



Reprinted  
April 9, 2013

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# ENGROSSED HOUSE BILL No. 1057

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DIGEST OF HB 1057 (Updated April 8, 2013 6:32 pm - DI 102)

**Citations Affected:** IC 33-39.

**Synopsis:** Prosecuting attorneys retirement fund. Changes various provisions of the law concerning the prosecuting attorneys retirement fund (fund) to incorporate several features that are the same as or similar to features found in the 1985 judges' retirement system, including changing the manner in which a participant's eligibility for permanent disability benefits is determined, the pension benefit for disabled members, and allowing a participant to designate the participant's children to receive the participant's survivor benefit. Changes eligibility for retirement benefits in the fund for a participant in the fund serving prior to and after July 1, 2006. (The introduced version of this bill was prepared by the pension management oversight commission.)

**Effective:** July 1, 2013.

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## McMillin, Steuerwald, Cherry, Niezgodski

(SENATE SPONSORS — BOOTS, ARNOLD J)

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January 7, 2013, read first time and referred to Committee on Employment, Labor and Pensions.

January 23, 2013, amended, reported — Do Pass.

January 29, 2013, read second time, ordered engrossed. Engrossed.

February 25, 2013, read third time, passed. Yeas 94, nays 1.

SENATE ACTION

February 27, 2013, read first time and referred to Committee on Pensions and Labor.

March 21, 2013, reported favorably — Do Pass. Reassigned to Committee on Appropriations.

April 4, 2013, amended, reported favorably — Do Pass.

April 8, 2013, read second time, amended, ordered engrossed.

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EH 1057—LS 6083/DI 113+



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April 9, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1057

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

- 1 SECTION 1. IC 33-39-7-0.1, AS ADDED BY P.L.220-2011,  
2 SECTION 543, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2013]: Sec. 0.1. The amendments made to  
4 sections 15, 16, and 19 of this chapter by P.L.33-2006 apply to a  
5 participant in the fund who:  
6 (1) is serving on July 1, 2006; or  
7 (2) ~~begins service~~ **serves** after July 1, 2006;  
8 in a position described in section 8 of this chapter.  
9 SECTION 2. IC 33-39-7-8 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) As used in this  
11 chapter, "services" means the ~~period beginning on the first day upon~~  
12 **sum of all periods in** which a person ~~first became:~~ **is employed as:**  
13 (1) a prosecuting attorney or chief deputy prosecuting attorney;  
14 (2) any other deputy prosecuting attorney who is:  
15 (A) appointed under IC 33-39-6-2; and  
16 (B) paid by the state from the state general fund; or  
17 (3) the executive director or the assistant executive director of the

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1 prosecuting attorneys council of Indiana.  
 2 ~~whether that date is before, on, or after January 1, 1990, and ending on~~  
 3 ~~the date under consideration, including all intervening employment in~~  
 4 ~~a position described in subdivisions (1) through (3):~~ If an individual is  
 5 elected or appointed to a position described in subdivisions (1) through  
 6 (3) and serves one (1) or more terms or part of a term, then retires from  
 7 office **or otherwise separates from service**, but at a later period or  
 8 periods is appointed or elected and serves in a position described in  
 9 subdivisions (1) through (3), the individual shall pay into the fund  
 10 during all the periods that the individual serves in that position, except  
 11 as otherwise provided in this chapter, whether the periods are  
 12 connected or disconnected.

13 (b) A senior prosecuting attorney appointed under IC 33-39-1 is not  
 14 required to pay into the fund during any period of service as a senior  
 15 prosecuting attorney.

16 SECTION 3. IC 33-39-7-12, AS AMENDED BY P.L.13-2011,  
 17 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2013]: Sec. 12. (a) Except as **otherwise** provided in  
 19 ~~subsection (b)~~, **this section**, each participant shall make contributions  
 20 to the fund as follows:

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

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

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

29 (b) The state may pay the contributions for a participant. **The state**  
 30 **may elect to pay the contribution for the participant as a pickup**  
 31 **under Section 414(h) of the Internal Revenue Code.**

32 (c) **After a participant has contributed to the fund as provided**  
 33 **in subsection (a) for twenty-two (22) years, the participant is not**  
 34 **required to make additional contributions to the fund.**

35 ~~(e)~~ (d) After December 31, 2011, the auditor of state shall submit  
 36 the contributions paid by or on behalf of a participant under this section  
 37 by electronic funds transfer in accordance with section 12.5 of this  
 38 chapter.

39 SECTION 4. IC 33-39-7-15, AS AMENDED BY P.L.33-2006,  
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2013]: Sec. 15. A participant whose employment in a position  
 42 described in section 8 of this chapter is terminated is entitled to a

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1 retirement benefit computed under section 16 or 18 of this chapter,  
 2 beginning on the date specified by the participant in a written  
 3 application, if all of the following conditions are met:

4 (1) The application for retirement benefits and the choice of the  
 5 retirement date is filed on a form provided by the board, and the  
 6 retirement date is:

7 (A) after the cessation of the participant's service;

8 (B) on the first day of a month; and

9 (C) not more than six (6) months before the date the  
 10 application is received by the board.

11 However, if the board determines that a participant is incompetent  
 12 to file for benefits and choose a retirement date, the retirement  
 13 date may be any date that is the first of the month after the time  
 14 the participant became incompetent.

15 (2) The participant:

16 (A) is at least sixty-two (62) years of age and has at least eight  
 17 (8) years of service credit; or

18 ~~(B) meets the requirements for disability benefits under~~  
 19 ~~section 17 of this chapter.~~

20 **(B) is at least fifty-five (55) years of age and the**  
 21 **participant's age in years plus the participant's years of**  
 22 **service is at least eighty-five (85); or**

23 **(C) has become permanently disabled.**

24 (3) The participant is not receiving and is not entitled to receive  
 25 any salary for services currently performed, except for services  
 26 rendered as a senior prosecuting attorney under IC 33-39-1.

27 SECTION 5. IC 33-39-7-16, AS AMENDED BY P.L.16-2011,  
 28 SECTION 11, AND SEA 499-2013, SECTION 4, IS AMENDED TO  
 29 READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) This  
 30 section does not apply to a participant who ~~meets the requirements for~~  
 31 ~~disability benefits under~~ **becomes permanently disabled, as**  
 32 **described in** section 17 of this chapter.

33 **(b) A participant who:**

34 **(1) applies for a retirement benefit; and**

35 **(2) is at least:**

36 **(A) sixty-five (65) years of age; or**

37 **(B) fifty-five (55) years of age and the participant's age in**  
 38 **years plus the participant's years of service is at least**  
 39 **eighty-five (85);**

40 **is entitled to an annual retirement benefit as calculated in**  
 41 **subsection (c).**

42 ~~(b)~~ (c) Except as provided in subsections ~~(c)~~; (d), ~~and~~ (e), **and (f),**



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1 the amount of the annual retirement benefit to which a participant ~~who~~  
 2 ~~applies for a retirement benefit and who is at least sixty-five (65) years~~  
 3 ~~of age described in subsection (b)~~ is entitled equals the product of:

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

7	Participant's Years	Percentage
8	of Service	
9	Less than 8	0
10	8	24%
11	9	27%
12	10	30%
13	11	33%
14	12	50%
15	13	51%
16	14	52%
17	15	53%
18	16	54%
19	17	55%
20	18	56%
21	19	57%
22	20	58%
23	21	59%
24	22 or more	60%

25 **If a participant has a partial year of service in addition to at least**  
 26 **eight (8) full years of service, an additional percentage is calculated**  
 27 **under this subsection by prorating between the applicable**  
 28 **percentages, based on the number of months in the partial year of**  
 29 **service.**

30 **(e) If (d) Except as provided in subsections (e) and (f), and**  
 31 **section 19(c)(2)(B) of this chapter, a participant who:**

- 32 **(1) applies for a retirement benefit; and**  
 33 **(2) is not at least sixty-five (65) years of age; the participant**  
 34 **described in subsection (b);**

35 is entitled to receive a reduced annual retirement benefit that equals the  
 36 benefit that would be payable if the participant were sixty-five (65)  
 37 years of age reduced by one-fourth percent (0.25%) for each month that  
 38 the participant's age at retirement precedes the participant's sixty-fifth  
 39 birthday.

40 **(d) (e) Except as provided in subsection (e); (f), benefits payable to**  
 41 **a participant under this section are reduced by the pension, if any, that**  
 42 **would be payable to the participant from the public employees'**



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1 retirement fund if the participant had retired from the public employees'  
 2 retirement fund on the date of the participant's retirement from the  
 3 prosecuting attorneys retirement fund. Benefits payable to a participant  
 4 under this section are not reduced by annuity payments made to the  
 5 participant from the public employees' retirement fund.

6 ~~(e)~~ **(f)** This subsection applies to a participant who is a member of  
 7 the public employees' defined contribution (annuity savings account  
 8 only) plan established by IC 5-10.3-12-18. Benefits payable to a  
 9 participant under this section are reduced by the pension portion of the  
 10 retirement benefit, if any, that would be payable to the participant from  
 11 the public employees' retirement fund if the participant:

12 (1) had not made an election under IC 5-10.3-12-20 to become a  
 13 member of the public employees' defined contribution (annuity  
 14 savings account only) plan; and

15 (2) had retired from the public employees' retirement fund on the  
 16 date of the participant's retirement from the prosecuting attorneys  
 17 retirement fund.

18 ~~(f)~~ **(g)** If benefits payable from the public employees' retirement  
 19 fund exceed the benefits payable from the prosecuting attorneys  
 20 retirement fund, the participant is entitled at retirement to withdraw  
 21 from the prosecuting attorneys retirement fund the total sum  
 22 contributed plus interest at a rate specified by rule by the board.

23 SECTION 6. IC 33-39-7-17 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. (a) Except as  
 25 provided in subsection (b), a participant who becomes disabled while  
 26 in active service in a position described in section 8 of this chapter may  
 27 retire for the duration of the disability if:

28 (1) the participant has at least five (5) years of creditable service;

29 (2) the participant has qualified for Social Security disability  
 30 benefits and has furnished proof of the Social Security  
 31 qualification to the board; and

32 (3) at least once each year until the participant becomes sixty-five  
 33 (65) years of age a representative of the board verifies the  
 34 continued disability.

35 For purposes of this section, a participant who has qualified for  
 36 disability benefits under the federal civil service system is considered  
 37 to have met the requirement of subdivision (2) if the participant  
 38 furnishes proof of the qualification to the board.

39 (b) Benefits may not be provided under this chapter for any  
 40 disability that:

41 (1) results from an intentionally self-inflicted injury or attempted  
 42 suicide while sane or insane;

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- 1 (2) results from the participant's commission or attempted
- 2 commission of a felony; or
- 3 (3) begins within two (2) years after a participant's entry or
- 4 reentry into active service in a position described in section 8 of
- 5 this chapter and was caused or contributed to by a mental or
- 6 physical condition that manifested itself before the participant
- 7 entered or reentered active service.

8 (a) A participant is considered to have a permanent disability if  
 9 the board has received written certifications by at least two (2)  
 10 licensed and practicing physicians, appointed by the board, that:

- 11 (1) the participant is totally incapacitated, by reason of
- 12 physical or mental infirmities, from earning a livelihood; and
- 13 (2) the condition is likely to be permanent.

14 (b) A participant found to have a permanent disability under  
 15 subsection (a) must be reexamined by at least two (2) physicians  
 16 appointed by the board, at the times the board designates but at  
 17 intervals not to exceed one (1) year. If, in the opinion of these  
 18 physicians, the participant has recovered from the participant's  
 19 disability, benefits cease to be payable as of the date of the  
 20 examination, unless on that date the participant is:

- 21 (1) at least sixty-five (65) years of age; or
- 22 (2) at least fifty-five (55) years of age and the participant's age
- 23 in years plus the participant's years of service is at least
- 24 eighty-five (85).

25 (c) To the extent required by the Americans with Disabilities Act,  
 26 the transcripts, reports, records, and other material generated to prove  
 27 that an individual is qualified for disability benefits under this section  
 28 shall ~~must~~ be:

- 29 (1) kept in separate medical files for each member; and
- 30 (2) treated as confidential medical records.

31 SECTION 7. IC 33-39-7-18, AS AMENDED BY SEA 499-2013,  
 32 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2013]: Sec. 18. (a) Except as provided in subsections (b) and  
 34 (c), ~~the amount of the annual benefit payable to a participant who meets~~  
 35 ~~the requirements for disability benefits under section 17 of this chapter~~  
 36 **becomes permanently disabled, as described in section 17 of this**  
 37 **chapter, is entitled to an annual benefit** equal to the product of:

- 38 (1) the annual salary that was paid to the participant at the time of
- 39 separation from service; multiplied by
- 40 (2) the percentage prescribed in the following table:

41	Participant's Years	Percentage
42	of Service	

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1	Less than 5	0
2	<del>5-10</del> 0-12	40% 50%
3	11	41%
4	12	42%
5	13	43% 51%
6	14	44% 52%
7	15	45% 53%
8	16	46% 54%
9	17	47% 55%
10	18	48% 56%
11	19	49% 57%
12	20	58%
13	21	59%
14	20 22 or more	50% 60%

If a participant has a partial year of service in addition to at least ten (10) years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.

(b) Except as provided in subsection (c), benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

(c) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SECTION 8. IC 33-39-7-19, AS AMENDED BY P.L.33-2006, SECTION 3, AND SEA 499-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. (a) A participant may designate the participant's surviving spouse or one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section upon the death of the participant. A participant may designate a trust or a custodian account under IC 30-2-8.5 that is established for one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section instead of designating one (1) or more of the participant's surviving dependent children to receive



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- 1 **the benefit directly.**  
 2 **(a) (b) The surviving spouse of If a participant: who:**  
 3 (1) dies; and  
 4 (2) on the date of death:  
 5 (A) was receiving benefits under this chapter;  
 6 **(B) was in service in a position described in section 8 of this**  
 7 **chapter and had completed at least eight (8) years of service**  
 8 **in a position described in section 8 of this chapter; or**  
 9 **(C) met the requirements for had a permanent disability**  
 10 **benefits under as described in section 17 of this chapter; or**  
 11 **(D) was not in service in a position described in section 8 of**  
 12 **this chapter, had completed at least eight (8) years of**  
 13 **service in a position described in section 8 of this chapter,**  
 14 **and was entitled to a future benefit;**  
 15 **the participant's beneficiary designated under subsection (a) is**  
 16 **entitled, regardless of the participant's age, to the benefit prescribed by**  
 17 **subsection (b); (c), (e), or (f). (f).**  
 18 **(b) (c) The surviving spouse amount of the annual benefit payable**  
 19 **to a beneficiary to whom subsection (b) applies is entitled to a**  
 20 **benefit for life equal to the greater of:**  
 21 (1) **seven twelve** thousand dollars ~~(\$7,000)~~; **(\$12,000)**; or  
 22 (2) fifty percent (50%) of the amount of retirement benefit:  
 23 (A) the participant was drawing at the time of death; or  
 24 (B) to which the participant would have been entitled had the  
 25 participant retired and begun receiving retirement benefits on  
 26 the date of death. ~~with reductions as necessary under~~  
 27 **However, the reduction described in section 16(c) 16(d) of**  
 28 **this chapter does not apply to the calculation of a survivor**  
 29 **benefit under this clause.**  
 30 **(d) A benefit payable under this section is subject to the**  
 31 **following:**  
 32 (1) A surviving spouse designated as the beneficiary under  
 33 subsection (a) is entitled to receive the benefit for life.  
 34 (2) The total monthly benefit payable to a surviving child or  
 35 children is equal to the same monthly benefit that was to have  
 36 been payable to the surviving spouse.  
 37 (3) If there is more than one (1) child designated by the  
 38 participant, the children are entitled to share the benefit in  
 39 equal monthly amounts.  
 40 (4) A child entitled to a benefit shall receive that child's share  
 41 until the child becomes eighteen (18) years of age or during  
 42 the entire period of the child's physical or mental disability,



1           whichever period is longer.

2           **(5) Upon the cessation of benefits to one (1) designated child,**  
 3           **if there are one (1) or more other children then surviving and**  
 4           **still entitled to benefits, the remaining children shall share the**  
 5           **benefit equally. If the surviving spouse of the participant is**  
 6           **surviving upon the cessation of benefits to all designated**  
 7           **children, the surviving spouse shall then receive the benefit**  
 8           **for the remainder of the spouse's life.**

9           **(6) The benefit is payable to the participant's surviving spouse**  
 10          **if any of the following occur:**

11           **(A) No child or children named as a beneficiary by the**  
 12           **participant survives or survive the participant.**

13           **(B) No child or children designated by the participant is or**  
 14           **are entitled to a benefit due to the age of the child or**  
 15           **children at the time of death of the participant.**

16           **(C) A designation is not made.**

17          ~~(e)~~ **(e)** Except as provided in subsection ~~(d)~~, **(f)**, benefits payable to  
 18          a surviving spouse **designated beneficiary** under this section are  
 19          reduced by the amount, if any, that is payable to the surviving spouse  
 20          **or the surviving dependent children** from the public employees'  
 21          retirement fund as a result of the participant's death after subtracting  
 22          the participant's contributions and earnings attributable to the  
 23          participant's contributions in the participant's annuity savings account.

24          ~~(d)~~ **(f)** This subsection applies to a surviving spouse of a participant  
 25          who is a member of the public employees' defined contribution  
 26          (annuity savings account only) plan established by IC 5-10.3-12-18.  
 27          Benefits payable to a surviving spouse of a participant under this  
 28          section are reduced by the pension portion of the retirement benefit, if  
 29          any, that would be payable to the spouse from the public employees'  
 30          retirement fund under the joint and survivor option under  
 31          IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's  
 32          decreased retirement benefit, if the participant had not made an  
 33          election under IC 5-10.3-12-20 to become a member of the public  
 34          employees' defined contribution (annuity savings account only) plan.

35          SECTION 9. IC 33-39-7-20, AS AMENDED BY SEA 499-2013,  
 36          SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37          JULY 1, 2013]: Sec. 20. (a) If:

38           **(1) a participant's spouse does not survive the participant; and**  
 39           **(2) the participant did not designate one (1) or more of the**  
 40           **participant's surviving dependent child of a participant is;**  
 41           **children to receive the benefit provided by section 19 of this**  
 42           **chapter;**

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1 **the participant's surviving dependent children are**, upon the death  
2 of the participant, entitled to a benefit equal to the benefit the  
3 participant's spouse would have received under section 19 of this  
4 chapter.

5 (b) If a surviving spouse of a decedent participant dies and a  
6 dependent child of the surviving spouse and the decedent participant  
7 survives them, that dependent child is entitled to receive a benefit equal  
8 to the benefit the spouse was receiving or would have received under  
9 section 19 of this chapter.

10 (c) If there is more than one (1) dependent child, the dependent  
11 children are entitled to share the benefit equally.

12 (d) Each dependent child is entitled to receive that child's share until  
13 the child becomes eighteen (18) years of age or during the entire period  
14 of the child's physical or mental disability, whichever period is longer.

15 (e) Except as provided in subsection (f), benefits payable to a  
16 dependent child are reduced by the amount, if any, that is payable to  
17 the dependent child from the public employees' retirement fund after  
18 subtracting the participant's contributions and earnings attributable to  
19 the participant's contributions in the participant's annuity savings  
20 account.

21 (f) This subsection applies to a dependent child of a participant who  
22 is a member of the public employees' defined contribution (annuity  
23 savings account only) plan established by IC 5-10.3-12-18. Benefits  
24 payable to a dependent child of a participant under this section are  
25 reduced by the actuarial equivalent of the pension portion of the  
26 retirement benefit, if any, that would be payable to the spouse  
27 (assuming the spouse would have had the same birth date as the  
28 participant) from the public employees' retirement fund under the joint  
29 and survivor option under IC 5-10.2-4-7, computed at fifty percent  
30 (50%) of the participant's decreased retirement benefit, if the  
31 participant had not made an election under IC 5-10.3-12-20 to become  
32 a member of the public employees' defined contribution (annuity  
33 savings account only) plan.

34 SECTION 10. IC 33-39-7-21, AS AMENDED BY P.L.16-2011,  
35 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2013]: Sec. 21. (a) If benefits are not payable to the survivors  
37 of a participant who dies, and if a withdrawal application is filed with  
38 the board by the survivors or the participant's estate, the total of the  
39 participant's contributions, plus interest at a rate specified by rule by  
40 the board and minus any payments made to the participant, shall be  
41 paid to:

42 (1) the surviving spouse of the participant **or the children of the**

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- 1           **participant, as designated by the participant;**
- 2           (2) any ~~dependent~~ or dependents of the participant, if a spouse or
- 3           **designated child** does not survive; or
- 4           (3) the participant's estate, if a spouse, **designated child**, or **other**
- 5           dependent does not survive.
- 6           (b) The amount owed a spouse, ~~dependent~~ or **designated children**,
- 7           **other** dependents, or estate under subsection (a) is payable not later
- 8           than sixty (60) days after the date of receipt of the withdrawal
- 9           application, **or in monthly installments, as the recipient elects.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1057, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-39-7-0.1, AS ADDED BY P.L.220-2011, SECTION 543, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 0.1. The amendments made to sections 15, 16, and 19 of this chapter by P.L.33-2006 apply to a participant in the fund who:

- (1) is serving on July 1, 2006; or
- (2) ~~begins service~~ **serves** after July 1, 2006;

in a position described in section 8 of this chapter.

SECTION 2. IC 33-39-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) As used in this chapter, "services" means the ~~period beginning on the first day upon~~ **sum of all periods in** which a person ~~first became:~~ **is employed as:**

- (1) a prosecuting attorney or chief deputy prosecuting attorney;
- (2) any other deputy prosecuting attorney who is:
  - (A) appointed under IC 33-39-6-2; and
  - (B) paid by the state from the state general fund; or
- (3) the executive director or the assistant executive director of the prosecuting attorneys council of Indiana.

~~whether that date is before, on, or after January 1, 1990, and ending on the date under consideration, including all intervening employment in a position described in subdivisions (1) through (3):~~ If an individual is elected or appointed to a position described in subdivisions (1) through (3) and serves one (1) or more terms or part of a term, then retires from office **or otherwise separates from service**, but at a later period or periods is appointed or elected and serves in a position described in subdivisions (1) through (3), the individual shall pay into the fund during all the periods that the individual serves in that position, except as otherwise provided in this chapter, whether the periods are connected or disconnected.

(b) A senior prosecuting attorney appointed under IC 33-39-1 is not required to pay into the fund during any period of service as a senior prosecuting attorney."

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 4. IC 33-39-7-13, AS AMENDED BY P.L.16-2011,

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SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) A participant who:

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

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

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon withdrawal the participant is entitled to receive the total sum contributed plus interest at a rate specified by rule by the board, payable not later than sixty (60) days from the date of the withdrawal application.

(b) Notwithstanding section 8 of this chapter, a participant who withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for years of service before the withdrawal, **unless the participant pays into the fund the full amount received by the participant when the participant withdrew from the fund. The board shall grant a participant service credit for years of service by the participant before the participant's withdrawal from the fund if the participant makes the repayment required by this subsection in a lump sum or a series of payments determined by the board, not exceeding five (5) annual installments."**

Page 2, line 27, strike "or".

Page 2, between lines 29 and 30, begin a new line double block indented and insert:

**"(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or"**

Page 2, line 30, delete "(B)" and insert "(C)".

Page 2, delete lines 34 through 42, begin a new paragraph and insert:

"SECTION 6. IC 33-39-7-16, AS AMENDED BY P.L.16-2011, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) This section does not apply to a participant who meets the requirements for disability benefits under becomes permanently disabled, as described in section 17 of this chapter.

**(b) A participant who:**

**(1) applies for a retirement benefit; and**

**(2) is at least:**

**(A) sixty-five (65) years of age; or**

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**(B) fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85);**  
**is entitled to an annual retirement benefit as calculated in subsection (c).**

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

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

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
<b>22 or more through 28</b>	<b>60%</b>
<b>29 through 35</b>	<b>65%</b>
<b>36 or more</b>	<b>70%</b>

**If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.**

~~(c)~~ **(d)** Except as provided in **subsection (e) and section 19(c)(2)(B) of this chapter**, a participant who:

- (1) applies for a retirement benefit; and**
- (2) is not at least sixty-five (65) years of age; the participant described in subsection (b);**

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is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

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

(e) (f) If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at a rate specified by rule by the board."

Delete page 3.

Page 4, delete lines 1 through 3.

Page 5, line 1, delete "is at least sixty-five" and insert "is:

- (1) at least sixty-five (65) years of age; or
- (2) at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85)."

Page 5, delete line 2.

Page 5, delete lines 9 through 42, begin a new paragraph and insert:  
 "SECTION 8. IC 33-39-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18. (a) Except as provided in subsection (b), the amount of the annual benefit payable to a participant who meets the requirements for disability benefits under section 17 of this chapter becomes permanently disabled, as described in section 17 of this chapter, is entitled to an annual benefit equal to the product of:

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

Participant's Years of Service	Percentage
<del>Less than 5</del>	<del>0</del>
<del>5-10</del> 0-10	40% 50%
11	41% 51%

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12	<del>42%</del> <b>52%</b>
13	<del>43%</del> <b>53%</b>
14	<del>44%</del> <b>54%</b>
15	<del>45%</del> <b>55%</b>
16	<del>46%</del> <b>56%</b>
17	<del>47%</del> <b>57%</b>
18	<del>48%</del> <b>58%</b>
19	<del>49%</del> <b>59%</b>
20 or more	<del>50%</del> <b>60%</b>

**If a participant has a partial year of service in addition to at least ten (10) years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.**

(b) Benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

SECTION 9. IC 33-39-7-19, AS AMENDED BY P.L.33-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. **(a) A participant may designate the participant's surviving spouse or one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section upon the death of the participant. A participant may designate a trust or a custodian account under IC 30-2-8.5 that is established for one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section instead of designating one (1) or more of the participant's surviving dependent children to receive the benefit directly.**

**(a) (b) The surviving spouse of If a participant: who:**

- (1) dies; and
- (2) on the date of death:
  - (A) was receiving benefits under this chapter;
  - (B) was in service in a position described in section 8 of this chapter and had completed at least eight (8) years of service in a position described in section 8 of this chapter; or**
  - (C) met the requirements for had a permanent disability benefits under as described in section 17 of this chapter; or**
  - (D) was not in service in a position described in section 8 of this chapter, had completed at least eight (8) years of service in a position described in section 8 of this chapter, and was entitled to a future benefit;**



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the participant's beneficiary designated under subsection (a) is entitled, regardless of the participant's age, to the benefit prescribed by subsection ~~(b)~~: (c).

~~(b)~~ (c) The surviving spouse amount of the annual benefit payable to a beneficiary to whom subsection (b) applies is entitled to a benefit for life equal to the greater of:

- (1) ~~seven~~ **twelve** thousand dollars ~~(\$7,000)~~; **(\$12,000)**; or
- (2) fifty percent (50%) of the amount of retirement benefit:
  - (A) the participant was drawing at the time of death; or
  - (B) to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death. ~~with reductions as necessary under~~ **However, the reduction described in section ~~16(c)~~ 16(d) of this chapter does not apply to the calculation of a survivor benefit under this clause.**

(d) A benefit payable under this section is subject to the following:

- (1) A surviving spouse designated as the beneficiary under subsection (a) is entitled to receive the benefit for life.
- (2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.
- (3) If there is more than one (1) child designated by the participant, the children are entitled to share the benefit in equal monthly amounts.
- (4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.
- (5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share the benefit equally. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.
- (6) The benefit is payable to the participant's surviving spouse if any of the following occur:
  - (A) No child or children named as a beneficiary by the participant survive the participant.
  - (B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or

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**children at the time of death of the participant.**

**(C) A designation is not made.**

~~(c)~~ **(e)** Benefits payable to a ~~surviving spouse~~ **designated beneficiary** under this section are reduced by the amounts, if any, that are payable to the surviving spouse **or the surviving dependent children** from the public employees' retirement fund as a result of the participant's death."

Delete page 6.

Page 7, delete lines 1 through 27.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1057 as introduced.)

GUTWEIN, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1057, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is made to House Bill 1057 as printed January 24, 2013.)

BOOTS, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1057, 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 2, delete lines 39 through 42.

Page 3, delete lines 1 through 21.

Page 4, line 24, delete "and" and insert "and".

Page 5, line 6, reset in roman "or more".

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Page 5, line 6, delete "through 28".  
 Page 5, delete lines 7 through 8.  
 Page 7, line 16, delete "0-10" and inset "**0-12**".  
 Page 7, line 17, strike "11".  
 Page 7, line 17, delete "51%".  
 Page 7, line 18, strike "12".  
 Page 7, line 18, delete "52%".  
 Page 7, line 19, delete "53%" and insert "**51%**".  
 Page 7, line 20, delete "54%" and insert "**52%**".  
 Page 7, line 21, delete "55%" and insert "**53%**".  
 Page 7, line 22, delete "56%" and insert "**54%**".  
 Page 7, line 23, delete "57%" and insert "**55%**".  
 Page 7, line 24, delete "58%" and insert "**56%**".  
 Page 7, line 25, delete "59%" and insert "**57%**".  
 Page 7, between lines 25 and 26, begin a new line and insert:  
     **"20 58%**  
     **21 59%".**  
 Page 7, line 26, strike "20" and insert "**22**".  
 Page 8, line 29, delete "under" and insert "**under**".  
 Page 9, line 15, after "participant" insert "**survives or**".  
 Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1057 as printed January 24, 2013.)

KENLEY, Chairperson

Committee Vote: Yeas 13, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1057 be amended to read as follows:

Page 3, delete lines 27 through 42, begin a new paragraph and insert:

"SECTION 5. IC 33-39-7-16, AS AMENDED BY P.L.16-2011, SECTION 11, AND SEA 499-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) This section does not apply to a participant who **meets the requirements for disability benefits under becomes permanently disabled, as described in** section 17 of this chapter.

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**(b) A participant who:**

**(1) applies for a retirement benefit; and**

**(2) is at least:**

**(A) sixty-five (65) years of age; or**

**(B) fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85);**

**is entitled to an annual retirement benefit as calculated in subsection (c).**

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

(1) the highest annual salary that was paid to the participant before separation from service; multiplied by

(2) the percentage prescribed in the following table:

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

**If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.**

~~(c)~~ **(d)** Except as provided in subsections **(e)** and **(f)**, and **section 19(c)(2)(B) of this chapter**, a participant who:

**(1) applies for a retirement benefit; and**

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~~(2)~~ **(2)** is not at least sixty-five (65) years of age; the participant described in subsection (b);

is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

~~(d)~~ **(e)** Except as provided in subsection ~~(e)~~; **(f)**, benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

~~(e)~~ **(f)** This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant:

(1) had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan; and

(2) had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund.

~~(f)~~ **(g)** If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at a rate specified by rule by the board."

Delete page 4.

Page 5, delete lines 1 through 9.

Page 6, delete lines 18 through 42, begin a new paragraph and insert:

"SECTION 7. IC 33-39-7-18, AS AMENDED BY SEA 499-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18. (a) Except as provided in subsections (b) and (c), ~~the amount of the annual benefit payable to a participant who meets the requirements for disability benefits under section 17 of this chapter becomes permanently disabled, as described in section 17 of this~~

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**chapter, is entitled to an annual benefit** equal to the product of:

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

Participant's Years of Service	Percentage
Less than 5	0
5-10	40%
11	41%
12	42%
13	43%
14	44%
15	45%
16	46%
17	47%
18	48%
19	49%
<b>20</b>	<b>50%</b>
<b>21</b>	<b>51%</b>
<b>22 or more</b>	<b>52%</b>

**If a participant has a partial year of service in addition to at least ten (10) years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.**

(b) Except as provided in subsection (c), benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

(c) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

SECTION 8. IC 33-39-7-19, AS AMENDED BY P.L.33-2006, SECTION 3, AND SEA 499-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. **(a) A participant may designate the participant's surviving spouse or one (1) or more of the participant's surviving dependent children to**



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receive the benefit provided by this section upon the death of the participant. A participant may designate a trust or a custodian account under IC 30-2-8.5 that is established for one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section instead of designating one (1) or more of the participant's surviving dependent children to receive the benefit directly.

~~(a)~~ **(b)** The surviving spouse of ~~If~~ a participant: who:

- (1) dies; and
- (2) on the date of death:
  - (A) was receiving benefits under this chapter;
  - (B) was in service in a position described in section 8 of this chapter and had completed at least eight (8) years of service in a position described in section 8 of this chapter; or**
  - ~~(C) met the requirements for~~ **had a permanent disability benefits under as described in** section 17 of this chapter; ~~or~~
  - (D) was not in service in a position described in section 8 of this chapter, had completed at least eight (8) years of service in a position described in section 8 of this chapter, and was entitled to a future benefit;**

the participant's beneficiary designated under subsection (a) is entitled, regardless of the participant's age, to the benefit prescribed by subsection ~~(b)~~; (c), (e), or ~~(d)~~: **(f)**.

~~(b)~~ **(c)** The surviving spouse amount of the annual benefit payable to a beneficiary to whom subsection (b) applies is entitled to a benefit for life equal to the greater of:

- (1) ~~seven~~ **twelve** thousand dollars ~~(\$7,000)~~; **(\$12,000)**; or
- (2) fifty percent (50%) of the amount of retirement benefit:
  - (A) the participant was drawing at the time of death; or
  - (B) to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death. with reductions as necessary under**

**However, the reduction described in section ~~16(c)~~ 16(d) of this chapter does not apply to the calculation of a survivor benefit under this clause.**

**(d)** A benefit payable under this section is subject to the following:

- (1) A surviving spouse designated as the beneficiary under subsection (a) is entitled to receive the benefit for life.**
- (2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.**

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**(3) If there is more than one (1) child designated by the participant, the children are entitled to share the benefit in equal monthly amounts.**

**(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.**

**(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share the benefit equally. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.**

**(6) The benefit is payable to the participant's surviving spouse if any of the following occur:**

**(A) No child or children named as a beneficiary by the participant survives or survive the participant.**

**(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.**

**(C) A designation is not made.**

**(e) (e) Except as provided in subsection (d); (f), benefits payable to a surviving spouse designated beneficiary under this section are reduced by the amount, if any, that is payable to the surviving spouse or the surviving dependent children from the public employees' retirement fund as a result of the participant's death after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.**

**(d) (f) This subsection applies to a surviving spouse of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a surviving spouse of a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the spouse from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.**

**SECTION 9. IC 33-39-7-20, AS AMENDED BY SEA 499-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**

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JULY 1, 2013]: Sec. 20. (a) If:

- (1) a participant's spouse does not survive the participant; **and**  
 (2) **the participant did not designate one (1) or more of the participant's surviving dependent child of a participant is, children to receive the benefit provided by section 19 of this chapter;**

**the participant's surviving dependent children are**, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 19 of this chapter.

(b) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, that dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 19 of this chapter.

(c) If there is more than one (1) dependent child, the dependent children are entitled to share the benefit equally.

(d) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(e) Except as provided in subsection (f), benefits payable to a dependent child are reduced by the amount, if any, that is payable to the dependent child from the public employees' retirement fund after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.

(f) This subsection applies to a dependent child of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a dependent child of a participant under this section are reduced by the actuarial equivalent of the pension portion of the retirement benefit, if any, that would be payable to the spouse (assuming the spouse would have had the same birth date as the participant) from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan."

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Delete pages 7 through 8.  
Page 9, delete lines 1 through 23.  
Renumber all SECTIONS consecutively.

(Reference is to EHB 1057 as printed April 5, 2013.)

Senator BOOTS

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