

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 263, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 33-2.1-9-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) As used in this
5 chapter, "judge" has the meaning set forth in IC 33-13-17-3.
6 (b) As used in this chapter, "prosecuting attorney" includes a
7 senior prosecuting attorney appointed under IC 33-14-1.
8 (c) If a judge or prosecuting attorney is sued for civil damages or
9 equitable relief and the suit would be construed, under notice pleading,
10 as arising out of an act performed within the scope of the duties of the
11 judge or prosecuting attorney, the attorney general shall:
12 (1) defend the judge or prosecuting attorney in the suit; or
13 (2) authorize the executive director of the division of state court
14 administration to hire private counsel to provide the defense."
15 Page 1, line 6, after "or" insert "**chief**".
16 Page 1, line 9, delete "served as a prosecuting attorney or deputy"
17 and insert "**is willing to serve as a senior**".
18 Page 2, between lines 2 and 3, begin a new paragraph and insert:
19 "**(c) The circuit court shall promptly forward each affidavit**
20 **received under this section to the prosecuting attorneys council of**

1 **Indiana."**

2 Page 3, line 5, delete "if:" and insert "**if**".

3 Page 3, delete lines 6 through 8.

4 Page 3, line 9, delete "(2)"

5 Page 3, run in lines 5 through 10.

6 Page 3, between lines 39 and 40, begin a new paragraph and insert:

7 **"(i) The combination of:**

8 **(1) the compensation paid to a senior prosecuting attorney**
9 **under this chapter; and**

10 **(2) retirement benefits that the person appointed as a senior**
11 **prosecuting attorney is receiving or entitled to receive;**
12 **may not exceed the minimum compensation to which a full-time**
13 **prosecuting attorney is entitled under IC 33-14-7-5.**

14 **(j) A senior prosecuting attorney appointed under this chapter**
15 **may not be compensated as senior prosecuting attorney for more**
16 **than one hundred (100) calendar days in the aggregate during a**
17 **calendar year."**

18 Page 3, line 42, delete "senior prosecuting attorney" and insert
19 "**person**".

20 Page 4, delete lines 1 through 7, begin a new line blocked left and
21 insert:

22 **"appointed a senior prosecuting attorney under section 6 of this**
23 **chapter if the person:**

24 **(1) is not available for the minimum period of commitment**
25 **for service as a special prosecutor; or**

26 **(2) has had a disciplinary sanction imposed by the Indiana**
27 **supreme court disciplinary commission or a similar body in**
28 **another state that restricts the person's ability to practice law.**

29 SECTION 5. IC 33-14-9-7 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. **(a)** As used in this
31 chapter, "services" means the period beginning on the first day upon
32 which a person first became:

33 (1) a prosecuting attorney or chief deputy prosecuting attorney;

34 (2) any other deputy prosecuting attorney who is:

35 (A) appointed under IC 33-14-7-2; and

36 (B) paid by the state from the state general fund; or

37 (3) the executive director or the assistant executive director of the
38 prosecuting attorneys council of Indiana;

39 whether that date is before, on, or after January 1, 1990, and ending on
40 the date under consideration, including all intervening employment in
41 a position described in subdivisions (1) through (3). If an individual is
42 elected or appointed to a position described in subdivisions (1) through

1 (3) and serves one (1) or more terms or part of a term, then retires from
 2 office, but at a later period or periods is appointed or elected and serves
 3 in a position described in subdivisions (1) through (3), the individual
 4 shall pay into the fund during all the periods that the individual serves
 5 in that position, except as otherwise provided in this chapter, whether
 6 the periods are connected or disconnected.

7 **(b) A senior prosecuting attorney appointed under IC 33-14-1**
 8 **may not be required to pay into the fund during any period of**
 9 **service as a senior prosecuting attorney.**

10 SECTION 6. IC 33-14-9-13 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. A participant whose
 12 employment in a position described in section 7 of this chapter is
 13 terminated is entitled to a retirement benefit computed under section
 14 14 or 16 of this chapter, beginning on the date specified by the
 15 participant in a written application, if all of the following conditions are
 16 met:

17 (1) The application for retirement benefits and the choice of the
 18 retirement date is filed on a form provided by the board and the
 19 retirement date is:

20 (A) after the cessation of the participant's service;

21 (B) on the first day of a month; and

22 (C) not more than six (6) months before the date the
 23 application is received by the board.

24 However, if the board determines that a participant is incompetent
 25 to file for benefits and choose a retirement date, the retirement
 26 date may be any date that is the first of the month after the time
 27 the participant became incompetent.

28 (2) The participant:

29 (A) is at least sixty-two (62) years of age and has at least ten
 30 (10) years of service credit; or

31 (B) meets the requirements for disability benefits under
 32 section 15 of this chapter.

33 (3) The participant is not receiving and is not entitled to receive
 34 any salary for services currently performed, **except for services**
 35 **rendered as a senior prosecuting attorney under IC 33-14-1.**

36 SECTION 7. IC 33-14-11-2 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. As used in the
 38 chapter, "prosecuting attorney" means a prosecuting attorney, **or a**
 39 **deputy prosecuting attorney, or a senior prosecuting attorney**
 40 **appointed under IC 33-14-1."**

41 Renumber all SECTIONS consecutively.

(Reference is to SB 263 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 10, Nays 0.

Senator Bray, Chairperson