

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

301 State House
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FISCAL IMPACT STATEMENT

LS 7842

BILL NUMBER: HB 1856

DATE PREPARED: Feb 20, 2001

BILL AMENDED: Feb 19, 2001

SUBJECT: Public Officer Salaries.

FISCAL ANALYST: John Parkey

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill provides that the annual compensation for legislators is 20% of the governor's salary, beginning January 1, 2002. The bill also provides that the legislator out-of-session subsistence allowance is equal to 40% of the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status in the Indianapolis area.

The bill establishes the Public Officers Compensation Commission. The bill provides for the Commission to make recommendations to the General Assembly for the salaries of officers in the executive branch and for judges.

The bill establishes a Judicial Salaries Fee of \$6 to be collected in certain civil actions and in certain criminal, infraction, and ordinance violation actions. The bill provides for the Judicial Salaries Fee to be deposited in the state General Fund. The bill increases the annual salaries of local judges and appellate court judges by \$9,000 effective January 1, 2002.

The bill provides that for the purposes of computing a retirement benefit for a person who is a member of Indiana State Teachers' Retirement Fund and who takes an unpaid leave of absence to serve in an elected position:

- (1) "annual compensation" includes the total amount that was not paid to the member but would have paid to the member during the year under the member's employment contracts if the member had not taken any unpaid leave of absence to serve in an elected position; and
- (2) the "average of the annual compensation" means the annual compensation for the one year of service in which the member's annual compensation was highest.

Effective Date: (Amended) Upon passage; July 1, 2001; January 1, 2002.

Explanation of State Expenditures: (Revised) *Public Officers Compensation Commission:* This bill creates the Public Officers Compensation Commission to determine and recommend the salaries of elected state-wide public officials and judges to the Legislative Council and Budget Committee by September 1 of even-numbered years. The Commission would have nine members who are neither public officers nor public employees.

The Commission would be required to meet at least two times in each odd-numbered year, however, it could meet more frequently, if necessary. Members of the Commission would receive a per diem and be covered for travel expenses (currently \$50 per day and \$.28 per mile, respectively). The bill authorizes the Commission to contract with consultants. The Legislative Services Agency would staff the Commission, with assistance from the State Personnel Department, if necessary. The bill appropriates to the Legislative Services Agency the funds necessary for the operation of the Commission.

Legislator's Salaries: The bill sets legislators' salaries to 20% of the Governor's salary (currently \$95,000, 20% of which is \$19,000), effective January 1, 2002. The bill also sets, upon passage, legislators' out-of-session per diem to 40% of the maximum daily amount allowable to federal employees traveling in the Indianapolis area (currently \$112, 40% of which is \$44.80). Legislators currently receive an annual salary of \$11,600 and an out-of-session subsistence allowance of \$25.

This bill will increase the salary of legislators by \$7,400, from \$11,600 to \$19,000. Specific changes in the out-of-session per diem would be based on federal action. However, under current standards, the per diem would increase by \$19.80 per day. Assuming that the federal per diem rate remains at \$112 through FY 2002 and FY 2003, the **impact** of this proposal will be as follows:

Estimated Costs	FY 2001	FY 2002	FY 2003
Salary and/or per diem	\$ 187,110	\$ 1,852,500	\$ 2,006,940
Additional Costs	\$ 56,432	\$ 558,714	\$ 605,293
Total	\$ 243,542	\$ 2,411,214	\$ 2,612,233

Note: The additional costs shown in the table include the state's contribution to Social Security, FICA, Life and Disability Insurance premiums, and the Legislators' Retirement System.

Judges Salaries: This bill would also increase judges' salaries by \$9,000, beginning January 1, 2002. This provision will impact the state's 314 judges, as well as the 268 other court officers whose salaries are tied to those of the judges' by statute. The judges' and officers' current salaries and the proposed changes are shown in the table below.

Position	# of Employees	Current Salary	Proposed Salary
Supreme Court Justices:	5	\$115,000	\$124,000
Court of Appeals Judges:	15	\$110,000	\$119,000
Tax Court Judge	1	\$110,000	\$119,000
Trial Court Judges:	293	\$90,000	\$99,000
Magistrates:	49	\$72,000	\$79,200
Juvenile Court Referees:	17	\$30,607	\$37,807
Prosecuting Attorneys			
Full-Time:	63	\$90,000	\$99,000
Part-Time @ 66%	10	\$59,400	\$65,340
Part-Time @ 60%	17	\$54,000	\$59,400
Deputy Prosecuting Attorneys			
Full-Time Deputies:	63	\$67,500	\$74,250
Deputies @ 66%	20	\$44,550	\$49,005
Deputies @ 60%	29	\$40,500	\$44,550
Total	582		

The salaries of magistrates are defined in statute as 80% of the salary of a trial court judge (IC 33-4-7-9.1). The salaries of juvenile court magistrates are also 80% of the salary of trial court judges, but the county pays \$41,393 of the total salary (IC 33-13-12-8.2). The salaries of the prosecuting attorneys are the same as the salaries of the judges of the circuit court (IC 33-14-7-5). Prosecuting attorneys may elect to work part-time. If they do, then their salary will either be 60% or 66% of the salary of a full-time prosecuting attorney, depending on whether there are correctional facilities or state mental facilities located in the county in which they serve. Deputy prosecuting attorneys who are paid by the state may also elect to work on a part-time basis. Part-time deputy prosecuting attorneys are paid 75% of the salary of prosecuting attorneys (IC 33-14-7-2).

The total cost of this proposal includes the judicial officers' increased salaries and the subsequent increase in the state's contribution to Social Security, FICA, Life and Disability Insurance premiums, and retirement programs. The impact of this bill on the state General Fund is expected to be offset with revenue generated through the Judicial Salaries Fee, created by this bill (see State Revenues, below). The **impact** on the state General Fund is described in the following table.

Estimated Costs	FY 2002	FY 2003
Salaries:	\$4,651,200	\$4,651,200
Additional Costs:	\$673,041	\$673,041
Total	\$5,324,241	\$5,324,241

The bill also makes certain technical changes to IC 33-19-7-5 to provide additional funding to the Indiana Judges' Retirement Fund. The bill increases the semiannual payment made under this chapter by \$195,174. The bill also changes the distribution of the distribution of the funds allocated by in the chapter so that the Judges' Retirement Fund will receive an increase according to the salary increase described above. The other funds listed in the chapter will receive a nominal increase in revenue. The additional General Fund expenditure provided in this section is expected to be covered using revenue from the Judicial Salaries Fee, described in State Revenues below.

TRF Retirement Benefits: This provision affects members of TRF (the Teacher's Retirement Fund) who take an unpaid leave of absence to serve in an elected position. Under this provision, an affected member's annual compensation for the purposes of computing a retirement benefit would include the salary that would have been paid had the member not taken an unpaid leave of absence to serve in an elected position. This bill also contains a provision which will adjust the average annual compensation level used to calculate an affected member's retirement benefit. Under current law, for the purpose of calculating the TRF benefit, a member's salary is averaged over the five years in which the member had the highest salary. This bill changes the computation for the affected members such that the salary used for TRF purposes is based on the highest salary the member received in one year.

This change is expected to affect a small number of TRF members; as such, the overall fiscal impact on the TRF is expected to be small. However, the impact on individual members could be significant. Pension benefits will increase in the same proportion as any difference that results from the changes in calculation in the average final pay used for pension purposes. The change from a 5-year final average salary to a one-year final average salary is expected to increase the final average salary by approximately 10%, assuming an average salary increase of 5%. The specific impact of the changes in the bill is not known.

The TRF reports that there are approximately 20 teachers in the Indiana General Assembly.

Explanation of State Revenues: (Revised) ***Judicial Salaries Fee:*** The bill establishes a Judicial Salaries Fee of \$6 to be collected in certain civil actions and in certain criminal, infraction, and ordinance violation actions. Revenue collected on from this fee will be deposited into the state General Fund. This fee is expected to generate approximately \$5.6 M each year.

Legislators, judges, and court officers' additional income would be subject to the 3.4% state income tax. Based on the estimated increase in salaries, the state would collect an additional \$221,000 in income taxes in FY 2002 and \$226,000 in FY 2003. Similarly, if half of the additional income is used to purchase taxable items, the state would collect an additional \$163,000 in sales taxes in FY 2002 and \$166,000 in FY 2003.

Explanation of Local Expenditures:

Explanation of Local Revenues: Counties with a local option income tax may experience a minimal increase in income tax revenue.

State Agencies Affected: Public Officers; Legislators; Justices of the Supreme Court; Judges of the Court of Appeals; Legislative Services Agency; Teachers' Retirement Fund.

Local Agencies Affected: Trial Court Judges; Prosecuting Attorneys; local school corporations with members in TRF.

Information Sources: Division of State Court Administration; Denise Jones of Gabriel Roeder Smith & Co., actuaries for the TRF, 1-800-521-0498.