



Members

Rep. David Niezgodski, Chairperson
Rep. Ed DeLaney
Rep. Woody Burton
Rep. Suzanne Crouch
Sen. Phil Boots
Sen. Greg Walker
Sen. Lindel Hume
Sen. Karen Tallian
Matthew Buczolic
Randy Novak
Kip White
Steve Meno

PENSION MANAGEMENT OVERSIGHT COMMISSION

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

James Sperlik, Fiscal Analyst for the Commission
Peggy Piety, Attorney for the Commission
Allen Morford, Attorney for the Commission

Authority: IC 2-5-12-1

MEETING MINUTES¹

Meeting Date: October 14, 2010
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. David Niezgodski, Chairperson; Rep. Ed DeLaney; Rep. Woody Burton; Rep. Suzanne Crouch; Sen. Phil Boots; Sen. Greg Walker; Sen. Lindel Hume; Sen. Karen Tallian; Matthew Buczolic; Randy Novak; Kip White; Steve Meno.

Members Absent: None.

The Chair, Representative David Niezgodski, called the third and final meeting of the Pension Management Oversight Commission to order at 10:10 a.m. Representative Niezgodski led the Commission in the Pledge of Allegiance.

1. Department of Labor - Appropriation Reversions to the General Fund

At the September 29th meeting of the Commission, Representative Niezgodski requested a report on the Department of Labor's reversions. Lori Torres, Commissioner, Indiana Department of Labor (IDOL), addressed the Commission on this issue. Commissioner Torres distributed Exhibit 1, *Indiana Department of Labor - General Fund*. Exhibit 1 also contained IDOL General Fund expenditures, along with federal grants and the full-time equivalent (FTE) staffing as of June 30, 2010. During the Commission discussion on reversions, Senator Tallian provided the Commission with Exhibit 2, *Department of Labor Reversions*. The exhibits differ in that Exhibit 2 showed total reversions while Exhibit 1 did not.

In response to a question from Representative DeLaney about the fiscal impact of

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

employee misclassifications and the annual revenue loss estimated at between \$200 M and \$400 M, Commissioner Torres said that she did not know the amount and had not done the calculation and said that the question should be referred to the state Department of Revenue. She said that the Department of Labor's only involvement and concern is safety issues (IOSHA violations). The Chair commented that the IDOL is the lead agency on worker misclassification cooperation. Commissioner Torres said that the law requires information sharing and that she does not know in detail what other departments are doing. Commissioner Torres said that the IDOL provides and receives information from other agencies.

Representative Niezgodski commented that Indiana is the number one or number two state in the nation in employee misclassification and inquired of Commissioner Torres if the Governor was ever asked about using reverted IDOL money to enforce worker misclassification to help the state with budget shortfalls. In response, Commissioner Torres said that she is involved with making decisions on how to best apply funding for the IDOL.

In response to a question from Senator Tallian about dedicated fund reversions, Commissioner Torres said that the Office of Management and Budget (OMB) made the decision about which dedicated funds would be reverted. Commenting further about reversions, Commissioner Torres told the Commission that IDOL is not reverting federal funds and that IDOL used all federal funds received in FY 2009, but she said that she was not yet sure if all federal funds were used in FY 2010.

In response to a question from Representative DeLaney, Commissioner Torres said that the reversion for IOSHA funds was about 7%. Commissioner Torres said that inspections are a top priority of the IDOL.

2. Peter Rimsans, Executive Director, Indiana State Building and Construction Trades Council

Mr. Rimsans told the Commission that based on the study by Dr. Michael Kelsay, presented at the September 29th meeting of the Commission, Indiana is estimated to be losing \$400 M annually in taxes through employee misclassification. Mr. Rimsans said that it is a good return on investment to pursue misclassification enforcement. Mr. Rimsans also said that he understands that starting a business in hard times is difficult. He said that he is not interested in pursuing the start-up businesses. Mr. Rimsans said that the General Assembly should pursue large employers that use misclassification as part of a business plan.

Mr. Rimsans said that he is concerned with the proposed rules regarding implementation of SEA 23-2010. He said that he thinks that the IDOL has usurped the legislative intent of SEA 23. Mr. Rimsans said that the IDOL is not following rule-making requirements. He also said that the IDOL is not providing any remedies for misclassification, nor are any investigative procedures proposed. Mr. Rimsans also said that data collection and sharing among involved parties is not addressed in the proposed rules. In addition, Mr. Rimsans told the Commission that the standard of proof suggested in the proposed rules was fluid and not definite. Mr. Rimsans asked the Commission to review the proposed rules and comments and to make their own recommendations. The Chair said that he agreed with this comment.

Senator Tallian said that employee misclassification is really about tax evasion. Mr. Rimsans said that the enforcement requirements should be codified with the Department of Workforce Development (DWD) as the lead agency. Mr. Rimsans suggested an

interagency task force to look at issues along agency lines.

Representative Crouch asked about the memorandum of understanding proposed by the IDOL. Representative Burton asked about the source for the data contained in the study conducted by Dr. Kelsay. Mr. Rimsans said that the data came from two sources: the Internal Revenue Service and the U.S. Department of Labor. In response to a Commission question, Mr. Rimsans said that education is needed about employee misclassification, and incentives in the form of monetary penalties are also needed. Mr. Rimsans, responding to a question about what is needed to help reduce employee misclassification, suggested that (a) a task force be created to address the issue; (b) more audits be done; and (c) higher penalties need to be in place.

In response to a question from Representative DeLaney, Mr. Rimsans said that he does not favor "safe harbor provisions". He suggested a matrix with smaller companies receiving a "slap on the wrist" for violations. Commenting on a question from Senator Walker, Mr. Rimsans said that he did not know for sure the percent of employer misclassification audits completed, but suggested less than five percent nationwide.

Representative Niezgodski said that employee misclassification is taking prominence nationally and that it is a bigger problem than anyone knows and has acknowledged. Senator Hume said employee misclassification is a tax evasion issue. He said that it does not matter what other states do. Indiana has an obligation to bring in revenue that is due. Responding to a question about tax amnesty, Mr. Rimsans said that he was initially opposed to the idea, but now thinks it could help.

Representative Niezgodski said he hopes that a legislative task force can be formed and that the Commission can add recommendations to the IDOL proposals. He said that the IDOL has recommended very little. Representative Niezgodski said he wants an ongoing oversight of IDOL. He said more investigations and enforcement are necessary than what IDOL has recommended.

Senator Tallian told the Commission that she wants to go further. She suggested a pilot program of the agencies involved with employee misclassification and that they hire four to five investigators and report back in one year. Senator Walker seconded Senator Tallian's comments.

Commission discussion centered around the idea of a pilot program. Representative DeLaney commented that he would like to have three or four agencies (Department of Workforce Development, Workers' Compensation Board, Department of Labor, and the Department of Revenue) report to the General Assembly by January 1, 2011, on the estimated amount of lost revenue because of employee misclassification and their recommendations as to how to collect the lost revenue. Representative Niezgodski said he would like the information by Organization Day (November 16). Senator Walker said he wants the task force to look at additional payouts for Workers' Compensation and Unemployment Compensation. Senator Tallian suggested putting something in the agencies' budgets to deal with this new responsibility.

Senator Boots recommended a task force be formed of the principal agencies involved. Representative Burton said he wants to ensure enforcement mechanisms are utilized.

The following was adopted by the Commission.

The Pension Management Oversight Commission as part of its final report for the 2010 interim unanimously adopted a recommendation that the Department of Revenue, the

Department of Labor, the Department of Workforce Development, and the Worker's Compensation Board submit by November 1, 2010, a joint report in an electronic format under IC 5-14-6 to the Legislative Council concerning the following:

- (1) An estimate of the potential revenue recoverable annually by the state through the enforcement of existing statutory provisions concerning worker misclassification.
- (2) An estimate of the annual costs of enforcement to recover the revenue estimate provided in (1), above.
- (3) An estimate of the amount of additional potential expenditures for state benefits, such as unemployment insurance and worker's compensation benefits, resulting from the reclassification of workers as employees as the result of the enforcement efforts described in (1), above.
- (4) Recommendations concerning the funding of the estimated annual enforcement costs provided in (2), above, including a mechanism for paying for the additional costs of enforcement and compliance.

3. David Cooper, Chief Investment Officer, PERF/TRF - Report on Alternative Investments

Mr. Cooper distributed Exhibit 3, *Pension Management Oversight Commission, Alternative Investments*. Exhibit 3 formed the basis of Mr. Cooper's presentation. Mr. Cooper said that alternative investments are investable assets other than publicly traded stocks and bonds (traditional assets) employed to diversify and reduce the risk of long-term portfolios. Examples include private equity, real estate and commodities. Mr. Cooper said alternative investments are used to reduce risk. He said that they are an additional opportunity set for long-term investment portfolios. Mr. Cooper said the PERF/TRF are long-term investors with a long-term strategic asset allocation. He said that they have limited need for short-term liquidity. Mr. Cooper said that commodities are employed as inflation hedges.

Commission discussion centered around the fees paid by PERF/TRF. Mr. Cooper said that PERF paid approximately \$74.4 M in fees in FY 2010, while TRF paid about \$40 M in fees for FY 2010. Mr. Cooper said that PERF/TRF currently are in discussions to reduce fees and commissions. In response to a question from Commission member White, Mr. Cooper said that there are six people on the PERF/TRF in-house investment staff. He said that about 150 hours of due diligence is performed for each investment, with about 50% performed by the in-house staff and 50% performed by outside investment managers. He said that the in-house staff spends between 75 and 80 hours per alternative investment. Mr. Cooper said that commodities are about 4% of the total Consolidated Retirement Investment Fund (CRIF) for PERF.

4. Judges' Retirement System, Judge Barbara Harcourt

Judge Harcourt distributed Exhibit 4, HB 1350-2006. HB 1350 authorized a participant with at least eight years in the Judges' Retirement System (JRS) who is also vested in the Public Employees' Retirement System to elect to use not more than ten years of PERF service to qualify for a retirement benefit from the JRS and waive the right to a retirement benefit from PERF.

The Chair recessed the Commission at 12:10 p.m. for lunch.

The Chair reconvened the Commission at 1:00 p.m.

5. Proposed Legislation

The following preliminary drafts (PDs) were discussed:

PD 3376 (Exhibit 5) was unanimously recommended for introduction in the 2011 session of the General Assembly. PD 3376 provides for a partial lump sum distribution for an active member of the 1977 Police Officers' and Firefighters' Pension and Disability Fund.

PD 3154 (Exhibit 6) was unanimously recommended for introduction in the 2011 session of the General Assembly. PD 3154 provides that a judge or a magistrate who is a participant in the Judges' Retirement System and who purchases prior service credit in the Public Employees' Retirement Fund waives credit for prior service in PERF only for the amount of PERF service purchased.

PD 3159 (Exhibit 7) was unanimously recommended for introduction in the 2011 session of the General Assembly. PD 3159 requires the Board of Trustees of the Public Employees' Retirement Fund specify by rule the interest rate credited to a participant's contribution for (1) the State Excise Police, Gaming Agent, Gaming Control Officer, and Conservation and Excise Officers' Retirement Fund; (2) the Judges' Retirement System; (3) the Prosecuting Attorneys' Retirement Fund; and (4) the 1977 Police Officers' and Firefighters' Pension and Disability Fund.

PD 3412 (Exhibit 8) was unanimously recommended for introduction in the 2011 session of the General Assembly. PD 3412 allows a certain member or survivor of a member of the 1977 Police Officers' and Firefighters' Pension and Disability Fund who applied for a disability prior to 1990 and is receiving a disability benefit to apply to a local board for a recommendation as to whether the member's disability occurred in the line of duty.

PD 3253 (Exhibit 9) was unanimously recommended for introduction in the 2011 session of the General Assembly. PD 3253 provides a thirteenth check to participants in the State Excise Police, Gaming Agent, Gaming Control Officer, and Conservation and Excise Officers' Retirement Fund. It provides that the thirteenth check is to be paid not later than July 1, 2011, to a plan participant (or to a survivor or beneficiary of a plan participant) who retired or was disabled on or before December 1, 2009, and who was entitled to receive a monthly benefit on July 1, 2010.

PD 3261 (Exhibit 10) was unanimously recommended for introduction in the 2011 session of the General Assembly. PD 3261 provides for a thirteenth check to participants in the State Police pre-1987 Benefit System. It provides that the thirteenth check is to be paid not later than July 1, 2011, to each employee beneficiary of the pre-1987 Benefit System who (1) retired or was disabled before July 2, 2008, and (2) was entitled to receive a monthly benefit on June 1, 2010.

The Commission voted unanimously to combine PD 3253 and PD 3261.

The Commission voted unanimously to accept the draft copy of the Final Report with the inclusion of today's activity.

The Chair adjourned the meeting at 1:35 p.m.

Indiana Department of Labor - General Fund				
	FY10	FY09	FY08	FY07
GF Appropriation	5.2 M	5.5M	5.5M	5.4M
GF Expenditures	(4.7M)	(5.0M)	(5.0M)	(4.7M)
Federal Grants	2.1M	2.1M	2.1M	2.1M
FTE's on June 30	84	95	89	87

Exhibit 1
Pension Management
Oversight Commission
October 14, 2010

Department of Labor Reversions

Fund	2010 Appropriation	Expenses	Transfer Out	Reversion of Fund	Transfer In	Total Reversion	Reversion Per SBA	
11960 Labor Divison	\$ 1,013,234.00	\$ 777,573.00	\$ 6,000.00	\$ 229,661.00	\$ 1,139,694.00	\$ 1,369,355.00	\$ 1,369,146.96	\$ 208.04
11980 Mines - Mining Division	\$ 170,658.00	\$ 145,245.00		\$ 25,413.00		\$ 25,413.00	\$ 25,262.54	\$ 150.46
12000 MIS Proj Stat (TRF)	\$ 229,714.00	\$ -	\$ 109,109.00	\$ 120,605.00		\$ 120,605.00	\$ 120,605.00	\$ -
15110 Occupational Safety and Health	\$ 3,805,621.00		\$ 1,807,665.00	\$ 1,997,956.00		\$ 1,997,956.00	\$ 1,997,956.00	\$ -
	<u>\$ 5,219,227.00</u>	<u>\$ 922,818.00</u>	<u>\$ 1,922,774.00</u>	<u>\$ 2,373,635.00</u>	<u>\$ 1,139,694.00</u>	<u>\$ 3,513,329.00</u>	<u>\$ 3,512,970.50</u>	<u>\$ 358.50</u>

Reversion as percentage of Appropriations
Without Transfer from Employment of Youth

67%	\$ 3,512,970.50
45%	\$ 2,373,635.00

Labor Divison \$6,000 transfer out went to Employment of Youth Fund 35510

\$1,139,694 transfer in from *INSALC* \$54,617 Prevention Serv, children budget and \$1,085,077.20 from Employment of Youth

Employment of Youth Includes a \$1,075,889.20 augmentation of funds in June 2010 that is recorded as a transfer in \$6,000 transfer in from Labor Divison

**Exhibit 2
Pension Management
Oversight Commission
October 14, 2010**

Pension Management Oversight Committee

October 14th, 2010



Exhibit 3
Pension Management
Oversight Commission
October 14, 2010



What are "Alternatives"?

2

- Investible assets other than publicly traded stocks and bonds (traditional assets) employed to diversify and reduce the risk of long term portfolios.

- Examples include:
 - Private Equity
 - Real Assets
 - Real Estate
 - Commodities
 - Absolute Return

Why Utilize Alternatives?

3

- Reduce Risk
 - In 2005, PERF and TRF had 70% of their assets invested in one volatile asset class – public stocks
- Diversification
 - Additional opportunity set for long term investment portfolios
- Hedge Against Different Economic Environments
 - Example: Commodities and real estate may help hedge inflation impacts; absolute return may assist in preserving capital during a bear market
- Matches Long Term Investment Objectives
 - PERF and TRF are long term investors with a long term strategic asset allocation
 - Have limited need for short term-liquidity

Headlines: "Alternatives Are....."

4

Perception

- All the Same
- Illiquid
- Not Transparent

Reality

- Variety of asset classes, managers, structures and risk levels
- Liquidity can range from daily to several years
- PERF and TRF:
 - are approximately cash flow neutral
 - did not experience "denominator effect"
 - have been providers of liquidity while others were forced sellers
- Approximately 150 hours of due diligence performed for each investment
- Valuations are daily for commodities, monthly for absolute return and quarterly for private equity and private real estate
- Annual valuations performed by third-party accounting firms

Headlines: "Alternatives Are....."

Perception

- Risky
- Expensive

Reality

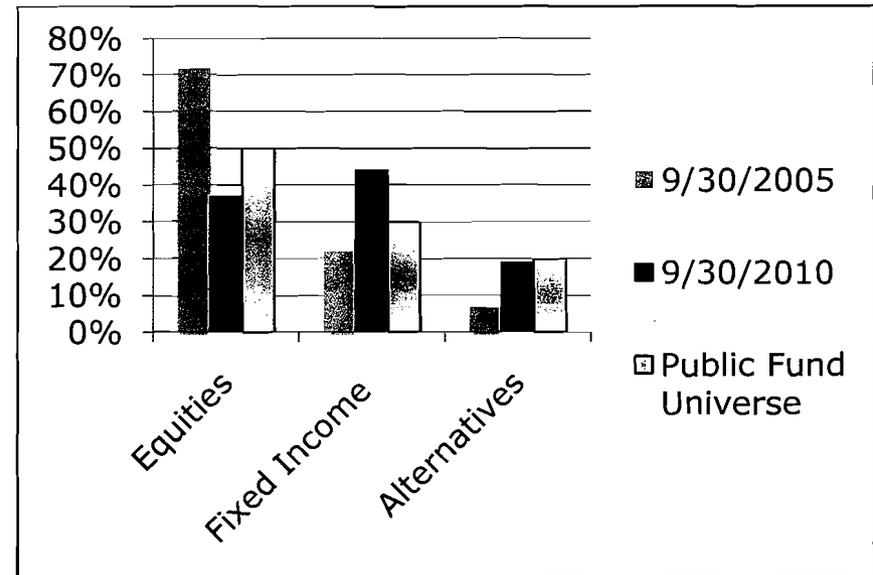
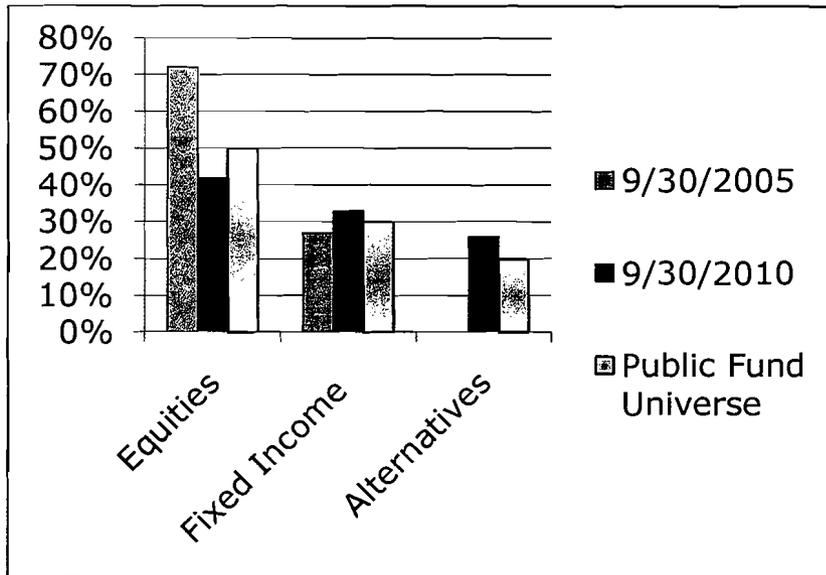
- Most alternatives, in isolation, have less risk than equities as measured by volatility
- PERF and TRF utilize alternatives to improve risk-adjusted returns
- Most alternative assets are more expensive than traditional asset classes
- Current pressure on managers to reduce fees
- Risk reduction and diversification has a price
- Better alignment of interest provisions

PERF	FY 2010 Fees Paid	
	<u>In Dollars</u>	<u>%</u>
Equity	\$ 18,178,174	0.13%
Fixed Income	8,281,075	0.06%
Private Equity	31,041,696	0.23%
Real Assets	4,946,203	0.04%
Absolute Return	\$ 11,905,215	0.09%
Total	\$ 74,352,362	0.55%

TRF	FY 2010 Fees Paid	
	<u>In Dollars</u>	<u>%</u>
Equity	\$ 17,094,699	0.21%
Fixed Income	2,862,467	0.04%
Private Equity	13,927,104	0.17%
Real Assets	2,445,312	0.03%
Absolute Return	\$ 3,684,770	0.05%
Total	\$ 40,014,352	0.49%



PERF & TRF Allocation vs. Public Fund Universe



Both PERF and TRF were above 70% allocated to one asset class in 2005. Today, both plans are much more diversified.

Public Fund Universe Returns from 6/30/09 Greenwich Report.



PERF & TRF Asset Class AUM



Assets Under Management (CRIF) Month End September 30, 2010			
	<u>Actual \$</u>	<u>Actual</u>	<u>Target</u>
	millions	%	%
Total Equity	\$ 5,949	41.5%	40%
Total Fixed Income	\$ 4,705	32.8%	30%
ALTS - Private Equity	\$ 1,294	9.0%	10%
ALTS - Real-Assets	\$ 1,224	8.5%	10%
ALTS - Absolute Return	\$ 1,178	8.2%	10%
Total Alternatives	\$ 3,696	25.8%	30%
Total CRIF	\$ 14,349	100.0%	100%

Assets Under Management TRF DB Plan Month End September 30, 2010			
	<u>Actual \$</u>	<u>Actual</u>	<u>Target</u>
	millions	%	%
Total Equity	\$ 2,013	36.7%	28%
Total Fixed Income	\$ 2,424	44.2%	39%
ALTS - Private Equity	\$ 450	8.2%	9%
ALTS - Real-Assets	\$ 269	4.9%	13%
ALTS - Absolute Return	\$ 333	6.1%	11%
Total Alternatives	\$ 1,052	19.2%	33%
Total DB Plan	\$ 5,489	100.0%	100%

Neither PERF nor TRF have ever been above their target in alternatives.



Introduced Version

HOUSE BILL No. 1350

DIGEST OF INTRODUCED BILL

Sections Affected: IC 33-38-7-20; IC 33-38-8-24.

Subject: Judicial pensions. Authorizes a participant with at least eight years of creditable service in the retirement system who is also vested in the public employees' retirement fund (PERF) to elect to transfer more than ten years of PERF service credit to qualify for a retirement benefit from the judges' retirement system and waive the right to a retirement benefit from PERF. Requires the PERF board to transfer to the judges' retirement system the amount credited to the participant's annuity savings account less the present value of the retirement benefit payable at 65 years of age that is attributable to the participant who makes the election. Provides that the PERF service credit may not be used to compute the participant's retirement benefit from the judges' retirement system.

Effective Date: July 1, 2006.

Author: Cherry

History: July 12, 2006, read first time and referred to Committee on Judiciary.

Introduced

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1350

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

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

SOURCE: IC 33-38-7-20; (06)IN1350.1.1. --> SECTION 1. IC 33-38-7-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:
Sec. 20. (a) As used in this section, "retirement fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.

(b) This section applies only to a person who:

- (1) is a judge participating under this chapter;**
- (2) before becoming a judge was employed in a position that resulted in the person being a member of the retirement fund;**
- (3) received credited service in the retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 18 or 19 of this chapter;**
- (4) has attained vested status in the retirement fund for the employment described in subdivision (2), but has not begun receiving a benefit from the retirement fund; and**
- (5) has at least eight (8) years of service credit in the judges'**

retirement system.

(c) If a person becomes a participant in the judges' 1977 benefit system under this chapter, the person may elect credit for the service described in subsection (b)(3) solely for the purpose of meeting the age plus years of service requirement described in section 11(b)(2)(B) of this chapter, if the following conditions are met:

- (1) The prior service was credited under the retirement fund.**
- (2) The maximum amount of service that a person may elect to transfer under this section is ten (10) years.**
- (3) The person waives the right to a retirement benefit from the retirement fund based on the service transferred under this section.**

(d) If a participant makes an election under subsection (c), the board shall transfer from the retirement fund to the judges' 1977 benefit system the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the participant.

(e) The service for which an election is made under this section may not be used as years of service for the purpose of computing a participant's retirement benefit under section 11(d) of this

chapter.

SOURCE: IC 33-38-8-24; (06)IN1350.1.2. --> SECTION 2. IC 33-38-8-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:
Sec. 24. (a) As used in this section, "retirement fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.

(b) This section applies only to a person who:

- (1) is a judge participating under this chapter;**
 - (2) before becoming a judge was employed in a position that resulted in the person being a member of the retirement fund;**
 - (3) received credited service in the retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 22 or 23 of this chapter;**
 - (4) has attained vested status in the retirement fund for the employment described in subdivision (2), but has not begun receiving a benefit from the retirement fund; and**
 - (5) has at least eight (8) years of service credit in the judges' retirement system.**
- (c) If a person becomes a participant in the judges' 1985 benefit**

system under this chapter, the person may elect credit for the service described in subsection (b) (3) solely for the purpose of meeting the age plus years of service requirement described in section 13(2)(B) of this chapter, if the following conditions are met:

- (1) The prior service was credited under the retirement fund.**
- (2) The maximum amount of service that a person may elect to transfer under this section is ten (10) years.**
- (3) The person waives the right to a retirement benefit from the retirement fund based on the service transferred under this section.**
- (d) If a participant makes an election under subsection (c), the board shall transfer from the retirement fund to the judges' 1985 benefit system the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the participant.**
- (e) The service for which an election is made under this section may not be used as years of service for the purpose of computing a participant's retirement benefit under section 14 of this chapter.**

SOURCE: ; (06)IN1350.1.3. --> SECTION 3. [EFFECTIVE JULY 1, 2006] IC 33-38-7-20, as added by this act, applies to participants in the judges' 1977 retirement, disability, and death benefit system who retire after June 30, 2006.

SOURCE: ; (06)IN1350.1.4. --> SECTION 4. [EFFECTIVE JULY 1, 2006] IC 33-38-8-24, as added by this act, applies to participants in the judges' 1985 retirement, disability, and death benefit system who retire after June 30, 2006.

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6625
BILL NUMBER: HB 1350

NOTE PREPARED: Jan 13, 2006
BILL AMENDED:

SUBJECT: Judicial Pensions.

FIRST AUTHOR: Rep. Cherry
FIRST SPONSOR:

BILL STATUS: As Introduced

**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State

Summary of Legislation: This bill authorizes a participant with at least eight years of creditable service in the Judges' Retirement System (JRS) who is also vested in the Public Employees' Retirement Fund (PERF) to elect to use not more than ten years of PERF service credit to qualify for a retirement benefit from the JRS and waive the right to a retirement benefit from PERF. It requires the PERF Board to transfer to the JRS the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at 65 years of age that is attributable to the participant who makes the election. The bill provides that the PERF service credit may not be used to compute the participant's retirement benefit from the JRS.

Effective Date: July 1, 2006.

Explanation of State Expenditures: This bill would apply to the Judges' Retirement System in that service may be used to determine benefit eligibility under the Rule of 85, but not used in the determination of benefit amounts. This proposal apparently only affects one judge currently. It would permit this judge to use PERF-credited service to qualify for retirement under the Rule of 85 on July 1, 2006, and begin receiving pension benefits immediately. Without this legislation, and if the judge retired on July 1, 2006, the judge would have to wait two years until July 1, 2008, before benefits could commence.

The impact is therefore estimated to be the present value of the two years of additional benefits the judge may receive minus a PERF offset for the service being used for eligibility. The annual benefit is estimated to be about \$62,700, and the present value of two years of benefits, net of the PERF offset, is estimated to be approximately \$107,300.

The fund affected is the state General Fund.

It should be noted that more judges may benefit from this legislation in the future, but the extent of future eligibility under this provision is unknown.

There will also be additional administrative costs incurred to track two different types of service; one for benefit-determination purposes and the other for benefit-eligibility purposes. Additional administrative costs are indeterminable at this time.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Public Employees' Retirement Fund as administrators of the Judges' Retirement System.

Local Agencies Affected:

Information Sources: Doug Todd of McCready & Keane, Inc., actuaries for PERF and the Judges' Retirement System, 317-576-1508; Col. Tom Parker, PERF, 317-233-4146.

Fiscal Analyst: James Sperlik, 317-232-9866.

DEFINITIONS:

Funding—Funding is a systematic program under which assets are set aside in amounts and at times approximately coincident with the accruing of benefit rights under a retirement system.

Offset - A reduction in the amount of a retirement benefit by the amount of another benefit from another plan.

Pay-As-You-Go Method -The Pay-As-You-Go Method, sometimes called current disbursement cost method, is a method of recognizing the costs of a retirement system only as benefits are paid.

Unfunded Actuarial Liability -The actuarial liability, sometimes called the unfunded liability, of a retirement system at any time is the excess of its actuarial liability at that time over the value of its cash and investments.

Present Value— The present value (sometimes called actuarial present value) of an amount or series of amounts payable or receivable in the future is their current worth after discounting each such amount at an assumed rate of interest and adjusting for the probability of its payment or receipt.

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301

Indianapolis, IN 46204

(317) 233-0696

<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6625

BILL NUMBER: HB 1350

NOTE PREPARED: Jan 9, 2006

BILL AMENDED:

SUBJECT: Judicial pensions.

FIRST AUTHOR: Rep. Cherry

FIRST SPONSOR:

BILL STATUS: As Introduced

**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: Pending

Summary of Legislation: This bill authorizes a participant with at least eight years of creditable service in the Judges' Retirement System (JRS) who is also vested in the Public Employees' Retirement Fund (PERF) to elect to use not more than ten years of PERF service credit to qualify for a retirement benefit from the JRS and waive the right to a retirement benefit from PERF. It requires the PERF Board to transfer to the JRS the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at 65 years of age that is attributable to the participant who makes the election. The bill provides that the PERF service credit may not be used to compute the participant's retirement benefit from the JRS.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *As of the above date, the fiscal analysis of this bill has not been completed. Please contact the Office of Fiscal and Management Analysis for an update of this fiscal impact statement.*

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected:

Information Sources:

Fiscal Analyst: James Sperlik, 317-232-9866.

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TOC: [Burns Indiana Statutes Annotated, Constitution, Court Rules & ALS, Combined > /.../ > Chapter 8 1985 Retirement, Disability, and Death System > 33-38-8-23. Applicability of section -- Credit for prior service -- Amortization schedule for contributions.](#)

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Burns Ind. Code Ann. § 33-38-8-23

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*** Statutes current through the 2010 Second Regular Session ***

*** Annotations current through April 20, 2010 for Indiana Supreme Court cases, through February 9, 2010 for Indiana Appellate Court cases, through January 25, 2010 for Indiana Tax Court cases, and through April 7, 2010 for federal court cases. ***

Title 33 Courts and Court Officers
Article 38 Judges
Chapter 8. 1985 Retirement, Disability, and Death System

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Burns Ind. Code Ann. § 33-38-8-23 (2010)

33-38-8-23. Applicability of section -- Credit for prior service -- Amortization schedule for contributions.

(a) This section applies only to a person who:

(1) is:

(A) a judge; or

(B) after December 31, 2010, a judge or full-time magistrate;
participating under this chapter;

(2) before becoming:

(A) a judge; or

(B) after December 31, 2010, a judge or full-time magistrate;
was a member of a public employees' retirement fund;

(3) received credited service under a public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for service credit under section 22 or 22.5 [[IC 33-38-8-22](#) or [IC 33-38-8-22.5](#)] of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under a public employees' retirement fund; and

(2) the judge or full-time magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the judges' 1985 benefit system as

the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's or full-time magistrate's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

HISTORY: P.L.98-2004, § 17; P.L.122-2008, § 23, eff. July 1, 2008.

NOTES: Compiler's Notes.

Sections 401(a), 403(a), 403(b), 408(b), and 457(b) of the Internal Revenue Code, referred to above, may be found at 26 U.S.C. §§ 401(a), 403(a), 403(b), 408(b), and 457(b), respectively.

Amendments.

The 2008 amendment added designations (a)(1)(A) and (a)(2)(A); added (a)(1)(B) and (a)(2)(B); in (a)(3), deleted "prior" preceding "service" and added "or 22.5"; in (b)(2), added "or full-time magistrate"; and in (b)(5) and (c), added "judges" preceding "1985"; in (e), added "or full-time magistrate's"; and made related changes.

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TOC: [Burns Indiana Statutes Annotated, Constitution, Court Rules & ALS, Combined > /.../ > Chapter 8 1985 Retirement, Disability, and Death System > 33-38-8-23, Applicability of section - Credit for prior service - Amortization schedule for contributions.](#)

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Example:

A person 59 years of age

9 years PERF service

18 years judicial pension service = 86 years (Rule of 85) and eligible for judicial pension

Same person 59 years of age

10.5 years PERF service

18 years judicial pension service = 77 years (Rule of 85) and not eligible for judicial pension (Rule of 85)



PRELIMINARY DRAFT
No. 3376

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 36-8-8-24.8; IC 36-8-8.5-14.

Synopsis: 1977 fund partial lump sum distribution. Provides that an active member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who has entered the deferred retirement option plan (DROP) before July 1, 2011, may elect to receive a partial lump sum distribution. Provides that if a 1977 fund member who has entered the DROP before July 1, 2011, elects a partial lump sum distribution: (1) the 1977 fund member shall exit the DROP; and (2) the 1977 fund member's retirement benefits are calculated as if the 1977 fund member had never entered the DROP. Provides that a 1977 fund member who enters the DROP after June 30, 2011, may not elect to receive a partial lump sum distribution.

Effective: Upon passage.

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 36-8-8-24.8, AS ADDED BY P.L.99-2010,
2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 24.8. (a) This section does not apply to a fund
4 member who elects to enter the DROP (as defined in IC 36-8-8.5-4)
5 under IC 36-8-8.5 after **June 30, 2011**.

6 **(b) This subsection applies to a fund member who enters the**
7 **DROP (as defined in IC 36-8-8.5-4) before July 1, 2011, and:**

8 **(1) does not, before July 1, 2011, exit the DROP as provided**
9 **in IC 36-8-8.5-14; or**

10 **(2) before July 1, 2011, exits the DROP without retiring.**

11 **A fund member to whom this subsection applies may elect to**
12 **receive a partial lump sum distribution under this section. If a fund**
13 **member makes an election under this subsection and has not exited**
14 **the DROP, the fund member shall exit the DROP on the date the**
15 **fund member's election under this subsection is effective. The**
16 **retirement benefits of a fund member who makes an election under**
17 **this subsection are calculated as if the fund member had never**
18 **entered the DROP.**

19 ~~(b)~~ (c) Benefits paid under this section are subject to section 2.5 of
20 this chapter.

21 ~~(c)~~ (d) As used in this section, "partial lump sum distribution"
22 means the amount calculated under subsection ~~(f)~~: (g).

23 ~~(d)~~ (e) After June 30, 2010, a fund member may elect to receive at
24 retirement a partial lump sum distribution if the fund member meets all
25 of the following requirements on the date of the election:

26 (1) The fund member is in active service.

27 (2) The fund member qualifies for a retirement fund benefit
28 payment under section 10(b) of this chapter.

29 ~~(e)~~ (f) A fund member's election under subsection ~~(d)~~: (e):

30 (1) must be in writing;

31 (2) must be filed with the PERF board, on a form prescribed by



1 the PERF board; and

2 (3) is irrevocable.

3 ~~(f)~~ (g) The partial lump sum distribution for a fund member who
4 makes an election described in subsection ~~(d)~~ (e) is determined in
5 STEP TWO of the following formula:

6 STEP ONE: Determine the lesser of the following:

7 (A) The fund member's years of service for which the fund
8 member has received service credit in the fund.

9 (B) Thirty-two (32).

10 STEP TWO: Multiply the STEP ONE amount by the fund
11 member's monthly benefit calculated under section 11(b) of this
12 chapter.

13 ~~(g)~~ (h) The monthly benefit of a fund member who receives a partial
14 lump sum distribution under this section is actuarially reduced by
15 subtracting an amount determined by dividing the partial lump sum
16 distribution amount determined in subsection ~~(f)~~ (g) by a rate,
17 determined by the actuary for the fund, that is:

18 (1) based on the age of the fund member and, if applicable, the
19 age of the fund member's spouse at the time the fund member
20 elects to take the partial lump sum distribution; and

21 (2) computed to result in a monthly benefit amount that has an
22 actuarial present value that approximates the partial lump sum
23 distribution amount.

24 ~~(h)~~ (i) A fund member who makes an election described in
25 subsection ~~(d)~~ (e) must elect to receive the partial lump sum
26 distribution determined in subsection ~~(f)~~ (g) as:

27 (1) a lump sum paid not later than thirty (30) days after the fund
28 member's retirement date; or

29 (2) three (3) equal annual payments commencing not later than
30 thirty (30) days after the fund member's retirement date and
31 thereafter paid on the anniversary of the fund member's retirement
32 date.

33 ~~(i)~~ (j) This section expires July 1, 2012.

34 SECTION 2. IC 36-8-8.5-14, AS AMENDED BY P.L.148-2007,
35 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 UPON PASSAGE]: Sec. 14. (a) Subject to subsection (b), a member
37 who enters the DROP established by this chapter shall exit the DROP
38 at the earliest of:

39 (1) the member's DROP retirement date;

40 (2) thirty-six (36) months after the member's DROP entry date;

41 (3) the mandatory retirement age applicable to the member, if
42 any; or

43 (4) the date the member retires because of a disability as provided
44 under section 16.5(d) of this chapter; or

45 **(5) the date determined under IC 36-8-8-24.8.**

46 (b) A member of the 1925 fund, the 1937 fund, or the 1953 fund



1 who enters the DROP established by this chapter must exit the DROP
2 on the date the authority of the board of trustees of the public
3 employees' retirement fund to distribute from the pension relief fund
4 established under IC 5-10.3-11-1 to units of local government
5 (described in IC 5-10.3-11-3) amounts determined under
6 IC 5-10.3-11-4.7 expires.

7 **SECTION 3. An emergency is declared for this act.**





**PRELIMINARY DRAFT
No. 3154**

**PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY**

DIGEST

Citations Affected: IC 33-38.

Synopsis: PERF and TRF administrative matters. PERF/TRF Proposal #2. Provides that a judge or a magistrate who is a participant in the Judges' Retirement System and who purchases prior service credit in the public employees' retirement system (PERF) waives credit for prior service in PERF only for the amount of PERF service purchased.

Effective: July 1, 2011.

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 33-38-7-19, AS AMENDED BY P.L.122-2008,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 19. (a) This section applies only to a person who:

- 4 (1) is a judge participating under this chapter;
5 (2) before becoming a judge was a member of an Indiana public
6 employees' retirement fund;
7 (3) received credited service under an Indiana public employees'
8 retirement fund for the employment described in subdivision (2),
9 and the credited service is not eligible for service credit under
10 section 18 of this chapter;
11 (4) has not attained vested status under a public employees'
12 retirement fund for the employment described in subdivision (2);
13 and
14 (5) has at least eight (8) years of service credit in the judges'
15 retirement system.

16 (b) If a person becomes a participant in the judges' 1977 benefit
17 system under this chapter, credit for service described in subsection (a)
18 shall be granted under this chapter by the board if:

- 19 (1) the prior service was credited under an Indiana public
20 employees' retirement fund; and
21 (2) the judge pays in a lump sum or in a series of payments
22 determined by the board, not exceeding five (5) annual payments,
23 the amount determined by the actuary for the 1977 benefit system
24 as the total actual cost of the service.

25 (c) If the requirements of subsection (b) are not satisfied, a
26 participant is entitled to credit only for years of service after the date of
27 participation in the 1977 benefit system.

28 (d) An amortization schedule for contributions paid under this
29 section must include interest at a rate determined by the board.

30 (e) If the requirements of subsection (b) are satisfied, the
31 appropriate board shall transfer from the retirement fund described in



1 subsection (a)(2) to the judges' 1977 benefit system the amount
 2 credited to the judge's annuity savings account and the present value of
 3 the retirement benefit payable at sixty-five (65) years of age that is
 4 attributable to the transferring participant.

5 (f) The amount a participant must contribute to the judges' 1977
 6 benefit system under subsection (b) shall be reduced by the amount
 7 transferred to the judges' 1977 benefit system by the appropriate board
 8 under subsection (e).

9 (g) If the requirements of subsection (b) are satisfied, credit for prior
 10 service in a public employees' retirement fund **that is purchased**
 11 **under this section** is waived.

12 (h) To the extent permitted by the Internal Revenue Code and the
 13 applicable regulations, the judges' 1977 benefit system may accept, on
 14 behalf of a participant who is purchasing permissive service credit
 15 under subsection (b), a rollover of a distribution from any of the
 16 following:

17 (1) A qualified plan described in Section 401(a) or Section 403(a)
 18 of the Internal Revenue Code.

19 (2) An annuity contract or account described in Section 403(b) of
 20 the Internal Revenue Code.

21 (3) An eligible plan that is maintained by a state, a political
 22 subdivision of a state, or an agency or instrumentality of a state or
 23 political subdivision of a state under Section 457(b) of the
 24 Internal Revenue Code.

25 (4) An individual retirement account or annuity described in
 26 Section 408(a) or Section 408(b) of the Internal Revenue Code.

27 (i) To the extent permitted by the Internal Revenue Code and the
 28 applicable regulations, the judges' 1977 benefit system may accept, on
 29 behalf of a participant who is purchasing permissive service credit
 30 under subsection (b), a trustee to trustee transfer from any of the
 31 following:

32 (1) An annuity contract or account described in Section 403(b) of
 33 the Internal Revenue Code.

34 (2) An eligible deferred compensation plan under Section 457(b)
 35 of the Internal Revenue Code.

36 SECTION 2. IC 33-38-8-22.5, AS ADDED BY P.L.122-2008,
 37 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2011]: Sec. 22.5. (a) This section applies after December 31,
 39 2010, only to a person who:

40 (1) is a full-time magistrate participating under this chapter;

41 (2) was appointed by a court to serve as:

42 (A) a full-time referee or full-time commissioner; or

43 (B) before January 1, 2011, a full-time magistrate;

44 (3) was a member of the public employees' retirement fund during
 45 the employment described in subdivision (2); and

46 (4) received credited service under the public employees'





PRELIMINARY DRAFT
No. 3159

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 5-10-5.5-1; IC 33-38; IC 33-39-7; IC 36-8-8-8.

Synopsis: PERF administrative matters. PERF/TRF Proposal #11. Requires that the board of trustees of the public employees' retirement fund (PERF) specify by rule the interest rate credited to a participant's contributions for: (1) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund; (2) the judges' retirement system; (3) the prosecuting attorneys' retirement fund; and (4) the 1977 police officers' and firefighters' pension and disability fund.

Effective: July 1, 2011.

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 5-10-5.5-1, AS AMENDED BY P.L.227-2007,
2 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 1. As used in this chapter and unless the context
4 clearly denotes otherwise:

5 (a) "Department" means the Indiana department of natural
6 resources.

7 (b) "Commission" means the alcohol and tobacco commission.

8 (c) "Officer" means any Indiana state excise police officer, any
9 Indiana state conservation enforcement officer, any gaming agent, or
10 any gaming control officer.

11 (d) "Participant" means any officer who has elected to participate in
12 the retirement plan created by this chapter.

13 (e) "Salary" means the total compensation, exclusive of expense
14 allowances, paid to any officer by the department or the commission,
15 determined without regard to any salary reduction agreement
16 established under Section 125 of the Internal Revenue Code.

17 (f) "Average annual salary" means the average annual salary of an
18 officer during the five (5) years of highest annual salary in the ten (10)
19 years immediately preceding an officer's retirement date, determined
20 without regard to any salary reduction agreement established under
21 Section 125 of the Internal Revenue Code.

22 (g) "Public employees' retirement act" means IC 5-10.3.

23 (h) "Public employees' retirement fund" means the public
24 employees' retirement fund created by IC 5-10.3-2.

25 (i) "Interest" means the ~~same~~ rate of interest as is specified ~~under by~~
26 **rule by the board of trustees of the public employees' retirement ~~law~~**
27 **fund.**

28 (j) "Americans with Disabilities Act" refers to the Americans with
29 Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and
30 regulations related to the Act.

31 (k) Other words and phrases when used in this chapter shall, for the



1 purposes of this chapter, have the meanings respectively ascribed to
2 them as set forth in IC 5-10.3-1.

3 SECTION 2. IC 33-38-7-13 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Except as
5 otherwise provided in this chapter, a participant:

6 (1) whose employment as a judge is terminated regardless of
7 cause; and

8 (2) who has less than twelve (12) years service;
9 is entitled to withdraw from the fund, beginning on the date specified
10 by the participant in a written application. However, the date on which
11 the withdrawal begins may not be before the date of final termination
12 of employment of the participant, or the date thirty (30) days before the
13 receipt of the application by the board.

14 (b) Upon the withdrawal, a participant is entitled to receive out of
15 the fund an amount equal to the total sum contributed to the fund on
16 behalf of the participant **plus interest at a rate specified by rule by**
17 **the board**, payable within sixty (60) days after date of the withdrawal
18 application or in monthly installments as the participant may elect.

19 SECTION 3. IC 33-38-7-14 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Benefits
21 provided under this section are subject to IC 33-38-6-13 and section 16
22 of this chapter.

23 (b) If annuities are not payable to the survivors of a participant who
24 dies after July 1, 1983, the surviving spouse or child or children of the
25 participant, if any, as determined by the participant, and if none
26 survive, then any dependent or dependents surviving shall draw from
27 the fund the amount that the participant paid into the fund plus interest
28 ~~as determined at a rate specified by rule~~ by the board. If no spouse,
29 child or children, or other dependents survive, then the amount, plus
30 interest **at a rate specified by rule by the board and** minus any
31 payments made to the participant, shall be paid to the executor or
32 administrator of the participant's estate.

33 (c) The amount owed a spouse, child or children, or other
34 dependent, or estate under this section is payable within sixty (60) days
35 after date of the withdrawal application or in the monthly installments
36 as the recipient may elect.

37 SECTION 4. IC 33-38-8-12, AS AMENDED BY P.L.122-2008,
38 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2011]: Sec. 12. (a) A participant who:

40 (1) ceases service:

41 (A) as a judge; or

42 (B) after December 31, 2010, as a judge or full-time
43 magistrate;

44 other than by death or disability; and

45 (2) is not eligible for a retirement benefit under this chapter;
46 is entitled to withdraw from the fund, beginning on the date specified



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

9 (e) If benefits payable from the public employees' retirement fund
 10 exceed the benefits payable from the prosecuting attorneys retirement
 11 fund, the participant is entitled at retirement to withdraw from the
 12 prosecuting attorneys retirement fund the total sum contributed plus
 13 interest at ~~the a rate of five and one-half percent (5.5%) compounded~~
 14 ~~annually; specified by rule by the board.~~

15 SECTION 9. IC 33-39-7-21 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 21. (a) If benefits are
 17 not payable to the survivors of a participant who dies, and if a
 18 withdrawal application is filed with the board by the survivors or the
 19 participant's estate, the total of the participant's contributions, plus
 20 interest at ~~the a rate of five and one-half percent (5.5%) compounded~~
 21 ~~annually; specified by rule by the board and~~ minus any payments
 22 made to the participant, shall be paid to:

- 23 (1) the surviving spouse of the participant;
- 24 (2) any dependent or dependents of the participant, if a spouse
 25 does not survive; or
- 26 (3) the participant's estate, if a spouse or dependent does not
 27 survive.

28 (b) The amount owed a spouse, dependent or dependents, or estate
 29 under subsection (a) is payable not later than sixty (60) days after the
 30 date of receipt of the withdrawal application.

31 SECTION 10. IC 36-8-8-8, AS AMENDED BY P.L.180-2007,
 32 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2011]: Sec. 8. (a) Each fund member shall contribute during
 34 the period of the fund member's employment or for thirty-two (32)
 35 years, whichever is shorter, an amount equal to six percent (6%) of the
 36 salary of a first class patrolman or firefighter. However, the employer
 37 may pay all or a part of the contribution for the member. The amount
 38 of the contribution, other than contributions paid on behalf of a
 39 member, shall be deducted each pay period from each fund member's
 40 salary by the disbursing officer of the employer. The employer shall
 41 send to the PERF board each year on March 31, June 30, September
 42 30, and December 31, for the calendar quarters ending on those dates,
 43 a certified list of fund members and a warrant issued by the employer
 44 for the total amount deducted for fund members' contributions.

45 (b) Except as provided in section 7.2 of this chapter, if a fund
 46 member ends the fund member's employment other than by death or



1 disability before the fund member completes twenty (20) years of
2 active service, the PERF board shall return to the fund member in a
3 lump sum the fund member's contributions plus interest ~~as determined~~
4 **at a rate specified by rule** by the PERF board. If the fund member
5 returns to service, the fund member is entitled to credit for the years of
6 service for which the fund member's contributions were refunded if the
7 fund member repays the amount refunded to the fund member in either
8 a lump sum or a series of payments determined by the PERF board.





PRELIMINARY DRAFT
No. 3412

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 36-8-8-13.4.

Synopsis: 1977 fund disability benefits. Allows a certain member or survivor of a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who applied for disability prior to 1990 and is receiving a disability benefit to apply to a local board for a recommendation as to whether the member's disability occurred in the line of duty. Provides that the local board shall make a recommendation of its findings to the 1977 fund advisory committee. Provides that the 1977 fund advisory committee shall make an initial determination of whether the member's disability occurred in the line of duty. Provides that if the 1977 fund advisory committee fails to timely provide an initial determination, the default determination will be made by the public employees' retirement fund's (PERF) medical authority. Provides that the PERF board makes a final determination of whether the member's disability occurred in the line of duty. Establishes procedures to appeal: (1) a recommendation by the local board; (2) an initial determination by the 1977 fund advisory committee; or (3) an initial default determination made by the PERF medical authority. Provides that a certain member or survivor of a member may apply to the local board within two years of the PERF board providing notice that it has received a favorable ruling from the
(Continued next page)

Effective: July 1, 2011.

Digest Continued

Internal Revenue Service. Provides that the PERF board shall provide notice to certain 1977 fund members of the Internal Revenue Service's ruling within 30 days of its receipt.



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 36-8-8-13.4 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 13.4. (a) This section applies only to a fund member
4 or survivor of a fund member who is receiving a disability benefit
5 under section 13.3(b) of this chapter.**

6 **(b) A fund member or survivor of a fund member described in
7 subsection (a) may file an application, in accordance with this
8 section, requesting a determination that:**

9 **(1) the member's covered impairment, as determined under
10 section 13.3(b) of this chapter, was:**

11 **(A) the direct result of:**

12 **(i) a personal injury that occurred while the fund
13 member was on duty;**

14 **(ii) a personal injury that occurred while the fund
15 member was off duty and was responding to an offense
16 or a reported offense, in the case of a police officer, or an
17 emergency or reported emergency for which the fund
18 member was trained, in the case of a firefighter; or**

19 **(iii) an occupational disease (as defined in IC 22-3-7-10),
20 including a duty related disease that is also included
21 within clause (B);**

22 **(B) a duty related disease (for purposes of this section, a
23 "duty related disease" means a disease arising out of the
24 fund member's employment. A disease is considered to
25 arise out of the fund member's employment if it is
26 apparent to the rational mind, upon consideration of all of
27 the circumstances, that:**

28 **(i) there is a connection between the conditions under
29 which the fund member's duties are performed and the
30 disease;**

31 **(ii) the disease can be seen to have followed as a natural**



- 1 incident of the fund member's duties as a result of the
 2 exposure occasioned by the nature of the fund member's
 3 duties; and
 4 (iii) the disease can be traced to the fund member's
 5 employment as the proximate cause); or
 6 (C) a disability presumed incurred in the line of duty under
 7 IC 5-10-13 or IC 5-10-15; or
 8 (2) the member's covered impairment, as determined under
 9 section 13.3(b) of this chapter, was not a covered impairment
 10 described in subsection (b)(1).

11 The application must be filed with the local board that made the
 12 determination of a covered impairment resulting in a disability
 13 benefit under section 13.3(b) of this chapter. The application form
 14 shall be prepared by the PERF board or its designee and be made
 15 available to a fund member or survivor of a fund member
 16 described in subsection (a) upon request.

17 (c) A fund member or survivor of a fund member who files an
 18 application under this section has the burden of presenting
 19 sufficient evidence to support a finding that the member's covered
 20 impairment, as determined under section 13.3(b) of this chapter,
 21 satisfies the standard provided in subsection (b)(1). Such evidence
 22 may include any documents, materials, or other evidence provided
 23 in connection with the original hearing and determination of a
 24 covered impairment as determined under section 13.3(b) of this
 25 chapter, including any transcript from that proceeding. A fund
 26 member or a survivor of a fund member may include with an
 27 application any additional probative evidence that is relevant to
 28 the determination under subsection (b)(1). The local board may
 29 establish reasonable procedures with respect to the application
 30 process and may engage a medical authority to provide opinions
 31 relevant to making its determination. The local board may hold a
 32 hearing with respect to an application filed under this section if the
 33 fund member or survivor of a fund member shows good cause that
 34 documents or other probative evidence sufficient to make the
 35 showing required under this subsection is not reasonably
 36 obtainable and that holding a hearing would be reasonably likely
 37 to provide such probative evidence. If the local board conducts a
 38 hearing, it shall be subject to the provisions of section 12.7 of this
 39 chapter relating to the conduct of hearings on the determinations
 40 of covered impairments under this chapter.

41 (d) The local board shall make its recommendation, including
 42 findings of fact, in writing and shall provide copies of its
 43 recommendation to the fund member or survivor of the fund
 44 member, the 1977 fund advisory committee, and the PERF board
 45 no later than thirty (30) days after the:

- 46 (1) filing of the application, if no hearing is held; or



- 1 (2) hearing, if held.
- 2 (e) If the local board does not issue its recommendation within
3 the time required under subsection (d), the member's covered
4 impairment shall be considered to be a covered impairment
5 described under subsection (b)(1) for purposes of the local board's
6 recommendation.
- 7 (f) The 1977 fund advisory committee shall review the local
8 board's recommendation, or the considered recommendation
9 under subsection (e), not later than forty-five (45) days after
10 receiving the recommendation and shall then issue an initial
11 determination of whether the covered impairment is one described
12 under subsection (b)(1). The 1977 fund advisory committee shall
13 notify the PERF board, the local board, and the fund member or
14 survivor of the fund member of its initial determination and the
15 PERF board or its designee will issue a final determination to the
16 local board and the fund member or survivor of the fund member.
17 If no objection is made to the initial determination under
18 subsection (g) or (h), the PERF board must issue a final
19 determination not later than thirty (30) days after receiving an
20 initial determination.
- 21 (g) The fund member or survivor of the fund member or the
22 local board may object in writing to the 1977 fund advisory
23 committee's initial determination under subsection (f) not later
24 than fifteen (15) days after the initial determination is issued by
25 filing an objection with the PERF board. If a written objection is
26 not filed, the 1977 advisory committee's initial determination
27 becomes final. If a timely written objection is filed, the PERF
28 board shall issue a final determination after a hearing. Unless an
29 administrative law judge orders a waiver or an extension of the
30 period for cause shown, the final determination must be issued not
31 later than one hundred eighty (180) days after the date of receipt
32 of the local board's recommendation.
- 33 (h) If the 1977 fund advisory committee fails to issue an initial
34 determination within forty-five (45) days after receiving the local
35 board's recommendation, the default determination on whether the
36 covered impairment is one described under subsection (b)(1) will
37 be the determination made by PERF's medical authority. An
38 objection to this determination may be filed in accordance with the
39 provisions of subsection (g).
- 40 (i) A determination that a member's covered impairment is one
41 described under subsection (b)(1) will apply only on a prospective
42 basis beginning on January 1 of the calendar year in which the
43 determination is made. The amount of the benefit will not be
44 changed as a result of this determination.
- 45 (j) A fund member or survivor of a fund member described in
46 subsection (a) must file an application under this section no later



1 **than two (2) years after the date the PERF board notifies the fund**
2 **members and survivors described in subsection (a) that the board**
3 **has received a favorable ruling from the Internal Revenue Service.**
4 **The PERF board will provide notice of receipt of a favorable ruling**
5 **within thirty (30) days of its receipt.**

6 **(k) This section expires July 1, 2021.**



PRELIMINARY DRAFT
No. 3253

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: None (noncode).

Synopsis: Conservation, gaming, and excise police 13th check. Provides a thirteenth check to participants of the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan (plan). Provides that the thirteenth check is to be paid, not later than July 1, 2011, to a plan participant (or to a survivor or beneficiary of a plan participant) who retired or was disabled on or before December 1, 2009, and who was entitled to receive a monthly benefit on July 1, 2010.

Effective: Upon passage.

A BILL FOR AN ACT concerning pensions.

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

1 SECTION 1. [EFFECTIVE UPON PASSAGE] (a) As used in this
2 SECTION, "participant" has the meaning set forth in
3 IC 5-10-5.5-1.

4 (b) As used in this SECTION, "plan" refers to the state excise
5 police, gaming agent, gaming control officer, and conservation
6 enforcement officers' retirement plan established by IC 5-10-5.5-2.

7 (c) Not later than July 1, 2011, the board of trustees of the
8 public employees' retirement fund shall pay the amount
9 determined under subsection (d) to a plan participant (or to a
10 survivor or beneficiary of a plan participant) who retired or was
11 disabled on or before December 1, 2009, and who was entitled to
12 receive a monthly benefit on July 1, 2010. The amount is not an
13 increase in the annual retirement allowance.

14 (d) The amount paid under this SECTION to a plan participant
15 (or to a survivor or beneficiary of a plan participant) who meets
16 the requirements of subsection (c) is determined as follows:

17 If a Plan Participant's Creditable 18 Service Is:	The Amount Is
19 Less than ten (10) years 20 (only in the case of a plan participant 21 receiving disability retirement benefits)	\$125
22 At least ten (10) years, 23 but less than twenty (20) years	\$235
24 At least twenty (20) years, 25 but less than thirty (30) years	\$325
26 At least thirty (30) years	\$400

27 (e) The creditable service used to determine the amount paid to
28 a plan participant (or a survivor or beneficiary of a plan
29 participant) under this SECTION is the creditable service that was
30 used to compute the plan participant's retirement allowance under



1 **IC 5-10-5.5-10 and IC 5-10-5.5-12 except that partial years of**
2 **creditable service may not be used to determine the amount paid**
3 **under this SECTION.**

4 **(f) This SECTION expires January 1, 2012.**

5 **SECTION 2. An emergency is declared for this act.**



PRELIMINARY DRAFT
No. 3261

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: None (noncode).

Synopsis: State police thirteenth check. Provides a thirteenth check to participants of the state police pre-1987 benefit system (pre-1987 system). Provides that the thirteenth check is to be paid, not later than July 1, 2011, to each employee beneficiary of the pre-1987 system who: (1) retired or was disabled before July 2, 2008; and (2) was entitled to receive a monthly benefit on June 1, 2010.

Effective: Upon passage.

A BILL FOR AN ACT concerning pensions.

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

1 SECTION 1. [EFFECTIVE UPON PASSAGE] (a) As used in this
2 SECTION, "trustee" has the meaning set forth in IC 10-12-1-10.
3 (b) As used in this SECTION, "trust fund" has the meaning set
4 forth in IC 10-12-1-11.
5 (c) Not later than July 1, 2011, the trustee shall pay from the
6 trust fund to each employee beneficiary of the state police pre-1987
7 benefit system covered by IC 10-12-3 who:
8 (1) retired or was disabled before July 2, 2008; and
9 (2) was entitled to receive a monthly benefit as of June 1,
10 2010;
11 an amount equal to one percent (1%) of the maximum basic annual
12 pension amount payable to a retired state police employee in the
13 grade of trooper who has completed twenty-five (25) years of
14 service, as calculated under IC 10-12-3-7.
15 (d) The amount paid under this SECTION is not an increase in
16 the basic monthly pension amount of an employee beneficiary.
17 (e) This SECTION expires January 1, 2012.
18 SECTION 2. An emergency is declared for this act.

