is qualified. A member of the committee who no longer holds the position that qualified him for appointment under subdivision (1), (2), (3), or (4) forfeits his membership on the committee. The governor shall appoint a person to fill a vacancy on the committee for the remainder of the unexpired term.~~

~~(d) Each member of the committee who is not a state employee is entitled to reimbursement for expenses actually incurred in connection with the member's duties. Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as approved by the PERF board.~~

(c) Any reference or cross-reference to the 1977 fund advisory committee in the Indiana Code shall be treated after June 30, 2011, as a reference or cross-reference to the system board.

SECTION 28. IC 36-8-8-13.1, AS AMENDED BY P.L.29-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13.1. (a) If:

(1) the local board has determined under this chapter that a covered impairment exists and the safety board has determined that there is no suitable and available work within the department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act; or

(2) the fund member has filed an appeal under section 12.7(o) of this chapter;

the local board shall submit the local board's determinations and the safety board's determinations to the ~~PERF~~ **system** board's director.

(b) Whenever a fund member is determined to have an impairment

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under section 12.7(i) of this chapter, the ~~PERF~~ **system** board's director shall initiate a review of the default award not later than sixty (60) days after the director learns of the default award.

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

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

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

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

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

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

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

(e) The fund member, the safety board, or the local board may object in writing to the director's initial determination within fifteen (15) days after the determination is issued. If no written objection is filed, the initial determination becomes the final order of the ~~PERF~~ **system** board. If a timely written objection is filed, the ~~PERF~~ **system**

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board shall issue the final order after a hearing. The final order shall be issued not later than one hundred eighty (180) days after the date of receipt of the local board's determination or the date the ~~PERF~~ **system** board's director initiates a review under subsection (b). The following provisions apply if a final order is not issued within one hundred eighty (180) days and if the delay is not attributable to the fund member or the chief of the police or fire department:

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

(A) the determinations of the local board and the chief of the police or fire department are considered to be the final order; and

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

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

(3) In the case of a review initiated under subsection (b), the impairment determined under section 12.7(i) of this chapter is considered to be the final order.

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

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

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

SECTION 29. IC 36-8-8-13.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13.6. (a) As used in this chapter, "Class 3 excludable condition" means a condition that is included on the list of excludable medical conditions established by the ~~PERF~~ **system** board under subsection (b).

(b) The ~~PERF~~ **system** board shall adopt rules ~~under IC 4-22-2~~ to establish a list of excludable medical conditions.

(c) To the extent required by the Americans with Disabilities Act, the ~~PERF~~ **system** board shall record and retain the listing of a fund member's Class 3 excludable condition in the fund member's confidential medical file.

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SECTION 30. IC 36-8-8-19, AS AMENDED BY P.L.99-2010, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. (a) The baseline statewide physical examination required by section 7(a) of this chapter shall be prescribed by the ~~PERF~~ **system** board and shall be administered by the appointing authority, as determined by the local board, after the appointing authority extends a conditional offer for employment. The baseline statewide physical examination shall be administered by a licensed physician and must include all of the following:

(1) A general medical history.

(2) The tests identified in rules that shall be adopted by the ~~PERF~~ **system** board. ~~under IC 4-22-2.~~

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

(1) reflect the essential functions of the job;

(2) be consistent with business necessity;

~~(3) be reviewed by the 1977 fund advisory board;~~ and

~~(4)~~ **(3)** be evaluated by the ~~PERF~~ **system** board one (1) time before January 1, 2015, and every five (5) years thereafter.

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

(1) reflect the essential functions of the job;

(2) be consistent with business necessity;

~~(3) be reviewed by the 1977 fund advisory board;~~ and

~~(4)~~ **(3)** be evaluated by the ~~PERF~~ **system** board one (1) time before January 1, 2015, and every five (5) years thereafter.

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

(d) The employer shall pay for no less than one-half (1/2) the cost

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of the examinations.

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

(f) If a local board determines that a candidate passes the local physical and mental standards, if any, established under IC 36-8-3.2-6, the baseline statewide physical examination described in subsection (a), and the baseline statewide mental examination described in subsection (c), the local board shall send the following to ~~PERF:~~ **Indiana public retirement system:**

(1) Copies and certification of the results of the baseline statewide physical examination described in subsection (a).

(2) Certification of the results of the physical agility examination required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5.

(3) Certification of the results of the baseline statewide mental examination described in subsection (c).

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

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

(1) Treat the medical transcripts, reports, records, and other material compiled under this section as confidential medical records.

(2) Keep the transcripts, reports, records, and material described in subdivision (1) in separate medical files for each member.

(i) A local board may, at the request of an appointing authority or on the local board's own motion, issue subpoenas, discovery orders, and protective orders in accordance with the Indiana Rules of Trial Procedure to facilitate the receipt of accurate and original documents necessary for the proper administration of this chapter. A subpoena or order issued under this subsection:

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

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

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served.

SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]: IC 2-3.5-2-9; IC 2-3.5-2-13; IC 5-10.2-2-16; IC 5-10.2-2-17; IC 5-10.2-2-19; IC 5-10.3-3-1; IC 5-10.3-3-2; IC 5-10.3-3-3; IC 5-10.3-3-4; IC 5-10.3-3-5; IC 5-10.3-3-6; IC 5-10.3-3-7; IC 5-10.3-3-8; IC 5-10.3-3-9; IC 5-10.3-6-5; IC 5-10.4-3-1; IC 5-10.4-3-2; IC 5-10.4-3-3; IC 5-10.4-3-4; IC 5-10.4-3-5; IC 5-10.4-3-6; IC 5-10.4-3-8.

SECTION 32. [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.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 549, 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 14, delete lines 37 through 42, begin a new paragraph and insert:

"**Sec. 2. (a) The board is composed of nine (9) trustees appointed by the governor as follows:**

(1) At least one (1) trustee must have experience in economics, finance, or investments.

(2) At least one (1) trustee must have experience in executive management or benefits administration.

(3) The director of the budget agency or the budget agency director's designee serving as an ex officio voting member of the board. An individual appointed under this subdivision to serve as the budget agency director's designee:

(A) is subject to section 5 of this chapter; and

(B) serves as a permanent designee until replaced by the budget agency director.

(4) Two (2) trustees nominated by the speaker of the house of representatives as follows:

(A) One (1) must be a member of the public employees' retirement fund with at least ten (10) years of creditable service.

(B) One (1) must be a member of the teachers' retirement fund with at least ten (10) years of creditable service.

(5) Two (2) trustees nominated by the president pro tempore of the senate as follows:

(A) One (1) must be a member of the public employees' retirement fund with at least ten (10) years of creditable service.

(B) One (1) must be a member of the teachers' retirement fund with at least ten (10) years of creditable service.

(6) One (1) trustee nominated by the auditor of state. The individual nominated under this subdivision may be the auditor of state or another individual who has experience in professional financial accounting or actuarial science.

(7) One (1) trustee nominated by the treasurer of state. The individual nominated under this subdivision may be the treasurer of state or another individual who has experience in economics, finance, or investments.".

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Page 15, delete lines 1 through 40.

Page 15, line 41, delete "person who appointed" and insert "**governor**".

Page 15, line 42, delete "the trustee whose position is vacant".

Page 16, line 27, delete "A person required to make an appointment" and insert "**In making the initial appointments**".

Page 16, line 28, after "chapter" insert "**, the governor**".

and when so amended that said bill do pass.

(Reference is to SB 549 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 9, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 549 be amended to read as follows:

Page 15, line 10, after "be" insert "**an active or retired police officer or firefighter who is**".

Page 15, line 10, delete "public employees'" and insert "**1977 police officers' and firefighters' pension and disability fund.**".

Page 15, delete lines 11 through 12.

Page 24, strike line 37.

Page 24, line 38, strike "is established. The".

Page 24, line 38, delete "system".

Page 24, line 38, strike "board shall consult with the".

Page 24, strike lines 39 through 42.

Page 25, strike lines 1 through 15.

Page 25, line 16, strike "continues until".

Page 25, line 16, delete "the member's".

Page 25, line 16, strike "successor is qualified. A member of".

Page 25, line 17, strike "the committee who no longer holds the position that qualified".

Page 25, line 17, after "him" delete "the".

Page 25, line 18, delete "member".

Page 25, line 18, strike "for appointment under subdivision (1), (2), (3), or (4) forfeits".

Page 25, line 19, delete "the member's".

Page 25, line 19, strike "membership on the committee. The governor shall".

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Page 25, strike lines 20 through 26.

Page 25, line 27, delete "system".

Page 25, line 27, strike "board.", begin a new paragraph and insert:

"**(c) Any reference or cross-reference to the 1977 fund advisory committee in the Indiana Code shall be treated after June 30, 2011, as a reference or cross-reference to the system board.**

SECTION 28. IC 36-8-8-13.1, AS AMENDED BY P.L.29-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13.1. (a) If:

(1) the local board has determined under this chapter that a covered impairment exists and the safety board has determined that there is no suitable and available work within the department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act; or

(2) the fund member has filed an appeal under section 12.7(o) of this chapter;

the local board shall submit the local board's determinations and the safety board's determinations to the ~~PERF~~ **system** board's director.

(b) Whenever a fund member is determined to have an impairment under section 12.7(i) of this chapter, the ~~PERF~~ **system** board's director shall initiate a review of the default award not later than sixty (60) days after the director learns of the default award.

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

(d) The ~~PERF~~ **system** board's director shall review the medical authority's report and the local board's determinations and issue an initial determination within sixty (60) days after receipt of the local board's determinations. The ~~PERF~~ **system** board's director shall notify the local board, the safety board, and the fund member of the initial determination. The following provisions apply if the ~~PERF~~ **system** board's director does not issue an initial determination within sixty (60)

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days and if the delay is not attributable to the fund member or the safety board:

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

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

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

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

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

(e) The fund member, the safety board, or the local board may object in writing to the director's initial determination within fifteen (15) days after the determination is issued. If no written objection is filed, the initial determination becomes the final order of the ~~PERF~~ **system** board. If a timely written objection is filed, the ~~PERF~~ **system** board shall issue the final order after a hearing. The final order shall be issued not later than one hundred eighty (180) days after the date of receipt of the local board's determination or the date the ~~PERF~~ **system** board's director initiates a review under subsection (b). The following provisions apply if a final order is not issued within one hundred eighty (180) days and if the delay is not attributable to the fund member or the chief of the police or fire department:

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

(A) the determinations of the local board and the chief of the police or fire department are considered to be the final order; and

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

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

(3) In the case of a review initiated under subsection (b), the impairment determined under section 12.7(i) of this chapter is considered to be the final order.

(f) If the ~~PERF~~ **system** board approves the director's initial determination, then the ~~PERF~~ **system** board shall issue a final order adopting the initial determination. The local board and the chief of the police or fire department shall comply with the initial determination.

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If the ~~PERF~~ **system** board does not approve the initial determination, the ~~PERF~~ **system** board may receive additional evidence on the matter before issuing a final order.

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

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

SECTION 29. IC 36-8-8-13.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13.6. (a) As used in this chapter, "Class 3 excludable condition" means a condition that is included on the list of excludable medical conditions established by the ~~PERF~~ **system** board under subsection (b).

(b) The ~~PERF~~ **system** board shall adopt rules ~~under IC 4-22-2~~ to establish a list of excludable medical conditions.

(c) To the extent required by the Americans with Disabilities Act, the ~~PERF~~ **system** board shall record and retain the listing of a fund member's Class 3 excludable condition in the fund member's confidential medical file.

SECTION 30. IC 36-8-8-19, AS AMENDED BY P.L.99-2010, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. (a) The baseline statewide physical examination required by section 7(a) of this chapter shall be prescribed by the ~~PERF~~ **system** board and shall be administered by the appointing authority, as determined by the local board, after the appointing authority extends a conditional offer for employment. The baseline statewide physical examination shall be administered by a licensed physician and must include all of the following:

(1) A general medical history.

(2) The tests identified in rules that shall be adopted by the ~~PERF~~ **system** board. ~~under IC 4-22-2.~~

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

(1) reflect the essential functions of the job;

(2) be consistent with business necessity;

~~(3) be reviewed by the 1977 fund advisory board;~~ and

~~(4)~~ **(3)** be evaluated by the ~~PERF~~ **system** board one (1) time before January 1, 2015, and every five (5) years thereafter.

(c) The ~~PERF~~ **system** board shall, in consultation with the

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commissioner of mental health, select the baseline statewide mental examination described in section 7(a) of this chapter. The standards for passing the baseline statewide mental examination shall be determined by the local board. The baseline statewide mental examination and related standards must:

(1) reflect the essential functions of the job;

(2) be consistent with business necessity;

~~(3) be reviewed by the 1977 fund advisory board;~~ and

~~(4)~~ **(3)** be evaluated by the ~~PERF~~ **system** board one (1) time before January 1, 2015, and every five (5) years thereafter.

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

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

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

(f) If a local board determines that a candidate passes the local physical and mental standards, if any, established under IC 36-8-3.2-6, the baseline statewide physical examination described in subsection (a), and the baseline statewide mental examination described in subsection (c), the local board shall send the following to ~~PERF.~~ **Indiana public retirement system:**

(1) Copies and certification of the results of the baseline statewide physical examination described in subsection (a).

(2) Certification of the results of the physical agility examination required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5.

(3) Certification of the results of the baseline statewide mental examination described in subsection (c).

(g) The ~~PERF~~ **system** board or the ~~PERF~~ **system** board's designee shall then determine whether the candidate passes the baseline statewide physical standards adopted under subsection (b). If the candidate passes the baseline statewide standards, the ~~PERF~~ **system** board or the ~~PERF~~ **system** board's designee shall also determine whether the candidate has a Class 3 excludable condition under section 13.6 of this chapter. The ~~PERF~~ **system** board or the ~~PERF~~ **system** board's designee shall retain the results of the examinations and all

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documents related to the examination until the police officer or firefighter retires or separates from the department.

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

(1) Treat the medical transcripts, reports, records, and other material compiled under this section as confidential medical records.

(2) Keep the transcripts, reports, records, and material described in subdivision (1) in separate medical files for each member.

(i) A local board may, at the request of an appointing authority or on the local board's own motion, issue subpoenas, discovery orders, and protective orders in accordance with the Indiana Rules of Trial Procedure to facilitate the receipt of accurate and original documents necessary for the proper administration of this chapter. A subpoena or order issued under this subsection:

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

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

Renumber all SECTIONS consecutively.

(Reference is to SB 549 as printed January 28, 2011.)

BOOTS

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