

## SENATE BILL No. 33

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-38.

**Synopsis:** Adjustments to judges' survivor benefits. Increases the minimum retirement annuity for a surviving spouse or surviving child of a participant of the 1977 judges' retirement system or the 1985 judges' retirement system (jointly referred to as the judges' retirement system) from \$12,000 to \$17,000. (The introduced version of this bill was prepared by the pension management oversight commission.)

**Effective:** July 1, 2012.

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**Walker**

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January 4, 2012, read first time and referred to Committee on Pensions and Labor.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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# SENATE BILL No. 33



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 33-38-7-11, AS AMENDED BY P.L.28-2005,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2012]: Sec. 11. (a) Benefits provided under this section are
- 4 subject to IC 33-38-6-13 and section 16 of this chapter.
- 5 (b) A participant whose employment as judge is terminated,
- 6 regardless of cause, is entitled to a retirement annuity beginning on the
- 7 date specified by the participant in a written application, if the
- 8 following conditions are met:
- 9 (1) The date the annuity begins is not:
- 10 (A) before the date of final termination of employment by the
- 11 participant; or
- 12 (B) the date thirty (30) days before the receipt of the
- 13 participant's written application by the board.
- 14 (2) The participant:
- 15 (A) is at least sixty-two (62) years of age and has at least eight
- 16 (8) years of service credit;
- 17 (B) is at least fifty-five (55) years of age and the participant's



1 age in years plus the participant's years of service is at least  
2 eighty-five (85); or

3 (C) has become permanently disabled.

4 (3) The participant is not receiving a salary from the state for  
5 services currently performed as:

6 (A) a judge (as defined in IC 33-38-6-7); or

7 (B) a magistrate under IC 33-23-5.

8 (c) A participant:

9 (1) who:

10 (A) elects to accept retirement after June 30, 1977; and

11 (B) is at least sixty-five (65) years of age; or

12 (2) who:

13 (A) elects to accept retirement after June 30, 1999;

14 (B) is at least fifty-five (55) years of age; and

15 (C) meets the requirements under subsection (b)(2)(B);

16 is entitled to an annual retirement benefit as calculated in subsection

17 (d).

18 (d) The annual retirement benefit for a participant who meets the  
19 requirements of subsection (c) equals the product of:

20 (1) the salary being paid for the office that the participant held at

21 the time of the participant's separation from service; multiplied by

22 (2) the percentage prescribed in the following table:

23 TABLE A

24 Participant's Years 25 of Service	26 Percentage
26 8	24%
27 9	27%
28 10	30%
29 11	33%
30 12	50%
31 13	51%
32 14	52%
33 15	53%
34 16	54%
35 17	55%
36 18	56%
37 19	57%
38 20	58%
39 21	59%
40 22 or more	60%

41 If a participant has a partial year of service in addition to at least eight  
42 (8) full years of service, an additional percentage shall be calculated by



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1 prorating between the applicable percentages, based on the number of  
 2 months in the partial year of service. A participant who elects to accept  
 3 retirement before July 1, 1977, is entitled to an annual retirement  
 4 benefit that equals the average of the benefit computed under this  
 5 subsection and the benefit the participant would have received under  
 6 IC 33-38-6 as in effect on June 30, 1977.

7 (e) If the annual retirement benefit of a participant who began  
 8 service as a judge before July 1, 1977, as computed under subsection  
 9 (d), is less than the amount the participant would have received under  
 10 IC 33-38-6 as in effect on June 30, 1977, the participant is entitled to  
 11 receive the greater amount as the participant's annual retirement benefit  
 12 instead of the benefit computed under subsection (d).

13 (f) Except as provided in subsections (b)(2)(B) and (d), if a  
 14 participant who elects to accept retirement after June 30, 1977, has not  
 15 attained sixty-five (65) years of age, the participant is entitled to  
 16 receive a reduced annual retirement benefit that equals the benefit that  
 17 would be payable if the participant were sixty-five (65) years of age  
 18 reduced by one-tenth percent (0.1%) for each month that the  
 19 participant's age at retirement precedes the participant's sixty-fifth  
 20 birthday. This reduction does not apply to:

- 21 (1) participants who are separated from service because of
- 22 permanent disability;
- 23 (2) survivors of participants who die while in service after August
- 24 1, 1992; or
- 25 (3) survivors of participants who die while not in service but
- 26 while entitled to a future benefit.

27 (g) A participant who is permanently disabled is entitled to an  
 28 annual benefit equal to the product of:

- 29 (1) the salary being paid for the office that the participant held at
- 30 the time of separation from service; multiplied by
- 31 (2) the percentage prescribed in the following table:

32 TABLE B

33 Participant's Years	Percentage
34 of Service	
35 0-12	50%
36 13	51%
37 14	52%
38 15	53%
39 16	54%
40 17	55%
41 18	56%
42 19	57%

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1	20	58%
2	21	59%
3	22 or more	60%

4 If a participant has a partial year of service in addition to at least eight  
 5 (8) full years of service, an additional percentage shall be calculated by  
 6 prorating between the applicable percentages, based on the number of  
 7 months in the partial year of service.

8 (h) The surviving spouse or surviving child or children, as  
 9 designated by the participant, of a participant who has qualified before  
 10 July 1, 1977, to receive the retirement annuity under the provisions of  
 11 this chapter, either by length of service or by being permanently  
 12 disabled, shall, upon the death of such participant, be entitled to an  
 13 annuity in an amount equal to the greater of:

- 14 (1) the sum of:
  - 15 (A) two thousand dollars (\$2,000); plus
  - 16 (B) fifty percent (50%) of the amount of retirement annuity the
  - 17 participant was drawing at the time of the participant's death,
  - 18 or to that which the participant would have been entitled had
  - 19 the participant retired and begun receiving retirement annuity
  - 20 benefits prior to the participant's death; or

- 21 (2) the amount determined under the following table:

22 TABLE C

23	Year	Amount
24	July 1, 1995, to	
25	June 30, 1996	\$10,000
26	July 1, 1996, to	
27	June 30, 1997	\$11,000
28	July 1, 1997, and	
29	thereafter to	
30	<b>June 30, 2012</b>	\$12,000
31	<b>July 1, 2012, and</b>	
32	<b>thereafter</b>	<b>\$17,000</b>

33 (i) If a participant who qualifies after June 30, 1977, and before July  
 34 1, 1983, to receive a retirement annuity under the provisions of this  
 35 chapter, either by length of service or by being permanently disabled,  
 36 dies, the participant's surviving spouse or surviving child or children,  
 37 as designated by the participant, is or are entitled to an annuity in an  
 38 amount equal to the greater of:

- 39 (1) fifty percent (50%) of the amount of retirement annuity the
- 40 participant was drawing at the time of death, or to that which the
- 41 participant would have been entitled had the participant retired
- 42 and begun receiving retirement annuity benefits before death; or

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- 1 (2) the amount determined under TABLE C in subsection (h)(2).  
 2 (j) If a participant:  
 3 (1) dies after June 30, 1983; and  
 4 (2) on the date of the participant's death:  
 5 (A) was receiving benefits under this chapter;  
 6 (B) had completed at least eight (8) years of service and was  
 7 in service as a judge;  
 8 (C) was permanently disabled; or  
 9 (D) had completed at least eight (8) years of service, was not  
 10 still in service as a judge, and was entitled to a future benefit;  
 11 the participant's surviving spouse or surviving child or children, as  
 12 designated by the participant, is or are entitled, regardless of the  
 13 participant's age, to an annuity in an amount equal to the greater of the  
 14 amount determined under TABLE C in subsection (h)(2) or fifty  
 15 percent (50%) of the amount of retirement annuity the participant was  
 16 drawing at the time of death, or to that which the participant would  
 17 have been entitled had the participant retired and begun receiving  
 18 retirement annuity benefits on the participant's date of death, with  
 19 reductions as necessary under subsection (f).  
 20 (k) Notwithstanding subsection (j), if a participant:  
 21 (1) died after June 30, 1983, and before July 1, 1985; and  
 22 (2) was serving as a judge at the time of death;  
 23 the surviving spouse is entitled to the same retirement annuity as the  
 24 surviving spouse of a permanently disabled participant entitled to  
 25 benefits under subsection (i).  
 26 (l) The annuity payable to a surviving child or children under  
 27 subsection (h), (i), or (j), is subject to the following:  
 28 (1) The total monthly benefit payable to a surviving child or  
 29 children is equal to the same monthly annuity that was to have  
 30 been payable to the surviving spouse.  
 31 (2) If there is more than one (1) child designated by the  
 32 participant, then the children are entitled to share the annuity in  
 33 equal monthly amounts.  
 34 (3) Each child entitled to an annuity shall receive that child's  
 35 share until the child becomes eighteen (18) years of age or during  
 36 the entire period of the child's physical or mental disability,  
 37 whichever period is longer.  
 38 (4) Upon the cessation of payments to one (1) designated child,  
 39 if there is at least one (1) other child then surviving and still  
 40 entitled to payments, the remaining child or children shall share  
 41 equally the annuity. If the surviving spouse of the participant is  
 42 surviving upon the cessation of payments to all designated

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1 children, the surviving spouse will then receive the annuity for the  
2 remainder of the surviving spouse's life.

3 (5) The annuity shall be payable to the participant's surviving  
4 spouse if any of the following occur:

5 (A) No child named as a beneficiary by a participant survives  
6 the participant.

7 (B) No children designated by the participant are entitled to an  
8 annuity due to their age at the time of death of the participant.

9 (C) A designation is not made.

10 (6) An annuity payable to a surviving child or children may be  
11 paid to a trust or a custodian account under IC 30-2-8.5,  
12 established for the surviving child or children as designated by the  
13 participant.

14 SECTION 2. IC 33-38-8-17, AS AMENDED BY P.L.122-2008,  
15 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2012]: Sec. 17. (a) Benefits provided under this section are  
17 subject to IC 33-38-6-13 and section 20 of this chapter.

18 (b) The surviving spouse or child or children, as designated by the  
19 participant, of a participant who:

20 (1) dies; and

21 (2) on the date of death:

22 (A) was receiving benefits under this chapter;

23 (B) had completed at least eight (8) years of service and was  
24 in service as a judge or, after December 31, 2010, as a judge  
25 or full-time magistrate;

26 (C) had a permanent disability; or

27 (D) had completed at least eight (8) years of service, was not  
28 still in service as a judge or, after December 31, 2010, as a  
29 judge or full-time magistrate, and was entitled to a future  
30 benefit;

31 are entitled, regardless of the participant's ages, to the benefit  
32 prescribed by subsection (c).

33 (c) The surviving spouse or child or children, as designated under  
34 subsection (b), are entitled to a benefit equal to the greater of:

35 (1) fifty percent (50%) of the amount of the retirement benefit the  
36 participant was drawing at the time of death, or to which the  
37 participant would have been entitled had the participant retired  
38 and begun receiving retirement benefits on the date of death, with  
39 reductions as necessary under section 14(d) of this chapter; or

40 (2) the amount determined under the following table:

41 Year	Amount
42 July 1, 1995, to	

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1	June 30, 1996	\$10,000
2	July 1, 1996, to	
3	June 30, 1997	\$11,000
4	July 1, 1997, and	
5	thereafter to	
6	<b>June 30, 2012</b>	\$12,000
7	<b>July 1, 2012, and</b>	
8	<b>thereafter</b>	<b>\$17,000</b>

9 (d) The benefit payable to a surviving spouse or surviving child or  
10 children under subsection (c) is subject to the following:

11 (1) A surviving spouse is entitled to receive the benefit for life.  
12 (2) The total monthly benefit payable to a surviving child or  
13 children is equal to the same monthly benefit that was to have  
14 been payable to the surviving spouse.  
15 (3) If there is more than one (1) child designated by the  
16 participant, then the children are entitled to share the benefit in  
17 equal monthly amounts.  
18 (4) A child entitled to a benefit shall receive that child's share  
19 until the child becomes eighteen (18) years of age or during the  
20 entire period of the child's physical or mental disability,  
21 whichever period is longer.  
22 (5) Upon the cessation of benefits to one (1) designated child, if  
23 there are one (1) or more other children then surviving and still  
24 entitled to benefits, the remaining children shall share equally the  
25 benefit. If the surviving spouse of the participant is surviving  
26 upon the cessation of benefits to all designated children, the  
27 surviving spouse shall then receive the benefit for the remainder  
28 of the spouse's life.  
29 (6) The benefit shall be payable to the participant's surviving  
30 spouse if any of the following occur:  
31 (A) No child or children named as a beneficiary by a  
32 participant survives the participant.  
33 (B) No child or children designated by the participant is or are  
34 entitled to a benefit due to the age of the child or children at  
35 the time of death of the participant.  
36 (C) A designation is not made.  
37 (7) A benefit payable to a surviving child or children may be paid  
38 to a trust or a custodian account under IC 30-2-8.5, established for  
39 the surviving child or children as designated by the participant.

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