



January 24, 2013

HOUSE BILL No. 1057

DIGEST OF HB 1057 (Updated January 22, 2013 3:22 pm - DI 96)

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 limiting the participant contribution period to 22 years, changing the manner in which a participant's eligibility for permanent disability benefits is determined, 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. Requires the board of trustees of the Indiana public retirement system to grant service credit for a participant who withdrew from the fund for years of service accrued before the withdrawal if the participant pays into the fund the full amount of the money received when the participant withdrew. (The introduced version of this bill was prepared by the pension management oversight commission.)

Effective: July 1, 2013.

McMillin, Steuerwald, Cherry

January 7, 2013, read first time and referred to Committee on Employment, Labor and Pensions.
January 23, 2013, amended, reported — Do Pass.

HB 1057—LS 6083/DI 113+



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January 24, 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.

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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 33-39-7-13, AS AMENDED BY P.L.16-2011,
 40 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2013]: Sec. 13. (a) A participant who:

42 (1) ceases service in a position described in section 8 of this

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1 chapter, other than by death or disability; and
 2 (2) is not eligible for a retirement benefit under this chapter;
 3 is entitled to withdraw from the fund, beginning on the date specified
 4 by the participant in a written application. The date upon which the
 5 withdrawal begins may not be before the date of final termination of
 6 employment or the date thirty (30) days before the receipt of the
 7 application by the board. Upon withdrawal the participant is entitled to
 8 receive the total sum contributed plus interest at a rate specified by rule
 9 by the board, payable not later than sixty (60) days from the date of the
 10 withdrawal application.

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

22 SECTION 5. IC 33-39-7-15, AS AMENDED BY P.L.33-2006,
 23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2013]: Sec. 15. A participant whose employment in a position
 25 described in section 8 of this chapter is terminated is entitled to a
 26 retirement benefit computed under section 16 or 18 of this chapter,
 27 beginning on the date specified by the participant in a written
 28 application, if all of the following conditions are met:

29 (1) The application for retirement benefits and the choice of the
 30 retirement date is filed on a form provided by the board, and the
 31 retirement date is:

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

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

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

36 However, if the board determines that a participant is incompetent
 37 to file for benefits and choose a retirement date, the retirement
 38 date may be any date that is the first of the month after the time
 39 the participant became incompetent.

40 (2) The participant:

41 (A) is at least sixty-two (62) years of age and has at least eight

42 (8) years of service credit; or

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1 (B) meets the requirements for disability benefits under
2 section 17 of this chapter.

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

6 (C) has become permanently disabled.

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

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

15 (b) A participant who:

16 (1) applies for a retirement benefit; and

17 (2) is at least:

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

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

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

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

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

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

31 Participant's Years	Percentage
32 of Service	
33 Less than 8	0
34 8	24%
35 9	27%
36 10	30%
37 11	33%
38 12	50%
39 13	51%
40 14	52%
41 15	53%
42 16	54%



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1	17	55%
2	18	56%
3	19	57%
4	20	58%
5	21	59%
6	22 or more through 28	60%
7	29 through 35	65%
8	36 or more	70%

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

14 ~~(c)~~ **If (d) Except as provided in subsection (e) and section**
15 **19(c)(2)(B) of this chapter, a participant who:**

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

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

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

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

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

- 42 **(1) the participant has at least five (5) years of creditable service;**

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

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

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

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

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

15 (2) results from the participant's commission or attempted
 16 commission of a felony; or

17 (3) begins within two (2) years after a participant's entry or
 18 reentry into active service in a position described in section 8 of
 19 this chapter and was caused or contributed to by a mental or
 20 physical condition that manifested itself before the participant
 21 entered or reentered active service.

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

25 (1) the participant is totally incapacitated, by reason of
 26 physical or mental infirmities, from earning a livelihood; and

27 (2) the condition is likely to be permanent.

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

35 (1) at least sixty-five (65) years of age; or

36 (2) at least fifty-five (55) years of age and the participant's age
 37 in years plus the participant's years of service is at least
 38 eighty-five (85).

39 (c) To the extent required by the Americans with Disabilities Act,
 40 the transcripts, reports, records, and other material generated to prove
 41 that an individual is qualified for disability benefits under this section
 42 shall **must** be:

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1 (1) kept in separate medical files for each member; and

2 (2) treated as confidential medical records.

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

10 (1) the annual salary that was paid to the participant at the time of
11 separation from service; multiplied by

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

13 Participant's Years	Percentage
14 of Service	
15 Less than 5	0
16 5-10 0-10	40% 50%
17 11	41% 51%
18 12	42% 52%
19 13	43% 53%
20 14	44% 54%
21 15	45% 55%
22 16	46% 56%
23 17	47% 57%
24 18	48% 58%
25 19	49% 59%
26 20 or more	50% 60%

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

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

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



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1 participant's surviving dependent children to receive the benefit
 2 provided by this section instead of designating one (1) or more of
 3 the participant's surviving dependent children to receive the
 4 benefit directly.

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

6 (1) dies; and

7 (2) on the date of death:

8 (A) was receiving benefits under this chapter;

9 **(B) was in service in a position described in section 8 of this**
 10 **chapter and had completed at least eight (8) years of service**
 11 **in a position described in section 8 of this chapter; or**

12 ~~(C) met the requirements for~~ **had a permanent** disability
 13 **benefits under as described in** section 17 of this chapter; **or**

14 **(D) was not in service in a position described in section 8 of**
 15 **this chapter, had completed at least eight (8) years of**
 16 **service in a position described in section 8 of this chapter,**
 17 **and was entitled to a future benefit;**

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

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

24 (1) ~~seven~~ **twelve** thousand dollars ~~(\$7,000); (\$12,000);~~ or

25 (2) fifty percent (50%) of the amount of retirement benefit:

26 (A) the participant was drawing at the time of death; or

27 (B) to which the participant would have been entitled had the
 28 participant retired and begun receiving retirement benefits on
 29 the date of death. ~~with reductions as necessary under~~

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

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

35 **(1) A surviving spouse designated as the beneficiary under**
 36 **subsection (a) is entitled to receive the benefit for life.**

37 **(2) The total monthly benefit payable to a surviving child or**
 38 **children is equal to the same monthly benefit that was to have**
 39 **been payable to the surviving spouse.**

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



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(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 children at the time of death of the participant.

(C) A designation is not made.

(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.

SECTION 10. IC 33-39-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE 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.

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1 (d) Each dependent child is entitled to receive that child's share until
 2 the child becomes eighteen (18) years of age or during the entire period
 3 of the child's physical or mental disability, whichever period is longer.
 4 (e) Benefits payable to a dependent child are reduced by the
 5 amounts, if any, that are payable to the dependent child from the public
 6 employees' retirement fund.
 7 SECTION 11. IC 33-39-7-21, AS AMENDED BY P.L.16-2011,
 8 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2013]: Sec. 21. (a) If benefits are not payable to the survivors
 10 of a participant who dies, and if a withdrawal application is filed with
 11 the board by the survivors or the participant's estate, the total of the
 12 participant's contributions, plus interest at a rate specified by rule by
 13 the board and minus any payments made to the participant, shall be
 14 paid to:
 15 (1) the surviving spouse of the participant **or the children of the**
 16 **participant, as designated by the participant;**
 17 (2) any ~~dependent~~ or dependents of the participant, if a spouse **or**
 18 **designated child** does not survive; or
 19 (3) the participant's estate, if a spouse, **designated child, or other**
 20 **dependent** does not survive.
 21 (b) The amount owed a spouse, ~~dependent~~ **or designated children,**
 22 **other** dependents, or estate under subsection (a) is payable not later
 23 than sixty (60) days after the date of receipt of the withdrawal
 24 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~~ **begins service** 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%
22 or more through 28	60%
29 through 35	65%
36 or more	70%

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
Less than 5	0
5-10 0-10	40% 50%
11	41% 51%

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12	42% 52%
13	43% 53%
14	44% 54%
15	45% 55%
16	46% 56%
17	47% 57%
18	48% 58%
19	49% 59%
20 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) 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.

(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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