



PRELIMINARY DRAFT
No. 3097

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 33-38.

Synopsis: Adjustments to judges' survivor benefits. Increases the minimum retirement annuity for a surviving spouse or surviving child of a participant of the 1977 judges' retirement system or the 1985 judges' retirement system (jointly referred to as the judges' retirement system) from \$12,000 to \$17,000. Provides, beginning in 2013, for an annual cost of living adjustment (COLA) to annuity payments received by a surviving spouse or surviving child of a participant of the judges' retirement system. Provides that the annual COLA is the lesser of: (1) the percentage increase in the consumer price index; or (2) three percent.

Effective: July 1, 2012.



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

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

1 SECTION 1. IC 33-38-7-11, AS AMENDED BY P.L.28-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 11. (a) Benefits provided under this section are
4 subject to IC 33-38-6-13 and section 16 of this chapter.

5 (b) A participant whose employment as judge is terminated,
6 regardless of cause, is entitled to a retirement annuity beginning on the
7 date specified by the participant in a written application, if the
8 following conditions are met:

9 (1) The date the annuity begins is not:

10 (A) before the date of final termination of employment by the
11 participant; or

12 (B) the date thirty (30) days before the receipt of the
13 participant's written application by the board.

14 (2) The participant:

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

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

20 (C) has become permanently disabled.

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

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

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

25 (c) A participant:

26 (1) who:

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

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

29 (2) who:

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

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



1 (C) meets the requirements under subsection (b)(2)(B);
 2 is entitled to an annual retirement benefit as calculated in subsection
 3 (d).

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

- 6 (1) the salary being paid for the office that the participant held at
 7 the time of the participant's separation from service; multiplied by
 8 (2) the percentage prescribed in the following table:

9 TABLE A

10 Participant's Years 11 of Service	Percentage
12 8	24%
13 9	27%
14 10	30%
15 11	33%
16 12	50%
17 13	51%
18 14	52%
19 15	53%
20 16	54%
21 17	55%
22 18	56%
23 19	57%
24 20	58%
25 21	59%
26 22 or more	60%

27 If a participant has a partial year of service in addition to at least eight
 28 (8) full years of service, an additional percentage shall be calculated by
 29 prorating between the applicable percentages, based on the number of
 30 months in the partial year of service. A participant who elects to accept
 31 retirement before July 1, 1977, is entitled to an annual retirement
 32 benefit that equals the average of the benefit computed under this
 33 subsection and the benefit the participant would have received under
 34 IC 33-38-6 as in effect on June 30, 1977.

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

41 (f) Except as provided in subsections (b)(2)(B) and (d), if a
 42 participant who elects to accept retirement after June 30, 1977, has not
 43 attained sixty-five (65) years of age, the participant is entitled to
 44 receive a reduced annual retirement benefit that equals the benefit that
 45 would be payable if the participant were sixty-five (65) years of age
 46 reduced by one-tenth percent (0.1%) for each month that the



1 participant's age at retirement precedes the participant's sixty-fifth
 2 birthday. This reduction does not apply to:

- 3 (1) participants who are separated from service because of
- 4 permanent disability;
- 5 (2) survivors of participants who die while in service after August
- 6 1, 1992; or
- 7 (3) survivors of participants who die while not in service but
- 8 while entitled to a future benefit.

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

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

14 TABLE B

15 Participant's Years	Percentage
16 of Service	
17 0-12	50%
18 13	51%
19 14	52%
20 15	53%
21 16	54%
22 17	55%
23 18	56%
24 19	57%
25 20	58%
26 21	59%
27 22 or more	60%

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

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

- 38 (1) the sum of:
 - 39 (A) two thousand dollars (\$2,000); plus
 - 40 (B) fifty percent (50%) of the amount of retirement annuity the
 - 41 participant was drawing at the time of the participant's death,
 - 42 or to that which the participant would have been entitled had
 - 43 the participant retired and begun receiving retirement annuity
 - 44 benefits prior to the participant's death; or
- 45 (2) the amount determined under the following table:

46 TABLE C



1	Year	Amount
2	July 1, 1995, to	
3	June 30, 1996	\$10,000
4	July 1, 1996, to	
5	June 30, 1997	\$11,000
6	July 1, 1997, and	
7	thereafter to	
8	June 30, 2012	\$12,000
9	July 1, 2012, and	
10	thereafter	\$17,000

11 (i) If a participant who qualifies after June 30, 1977, and before July
 12 1, 1983, to receive a retirement annuity under the provisions of this
 13 chapter, either by length of service or by being permanently disabled,
 14 dies, the participant's surviving spouse or surviving child or children,
 15 as designated by the participant, is or are entitled to an annuity in an
 16 amount equal to the greater of:

- 17 (1) fifty percent (50%) of the amount of retirement annuity the
 18 participant was drawing at the time of death, or to that which the
 19 participant would have been entitled had the participant retired
 20 and begun receiving retirement annuity benefits before death; or
 21 (2) the amount determined under TABLE C in subsection (h)(2).

22 (j) If a participant:

- 23 (1) dies after June 30, 1983; and
 24 (2) on the date of the participant's death:
 25 (A) was receiving benefits under this chapter;
 26 (B) had completed at least eight (8) years of service and was
 27 in service as a judge;
 28 (C) was permanently disabled; or
 29 (D) had completed at least eight (8) years of service, was not
 30 still in service as a judge, and was entitled to a future benefit;

31 the participant's surviving spouse or surviving child or children, as
 32 designated by the participant, is or are entitled, regardless of the
 33 participant's age, to an annuity in an amount equal to the greater of the
 34 amount determined under TABLE C in subsection (h)(2) or fifty
 35 percent (50%) of the amount of retirement annuity the participant was
 36 drawing at the time of death, or to that which the participant would
 37 have been entitled had the participant retired and begun receiving
 38 retirement annuity benefits on the participant's date of death, with
 39 reductions as necessary under subsection (f).

40 (k) Notwithstanding subsection (j), if a participant:

- 41 (1) died after June 30, 1983, and before July 1, 1985; and
 42 (2) was serving as a judge at the time of death;

43 the surviving spouse is entitled to the same retirement annuity as the
 44 surviving spouse of a permanently disabled participant entitled to
 45 benefits under subsection (i).

46 (l) The annuity payable to a surviving child or children under



- 1 subsection (h), (i), or (j), is subject to the following:
- 2 (1) The total monthly benefit payable to a surviving child or
- 3 children is equal to the same monthly annuity that was to have
- 4 been payable to the surviving spouse.
- 5 (2) If there is more than one (1) child designated by the
- 6 participant, then the children are entitled to share the annuity in
- 7 equal monthly amounts.
- 8 (3) Each child entitled to an annuity shall receive that child's
- 9 share until the child becomes eighteen (18) years of age or during
- 10 the entire period of the child's physical or mental disability,
- 11 whichever period is longer.
- 12 (4) Upon the cessation of payments to one (1) designated child,
- 13 if there is at least one (1) other child then surviving and still
- 14 entitled to payments, the remaining child or children shall share
- 15 equally the annuity. If the surviving spouse of the participant is
- 16 surviving upon the cessation of payments to all designated
- 17 children, the surviving spouse will then receive the annuity for the
- 18 remainder of the surviving spouse's life.
- 19 (5) The annuity shall be payable to the participant's surviving
- 20 spouse if any of the following occur:
- 21 (A) No child named as a beneficiary by a participant survives
- 22 the participant.
- 23 (B) No children designated by the participant are entitled to an
- 24 annuity due to their age at the time of death of the participant.
- 25 (C) A designation is not made.
- 26 (6) An annuity payable to a surviving child or children may be
- 27 paid to a trust or a custodian account under IC 30-2-8.5,
- 28 established for the surviving child or children as designated by the
- 29 participant.
- 30 SECTION 2. IC 33-38-7-11.5 IS ADDED TO THE INDIANA
- 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 32 [EFFECTIVE JULY 1, 2012]: **Sec. 11.5. (a) This section applies to**
- 33 **the annuity payable after June 30, 2013, to a spouse or child or**
- 34 **children under section 11 of this chapter.**
- 35 **(b) Each year the board of trustees of the Indiana public**
- 36 **retirement system established under IC 5-10.5-3-1 shall determine**
- 37 **if there has been an increase or decrease in the consumer price**
- 38 **index (United States city average) prepared by the United States**
- 39 **Department of Labor by comparing the arithmetic mean of the**
- 40 **consumer price index for January, February, and March of that**
- 41 **year with the arithmetic mean for the same three (3) months of the**
- 42 **preceding year. If there has been an increase, or a decrease, the**
- 43 **increase or decrease shall be stated as a percentage of the**
- 44 **arithmetic mean for the three (3) month period. The percentage**
- 45 **shall be rounded to the nearest one-tenth of one percent (0.1%)**
- 46 **and may not exceed three percent (3%).**



1 **(c) If there is a percentage increase calculated under subsection**
 2 **(b), a surviving spouse or child or children's monthly annuity**
 3 **payment, beginning with the July payment, shall be increased by**
 4 **an amount equal to the June payment times the percentage**
 5 **increase. A monthly annuity payment may not be reduced if there**
 6 **is a percentage decrease of the arithmetic mean calculated under**
 7 **subsection (b).**

8 **(d) A surviving spouse or child or children's monthly annuity**
 9 **payment may not be increased under this section until July of the**
 10 **year following the year of the first monthly annuity payment to the**
 11 **surviving spouse or child or children.**

12 **(e) In computing a surviving spouse or child or children's**
 13 **annuity, the increase is based only on those years for which the**
 14 **surviving spouse or child or children were eligible for annuity**
 15 **payments under this chapter.**

16 SECTION 3. IC 33-38-8-17, AS AMENDED BY P.L.122-2008,
 17 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2012]: Sec. 17. (a) Benefits provided under this section are
 19 subject to IC 33-38-6-13 and section 20 of this chapter.

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

22 (1) dies; and

23 (2) on the date of death:

24 (A) was receiving benefits under this chapter;

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

28 (C) had a permanent disability; or

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

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

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

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

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

43 Year	Amount
44 July 1, 1995, to	
45 June 30, 1996	\$10,000
46 July 1, 1996, to	



1	June 30, 1997	\$11,000
2	July 1, 1997, and	
3	thereafter to	
4	June 30, 2012	\$12,000
5	July 1, 2012, and	
6	thereafter	\$17,000
7	(d) The benefit payable to a surviving spouse or surviving child or	
8	children under subsection (c) is subject to the following:	
9	(1) A surviving spouse is entitled to receive the benefit for life.	
10	(2) The total monthly benefit payable to a surviving child or	
11	children is equal to the same monthly benefit that was to have	
12	been payable to the surviving spouse.	
13	(3) If there is more than one (1) child designated by the	
14	participant, then the children are entitled to share the benefit in	
15	equal monthly amounts.	
16	(4) A child entitled to a benefit shall receive that child's share	
17	until the child becomes eighteen (18) years of age or during the	
18	entire period of the child's physical or mental disability,	
19	whichever period is longer.	
20	(5) Upon the cessation of benefits to one (1) designated child, if	
21	there are one (1) or more other children then surviving and still	
22	entitled to benefits, the remaining children shall share equally the	
23	benefit. If the surviving spouse of the participant is surviving	
24	upon the cessation of benefits to all designated children, the	
25	surviving spouse shall then receive the benefit for the remainder	
26	of the spouse's life.	
27	(6) The benefit shall be payable to the participant's surviving	
28	spouse if any of the following occur:	
29	(A) No child or children named as a beneficiary by a	
30	participant survives the participant.	
31	(B) No child or children designated by the participant is or are	
32	entitled to a benefit due to the age of the child or children at	
33	the time of death of the participant.	
34	(C) A designation is not made.	
35	(7) A benefit payable to a surviving child or children may be paid	
36	to a trust or a custodian account under IC 30-2-8.5, established for	
37	the surviving child or children as designated by the participant.	
38	SECTION 4. IC 33-38-8-17.5 IS ADDED TO THE INDIANA	
39	CODE AS A NEW SECTION TO READ AS FOLLOWS	
40	[EFFECTIVE JULY 1, 2012]: Sec. 17.5. (a) This section applies to	
41	the annuity payable after June 30, 2013, to a spouse or child or	
42	children under section 17 of this chapter.	
43	(b) Each year the board of trustees of the Indiana public	
44	retirement system established under IC 5-10.5-3-1 shall determine	
45	if there has been an increase or decrease in the consumer price	
46	index (United States city average) prepared by the United States	



1 Department of Labor by comparing the arithmetic mean of the
2 consumer price index for January, February, and March of that
3 year with the arithmetic mean for the same three (3) months of the
4 preceding year. If there has been an increase, or a decrease, the
5 increase or decrease shall be stated as a percentage of the
6 arithmetic mean for the three (3) month period. The percentage
7 shall be rounded to the nearest one-tenth of one percent (0.1%)
8 and may not exceed three percent (3%).

9 (c) If there is a percentage increase calculated under subsection
10 (b), a surviving spouse or child or children's monthly annuity
11 payment, beginning with the July payment, shall be increased by
12 an amount equal to the June payment times the percentage
13 increase. A monthly annuity payment may not be reduced if there
14 is a percentage decrease of the arithmetic mean calculated under
15 subsection (b).

16 (d) A surviving spouse or child or children's monthly annuity
17 payment may not be increased under this section until July of the
18 year following the year of the first monthly annuity payment to the
19 surviving spouse or child or children.

20 (e) In computing a surviving spouse or child or children's
21 annuity, the increase is based only on those years for which the
22 surviving spouse or child or children were eligible for annuity
23 payments under this chapter.

