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**PRELIMINARY DRAFT**  
**No. 3164**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2008 GENERAL ASSEMBLY**

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DIGEST

**Citations Affected:** IC 5-10.

**Synopsis:** Motor carrier inspector and capitol police pensions. Allows a state police motor carrier inspector or a capitol police officer who is serving on July 1, 2008, to elect to become, and requires a person who begins serving as a motor carrier inspector or a capitol police officer after June 30, 2008, to become, participants in the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan (plan). Renames the plan the state special law enforcement officer retirement plan.

**Effective:** July 1, 2008.



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

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

1 SECTION 1. IC 5-10-1.5-1, AS AMENDED BY P.L.227-2007,  
2 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2008]: Sec. 1. Each retirement plan for employees of the state  
4 or of a political subdivision shall report annually on September 1 to the  
5 public employees' retirement fund the information from the preceding  
6 fiscal year necessary for the actuary of the fund to perform an actuarial  
7 valuation of each plan. Where the director and actuary of the fund  
8 consider it appropriate, the actuary may combine one (1) retirement  
9 plan with another or with the public employees' retirement fund for the  
10 purposes of the actuarial valuation. The retirement plans covered by  
11 this chapter are the following:

12 (1) The state ~~excise police, gaming agent, gaming control officer,~~  
13 ~~and conservation enforcement officers'~~ **special law enforcement**  
14 **officer** retirement plan established under IC 5-10-5.5.

15 (2) The "trust fund" and "pension trust" of the state police  
16 department established under IC 10-12-2.

17 (3) Each of the police pension funds established or covered under  
18 IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.

19 (4) Each of the firemen's pension funds established or covered  
20 under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.

21 (5) Each of the retirement funds for utility employees authorized  
22 under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.

23 (6) Each county police force pension trust and trust fund  
24 authorized under IC 17-3-14 or IC 36-8.

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

27 (8) Each retirement program adopted by a board of a local health  
28 department as authorized under IC 16-1-4-25 (before its repeal)  
29 or IC 16-20-1-3.

30 (9) Each retirement benefit program of a joint city-county health  
31 department under IC 16-1-7-16 (before its repeal).



- 1 (10) Each pension and retirement plan adopted by the board of  
 2 trustees or governing body of a county hospital as authorized  
 3 under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.  
 4 (11) Each pension or retirement plan and program for hospital  
 5 personnel in certain city hospitals as authorized under  
 6 IC 16-12.2-5 (before its repeal) or IC 16-23-1.  
 7 (12) Each retirement program of the health and hospital  
 8 corporation of a county as authorized under IC 16-12-21-27  
 9 (before its repeal) or IC 16-22-8-34.  
 10 (13) Each pension plan provided by a city, town, or county  
 11 housing authority as authorized under IC 36-7.  
 12 (14) Each pension and retirement program adopted by a public  
 13 transportation corporation as authorized under IC 36-9.  
 14 (15) Each system of pensions and retirement benefits of a regional  
 15 transportation authority as authorized or required by IC 36-9.  
 16 (16) Each employee pension plan adopted by the board of an  
 17 airport authority under IC 8-22-3.  
 18 (17) The pension benefit paid for the national guard by the state  
 19 as established under IC 10-16-7.  
 20 (18) The pension fund allowed employees of the Wabash Valley  
 21 interstate commission as authorized under IC 13-5-1-3.  
 22 (19) Each system of pensions and retirement provided by a unit  
 23 under IC 36-1-3.

24 SECTION 2. IC 5-10-1.7-1, AS AMENDED BY P.L.227-2007,  
 25 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2008]: Sec. 1. (a) The retirement plans covered by this chapter  
 27 are:

- 28 (1) The state ~~excise police, gaming agent, gaming control officer,~~  
 29 ~~and conservation officers'~~ **special law enforcement officer**  
 30 retirement plan, established under IC 5-10-5.5.  
 31 (2) The public employees' retirement fund, established under  
 32 IC 5-10.3-2.  
 33 (3) The trust fund and pension trust of the department of state  
 34 police, established under IC 10-12-2.  
 35 (4) The Indiana state teachers' retirement fund, established under  
 36 IC 5-10.4-2.  
 37 (5) The Indiana judges' retirement fund, established under  
 38 IC 33-38-6.  
 39 (6) The police officers' and firefighters' pension and disability  
 40 fund established under IC 36-8-8-4.

41 (b) As used in this chapter, "board" means the board of trustees of  
 42 a retirement plan covered by this chapter.

43 SECTION 3. IC 5-10-5.5-1, AS AMENDED BY P.L.227-2007,  
 44 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 45 JULY 1, 2008]: Sec. 1. As used in this chapter and unless the context  
 46 clearly denotes otherwise:



- 1 (a) "Department" means the Indiana department of natural  
2 resources.
- 3 (b) **"Capitol police officer" means an employee of the state  
4 police department who is assigned duties under IC 10-11-2-28.**
- 5 ~~(b)~~ (c) "Commission" means the alcohol and tobacco commission.
- 6 (d) **"Gaming commission" refers to the Indiana gaming  
7 commission established by IC 4-33-3-1.**
- 8 ~~(c)~~ (e) "Officer" means any:
- 9 (1) Indiana state excise police officer; ~~any~~  
10 (2) Indiana state conservation enforcement officer; ~~any~~  
11 (3) gaming agent; ~~or any~~  
12 (4) gaming control officer;  
13 (5) **state police motor carrier inspector; or**  
14 (6) **capitol police officer.**
- 15 ~~(d)~~ (f) "Participant" means any officer who has elected to participate  
16 in the retirement plan created by this chapter.
- 17 (g) **"Retirement plan" refers to the state special law  
18 enforcement officer retirement plan established by section 2 of this  
19 chapter.**
- 20 ~~(e)~~ (h) "Salary" means the total compensation, exclusive of expense  
21 allowances, paid to any officer by the department, **the gaming  
22 commission, the state police department,** or the commission,  
23 determined without regard to any salary reduction agreement  
24 established under Section 125 of the Internal Revenue Code.
- 25 (i) **"State police department" means the state police department  
26 established by IC 10-11-2-4.**
- 27 (j) **"State police motor carrier inspector" means an employee of  
28 the state police department who is assigned duties under  
29 IC 10-11-2-26(a).**
- 30 ~~(f)~~ (k) "Average annual salary" means the average annual salary of  
31 an officer during the five (5) years of highest annual salary in the ten  
32 (10) years immediately preceding an officer's retirement date,  
33 determined without regard to any salary reduction agreement  
34 established under Section 125 of the Internal Revenue Code.
- 35 ~~(g)~~ (l) "Public employees' retirement act" means IC 5-10.3.
- 36 ~~(h)~~ (m) "Public employees' retirement fund" means the public  
37 employees' retirement fund created by IC 5-10.3-2.
- 38 ~~(i)~~ (n) "Interest" means the same rate of interest as is specified under  
39 the public employees' retirement law.
- 40 ~~(j)~~ (o) "Americans with Disabilities Act" refers to the Americans  
41 with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments  
42 and regulations related to the Act.
- 43 ~~(k)~~ (p) Other words and phrases when used in this chapter shall, for  
44 the purposes of this chapter, have the meanings respectively ascribed  
45 to them as set forth in IC 5-10.3-1.
- 46 SECTION 4. IC 5-10-5.5-2, AS AMENDED BY P.L.227-2007,



1 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 2 JULY 1, 2008]: Sec. 2. **(a) Except as provided in subsection (b),**  
 3 there is hereby created a state ~~excise police, gaming agent, gaming~~  
 4 ~~control officer, and conservation enforcement officers'~~ **special law**  
 5 **enforcement officer** retirement plan to establish a means of providing  
 6 special retirement, disability and survivor benefits to employees of the  
 7 department, the ~~Indiana~~ gaming commission, **the state police**  
 8 **department**, and the commission who are engaged exclusively in the  
 9 performance of law enforcement duties.

10 **(b) A regular police employee of the state police department**  
 11 **who is member of, or is eligible to become a member of, the**  
 12 **pension trust established under IC 10-12-2-2 may not become a**  
 13 **participant of the retirement plan.**

14 SECTION 5. IC 5-10-5.5-2.5, AS AMENDED BY P.L.227-2007,  
 15 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2008]: Sec. 2.5. (a) As used in this chapter, "Internal Revenue  
 17 Code":

18 (1) means the Internal Revenue Code of 1954, as in effect on  
 19 September 1, 1974, if permitted with respect to governmental  
 20 plans; or

21 (2) to the extent not inconsistent with subdivision (1), has the  
 22 meaning set forth in IC 6-3-1-11.

23 ~~(b) The state excise police, gaming agent, gaming control officer,~~  
 24 ~~and conservation officers'~~ retirement plan shall satisfy the qualification  
 25 requirements in Section 401 of the Internal Revenue Code, as  
 26 applicable to the retirement plan. In order to meet those requirements,  
 27 the retirement plan is subject to the following provisions,  
 28 notwithstanding any other provision of this chapter:

29 (1) The board shall distribute the corpus and income of the  
 30 retirement plan to participants and their beneficiaries in  
 31 accordance with this chapter.

32 (2) No part of the corpus or income of the retirement plan may be  
 33 used or diverted to any purpose other than the exclusive benefit  
 34 of the participants and their beneficiaries.

35 (3) Forfeitures arising from severance of employment, death, or  
 36 for any other reason may not be applied to increase the benefits  
 37 any participant would otherwise receive under this chapter.

38 (4) If the retirement plan is terminated, or if all contributions to  
 39 the retirement plan are completely discontinued, the rights of each  
 40 affected participant to the benefits accrued at the date of the  
 41 termination or discontinuance, to the extent then funded, are  
 42 nonforfeitable.

43 (5) All benefits paid from the retirement plan shall be distributed  
 44 in accordance with the requirements of Section 401(a)(9) of the  
 45 Internal Revenue Code and the regulations under that section. In  
 46 order to meet those requirements, the retirement plan is subject to



- 1 the following provisions:
- 2 (A) The life expectancy of a participant, the participant's
- 3 spouse, or the participant's beneficiary shall not be
- 4 recalculated after the initial determination, for purposes of
- 5 determining benefits.
- 6 (B) If a participant dies before the distribution of the
- 7 participant's benefits has begun, distributions to beneficiaries
- 8 must begin no later than December 31 of the calendar year
- 9 immediately following the calendar year in which the
- 10 participant died.
- 11 (C) The amount of an annuity paid to a participant's
- 12 beneficiary may not exceed the maximum determined under
- 13 the incidental death benefit requirement of the Internal
- 14 Revenue Code.
- 15 (6) The board may not:
- 16 (A) determine eligibility for benefits;
- 17 (B) compute rates of contribution; or
- 18 (C) compute benefits of participants or beneficiaries;
- 19 in a manner that discriminates in favor of participants who are
- 20 considered officers, supervisors, or highly compensated, as
- 21 prohibited under Section 401(a)(4) of the Internal Revenue Code.
- 22 (7) Benefits paid under this chapter may not exceed the maximum
- 23 benefit specified by Section 415 of the Internal Revenue Code.
- 24 (8) The salary taken into account under this chapter may not
- 25 exceed the applicable amount under Section 401(a)(17) of the
- 26 Internal Revenue Code.
- 27 (9) The board may not engage in a transaction prohibited by
- 28 Section 503(b) of the Internal Revenue Code.
- 29 SECTION 6. IC 5-10-5.5-3.5, AS AMENDED BY P.L.227-2007,
- 30 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 31 JULY 1, 2008]: Sec. 3.5. The ~~state excise police, gaming agent, gaming~~
- 32 ~~control officer, and conservation enforcement officers'~~ retirement plan
- 33 shall be administered in a manner that is consistent with the Americans
- 34 with Disabilities Act, to the extent required by the Act.
- 35 SECTION 7. IC 5-10-5.5-5.5 IS ADDED TO THE INDIANA
- 36 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 37 [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) A person who is serving**
- 38 **on July 1, 2008, as:**
- 39 **(1) a state police motor carrier inspector; or**
- 40 **(2) a capitol police officer;**
- 41 **may, on January 1, 2009, become a participant of the retirement**
- 42 **plan by making the election described in subsection (c).**
- 43 **(b) A person who begins serving after June 30, 2008, as a state**
- 44 **police motor carrier inspector or capitol police officer is a**
- 45 **participant in the retirement plan on the later of:**
- 46 **(1) January 1, 2009; or**



1           (2) the date the person begins serving as a state police motor  
2           carrier inspector or capitol police officer.

3           (c) The election of a state police motor carrier inspector or  
4           capitol police officer under subsection (a):

5           (1) must be made in writing;

6           (2) must be filed with the board of trustees of the public  
7           employees' retirement fund, on a form prescribed by the  
8           board, before October 1, 2008; and

9           (3) is irrevocable.

10          SECTION 8. IC 5-10-5.5-6 IS AMENDED TO READ AS  
11          FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Upon election  
12          under section 5 or 5.5 of this chapter to become a participant by any  
13          officer who is a member of the public employees' retirement fund, the  
14          board shall transfer all funds standing to the credit of the electing  
15          officer in the public employees' retirement fund to the participants'  
16          savings fund created by this chapter.

17          (b) Except as otherwise provided in this chapter, a transfer of funds  
18          under the provisions of subsection (a) of this section constitutes a full  
19          and complete discharge of all of the rights of the electing officer under  
20          the public employees' retirement fund.

21          SECTION 9. IC 5-10-5.5-7, AS AMENDED BY P.L.180-2007,  
22          SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23          JULY 1, 2008]: Sec. 7. (a) Upon election under section 5 or 5.5 of  
24          this chapter to become a participant by any officer who is a member  
25          of the public employees' retirement fund, the board shall transfer all  
26          creditable service standing to the credit of the electing officer under the  
27          public employees' retirement fund to the credit of the electing officer  
28          under the retirement plan created by this chapter.

29          (b) Creditable service under this chapter, including credit for  
30          military service, shall accrue and be computed and credited to  
31          participants in the same manner and in the same amount as creditable  
32          service accrues, is computed and credited under the public employees'  
33          retirement law.

34          (c) In addition to creditable service computed under subsection (b),  
35          a participant is entitled to receive creditable service under this chapter  
36          for the time the participant receives disability benefits under a  
37          disability plan established under IC 5-10-8-7.

38          SECTION 10. IC 5-10-5.5-12.7, AS AMENDED BY P.L.99-2007,  
39          SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40          JULY 1, 2008]: Sec. 12.7. (a) Upon a petition from a participant, the  
41          department, the gaming commission, the state police department, or  
42          the commission, the board of trustees of the public employees'  
43          retirement fund, or its designee, shall make the determinations required  
44          by section 13 of this chapter and shall also determine:

45          (1) the degree of impairment of any officer determined to have a  
46          disability; and



1           (2) whether the disability arose in the line of duty (as defined in  
2           section 13.5 of this chapter).

3           (b) The impairment standards contained in the United States  
4           Department of Veterans Affairs Schedule for Rating Disabilities in  
5           effect at the time the application for disability benefits is filed with the  
6           board of trustees shall be used to determine the degree of impairment.

7           (c) To the extent required by the Americans with Disabilities Act,  
8           the transcripts, reports, records, and other material generated as a result  
9           of a hearing, a review, or an appeal conducted under this chapter to  
10          determine the existence of a disability, the cause of a disability, or the  
11          degree of impairment shall be:

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

