



# **1977 Police Officers and Firefighters Pension and Disability Fund**

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# Agenda

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- Current legislation – SB 85
- Pre 1990 Disability and 1990 Disability – introduction and differences

# SB 85

- **Still a proposed bill. Not yet an enrolled act.**
- Increases basic monthly pension payable to members who retire after 6/30/19 from 50% to 52% of 1<sup>st</sup> class salary in the year member retires
- Increase from 60% to 70% of the member's monthly benefit paid to surviving spouse of 77 fund member who dies after 6/30/19 other than in line of duty
- Establishes supplemental allowance reserve account to pay for cost of living increases as required under law

# Pre-1990 and Post 1990 Disability

- The text of IC 36-8-8 controls these benefits. Administrative Rules can be found at 35 IAC 2. This presentation is a high level summary and should not be used in place of reviewing the laws that apply to each situation. This should not be used in place of a handbook.
- If you have particular questions about anything in this presentation or a particular situation, please contact us.

# Pre-1990 Disability

- Hired before 1/1/90
- Does not choose coverage under the 1990 sections of Indiana code
- Applies to diminishing group of people. Call if you have questions about this.

# Pre-1990 Disability:

## Disabilities occurring before 7/1/2000

- Disabled before 7/1/2000 +
- Has a covered impairment +
- No suitable and available work in department, considering reasonable accommodations required by ADA =
- Member gets benefit as if member had retired.
  - If the person does not have 20 years of service or is not 52, benefit computed as if the member met those requirements.

# Pre-1990 Disability:

## Disabilities occurring after 7/1/2000

- Disabled after 7/1/2000
- Has a covered impairment that meets certain requirements
- No suitable and available work in department, considering reasonable accommodations required by ADA =
- Member gets benefit as if member had retired.
  - If the person does not have 20 years of service or is not 52, benefit computed as if the member met those requirements.

# Pre-1990 Disability:

## Disabilities occurring after 7/1/2000

### Types of Covered Impairments

#### On Duty

- Personal Injury
- Must occur while fund member is on duty

#### Off Duty

- Personal injury
- Responding to offense or reported offense or
- Emergency or reported emergency for which the fund member is trained (firefighter)

# Pre-1990 Disability:

## Disabilities occurring after 7/1/2000

### Types of Covered Impairments

#### Disease

- Occupational disease
- Including duty related disease
- Arises out of fund member's employment

#### Presumption

- Disability presumed to be in line of duty under IC 5-10-13 and 5-10-15
- Exposure related diseases (See IC 5-10-13-1) like AIDS, anthrax, hepatitis, HIV, meningococcal meningitis, smallpox, TB
- Exposure related cancer, exposure related heart or lung disease, exposure related Parkinson's disease (See IC 5-10-15)

# Pre-1990 Disability:

## Disabilities occurring after 7/1/2000

- Duty related disease
  - Arising out of the fund member's employment
  - Considered to arise out of member's employment if it is apparent to the rational mind, upon consideration of circumstances that
    - Connection between conditions under which member duties were performed and disease
    - Disease can be seen to have followed as a natural incident of member's duties as a result of exposure occasioned by the nature of the fund member's duties
    - Disease can be traced to fund member's employment as proximate cause

# Pre-1990 Disability:

## Disabilities occurring after 7/1/2000

- If a person becomes disabled after 7/1/00 and
- Does not have a covered impairment described in the last two slides and
- No suitable and available work in department, considering reasonable accommodations required by ADA =
- Member gets benefit as if member had retired.
  - If the person does not have 20 years of service or is not 52, benefit computed as if the member met those requirements.

# Pre-1990 Disability:

## Disabilities occurring after 7/1/2000

- Catastrophic Injury
  - Physical personal injury that results in a degree of impairment of at least 67%
  - If occurs in line of duty after 7/1/08 and permanently prevents member from performing any gainful work
- Member receives after 7/1/17 disability benefit equal to 1<sup>st</sup> class salary at commencement of disability. Payable for remainder of member's life, and must be increased at a rate equal to increases in the monthly 1<sup>st</sup> class salary.

# Post-1990 Disability

- Hired for 1<sup>st</sup> Time after 12/31/89
  - Or was hired for the first time before 1/1/90 but filed an election to choose this coverage before 1/1/1991
  - Or was admitted into the 1977 fund after having been covered by another public pension plan as a police officer or firefighter

# Post-1990 Disability

- Covered Impairment
- Class of Impairment
- Impairment rating

# Post-1990 Disability: Covered Impairment

- Permanently or temporarily makes a fund member unable to perform the essential function of the member's duties
- Considering reasonable accommodation to the extent required by the ADA

# Post-1990 Disability: Covered Impairment

- Does not include impairment
  - Resulting from self-inflicted injury or attempted suicide
  - Resulting from member's commission or attempted commission of a felony
  - That begins within 2 years after entry /reentry in service and was caused or contributed by mental or physical condition that manifested itself before the member entered / reentered in active service. (member cannot be required to satisfy more than one 2 year period)
  - Occasioned in whole or part by the fund member currently engaging in use of a controlled substance or unlawful use of a prescription drug
  - If member hired after 3/1/92 and admitted to 77 fund after having been covered by another public pension plan as a police officer or firefighter, if the person has a class 3 excludable condition, they can't get class 3 impairment that is related in any manner to the class 3 excludable condition (**SEE IC...**)\*\*

# Post-1990 Disability: Class 1 Impairment

## On Duty

- Personal Injury

## Off Duty

- Personal and responding to
- offense/reported offense (police)
- Emergency/reported emergency for which member is trained (firefighter)

## Occupational Disease

- Defined in IC 22-3-7-10

## Caused by exposure risk disease

- IC 5-10-13

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# Post-1990 Disability:

## Class 2 Impairment – Duty Related Disease

### Duty Related Disease

Arising out of fund member's employment

If apparent to rational mind after considering all circumstances that



### Connection

Disease

Natural incident of member's duties as result of exposure occasioned by nature of member duties



### Proximate cause

Disease traced to fund member's employment as proximate cause

# Post-1990 Disability:

## Class 2 Impairment – Duty Related Disease

- Also can be health condition caused by
  - exposure related heart or lung disease
  - Exposure related cancer
  - Exposure related Parkinson's disease

That results in presumption of disability in the line of duty under IC 5-10-15

# Post-1990 Disability: Class 3 Impairment

- Class 3 impairment is a covered impairment that is not a class 1 or class 2 impairment
- Not entitled to Class 3 impairment if hired after 3/1/92 or admitted to fund after having been covered by another public pension plan as a police officer or firefighter and
  - Class 3 excludable condition and determined to have any class 3 impairment before 4 years of service (unless accidental injury) or
  - Class 3 excludable condition related in any manner to the class 3 impairment

# Post-1990 Disability: Disability Benefit Calculation

- Class 1 = 45% of first-class salary + an additional amount based on degree of impairment (ranges from 10%-45%)
  - Class 2 = 22% first class salary + 0.5% of that salary for each year of service up to maximum of 30 years + an additional amount based on degree of impairment
  - Class 3 = Member's years of service up to 30 \* 1% of first class salary. Add an additional amount based on degree of impairment
- \* See IC 36-8-8-13.5

# Post-1990 Disability:

## Disability Benefit Period of Payment

- Class 1 payable for remainder of member's life
- Class 2 payable
  - for period equal to years of service if total disability benefit < 30% of first class salary and has fewer than 4 years of service or
  - Remainder of fund member's life if
    - total disability benefit > 30% of first class salary or
    - Benefit < 30% of first class salary and 4 years of service

# Post-1990 Disability:

## Disability Benefit Period of Payment

- Class 3 payable
  - For period equal to years of service if total disability benefit less than 30% and member has less than 4 years service
  - Until member becomes age 52 if
    - benefit > 30% of first class salary or
    - benefit < 30% of first class salary and 4 years of service

# Post-1990 Disability

- Catastrophic Injury
  - Physical personal injury that results in a degree of impairment of at least 67%
  - If occurs in line of duty after 7/1/08 and permanently prevents member from performing any gainful work
- Member receives after 7/1/17 disability benefit equal to 1<sup>st</sup> class salary at commencement of disability. Payable for remainder of member's life, and must be increased at a rate equal to increases in the monthly 1<sup>st</sup> class salary.

# DROP and Disability

- IC 36-8-8.5-16.5
- Becomes disabled after 6/1/05
- In drop less than 12 months = benefits are calculated under the provisions of the applicable fund as if the member had never entered the DROP
- More than 12 months = benefits are calculated under section 12 of this chapter, and the member's retirement date is the date the member retires because of a disability rather than the member's DROP retirement date.

# DROP and Disability

- See IC 36-8-8.5-16.5 for more detail.
- In order to get tax benefit of line of duty disability, law was changed a couple of years ago so that DROP lump sum benefit was separate from disability benefit. This is due to IRS requirements that disability benefit cannot be based on years of service to get tax benefit. Therefore the 2 are separated.

# Appeal

- Who may appeal INPRS determination of class and degree of impairment?
  - Fund member
  - Safety board
  - Local board
- Within 15 days after the determination is issued.

# Annual Review

- The disability may be reviewed by the member, the local safety board or INPRS no more than once every 12 months (IC 36-8-8-13.7). The review may include a review of whether a covered impairment continues to exist, whether the degree of impairment has changed, and any other matter considered appropriate by the local board.
- The local board shall conduct a hearing to determine the matters raised in the petition for review.
- The local board's determination shall be submitted to INPRS, and the INPRS review procedures specified in IC 36-8-8-13.1 apply.
- The costs of a medical examination required by the local board shall be paid by the party who filed the petition for review.