
HOUSE BILL No. 1884

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1-1-1; IC 7.1-7; IC 33-19-7-7; IC 35-45-5-11; IC 36-8.

Synopsis: Gaming and local public safety personnel pensions. Creates a license under the jurisdiction of the alcohol and tobacco commission that permits gambling on electronic gaming devices in establishments that hold permits issued by the commission. Imposes an annual establishment license fee of \$1,000 for each electronic gaming device. Limits the number of electronic gaming devices that an establishment may have. Creates a license for suppliers of electronic gaming devices. Requires suppliers to pay a \$5,000 annual fee. Establishes the electronic gaming fund for the deposit of license fees and taxes. Imposes a wagering tax equal to 15% of the adjusted gross receipts from electronic gaming wagering. Appropriates sufficient funds to the commission to administer electronic gaming. Distributes the remaining tax and license revenues as follows: (1) 40% to the cities. (2) 30% to the counties. (3) 30% to the towns. Requires the distributions to be used for police and fire pensions. Provides that a police officer or firefighter who retires or becomes disabled after December 31, 2004, is entitled to a pension based on the salary of the rank held at the time of retirement or disability. Provides that a surviving spouse of a police officer or firefighter who dies after December 31, 2004, is entitled to an annuity based on the salary of the rank held at the time of the death of the police officer or firefighter. Provides that certain surviving children of a police officer or firefighter who dies after December 31, 2004, are entitled to an annuity based on the salary of the rank held at the time of the death of the police officer or firefighter. Increases the amount that must be appropriated from court fees to a pension trust for the sheriff's department.

Effective: July 1, 2003.

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January 23, 2003, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.



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Introduced

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1884



A BILL FOR AN ACT to amend the Indiana Code concerning gaming and pensions and to make an appropriation.

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

1 SECTION 1. IC 6-8.1-1-1, AS AMENDED BY P.L.192-2002(ss),
2 SECTION 140, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2003]: Sec. 1. "Listed taxes" or "taxes" includes
4 only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the
5 riverboat admissions tax (IC 4-33-12); the riverboat wagering tax
6 (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility
7 receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5);
8 the adjusted gross income tax (IC 6-3); the supplemental net income
9 tax (IC 6-3-8) (repealed); the county adjusted gross income tax
10 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
11 economic development income tax (IC 6-3.5-7); the municipal option
12 income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the
13 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the
14 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
15 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
16 collected under a reciprocal agreement under IC 6-8.1-3; the motor
17 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax



1 (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the
 2 cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor
 3 excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider
 4 excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); **the**
 5 **electronic gaming wagering tax (IC 7.1-7-9)**; the petroleum
 6 severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the
 7 various county food and beverage taxes (IC 6-9); the county admissions
 8 tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the
 9 emergency and hazardous chemical inventory form fee (IC 6-6-10); the
 10 penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the
 11 fees and penalties assessed for overweight vehicles (IC 9-20-4 and
 12 IC 9-30); the underground storage tank fee (IC 13-23); the solid waste
 13 management fee (IC 13-20-22); and any other tax or fee that the
 14 department is required to collect or administer.

15 SECTION 2. IC 7.1-7 IS ADDED TO THE INDIANA CODE AS A
 16 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 17 2003]:

18 **ARTICLE 7. ELECTRONIC GAMING IN**
 19 **ESTABLISHMENTS LICENSED TO SELL ALCOHOLIC**
 20 **BEVERAGES**

21 **Chapter 1. General Provisions**

22 **Sec. 1. Under 15 U.S.C. 1172, approved January 2, 1951, the**
 23 **state of Indiana, acting by and through elected and qualified**
 24 **members of the legislature, declares that the state is exempt from**
 25 **15 U.S.C. 1172.**

26 **Sec. 2. All shipments of gambling devices authorized under this**
 27 **article, to licensed suppliers and establishments in Indiana, the**
 28 **registering, recording, and labeling of which have been completed**
 29 **by the manufacturer or dealer thereof in accordance with 15**
 30 **U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of**
 31 **gambling devices into Indiana.**

32 **Chapter 2. Definitions**

33 **Sec. 1. The definitions in this chapter apply throughout this**
 34 **article.**

35 **Sec. 2. "Commission" refers to the alcohol and tobacco**
 36 **commission established by IC 7.1-2-1-1.**

37 **Sec. 3. "Electronic gaming device" means an electromechanical**
 38 **device, an electrical device, or a machine that:**

- 39 (1) upon payment of consideration is available to play or
 40 operate;
 41 (2) makes payoffs in any manner, including delivery of
 42 premiums, merchandise, tokens, redeemable game credits, or



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1 anything of value to the person playing the game; and

2 (3) is approved by the commission under this article.

3 Sec. 4. "Establishment" means a licensed premises that is
4 licensed to sell alcoholic beverages under IC 7.1-3 to customers for
5 consumption on the licensed premises.

6 Sec. 5. "Gambling operations" means the operation of
7 authorized electronic gaming devices under this article.

8 Sec. 6. "Licensee" means a person that holds:

9 (1) a supplier's license; or

10 (2) an establishment license;

11 issued under IC 7.1-7-3.

12 Sec. 7. "Person" has the meaning set forth in IC 7.1-1-3-31.

13 Sec. 8. "Supplier" means an individual or a business entity that
14 is licensed under this article to:

15 (1) distribute, sell, or lease electronic gaming devices or
16 associated equipment in Indiana; or

17 (2) own electronic gaming devices and physically place the
18 electronic gaming devices for public gaming operations at an
19 establishment in Indiana.

20 **Chapter 3. Licensing**

21 Sec. 1. The commission does not have authority to regulate
22 electronic gaming devices that are operated on riverboats (as
23 defined in IC 4-33-2-17).

24 Sec. 2. (a) The commission may issue supplier and establishment
25 licenses to applicants that satisfy the requirements of this article.

26 (b) A person may not apply for an establishment license unless
27 IC 7.1-7-6 applies to the person.

28 Sec. 3. (a) An applicant seeking to obtain a license under this
29 article must submit the fee required by the commission and apply
30 to the commission in the manner required by the commission. The
31 application must include at least the following:

32 (1) The name and address of the applicant and of any person
33 holding at least a one percent (1%) interest in the applicant.

34 (2) The applicant's consent to credit investigations and
35 criminal record searches.

36 (3) Waivers and releases signed by the applicant that the
37 commission believes are necessary to ensure a full and
38 complete review of the application.

39 (b) An applicant shall furnish all information requested by the
40 commission, including financial data and documents, certifications,
41 consents, waivers, and individual histories.

42 Sec. 4. Criminal history record information obtained during the

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1 investigation of an individual must be maintained by the
2 commission for the term of the license and for any subsequent
3 license term.

4 **Sec. 5. The commission shall conduct or cause to be conducted**
5 **a background investigation of each applicant for licensure.**

6 **Sec. 6. The commission may require that an application or other**
7 **document submitted by an applicant or a licensee must be sworn**
8 **to or affirmed before a notary public.**

9 **Sec. 7. (a) The commission shall notify an applicant who is**
10 **denied a license of the specific reasons for denial. The notification**
11 **must be:**

- 12 (1) in writing; and
13 (2) sent by certified mail.

14 **(b) The applicant has forty-five (45) calendar days after the date**
15 **the written notice is received by the applicant under subsection (a)**
16 **to request a hearing on the denial of the license.**

17 **Sec. 8. The commission may not issue a license to an applicant**
18 **who:**

- 19 (1) has knowingly made a false statement of material fact to
20 the commission;
21 (2) is found by the commission to lack the necessary financial
22 stability or responsibility for licensure;
23 (3) if an individual, is less than twenty-one (21) years of age on
24 the date the application is received by the commission;
25 (4) is on the most recent tax warrant list provided to the
26 commission by the department of state revenue;
27 (5) if an individual, has been convicted of or entered a plea of
28 guilty or nolo contendere to a felony in the ten (10) years
29 preceding the date of license application, unless the
30 commission determines that:

31 (A) the individual has been pardoned or the individual's
32 civil rights have been restored;

33 (B) after the conviction or entry of the plea, the individual
34 has engaged in the kind of law abiding commerce and good
35 citizenship that would reflect well upon the integrity of the
36 commission; or

37 (C) the individual has terminated a relationship with a
38 person whose actions directly contributed to the conviction
39 or entry of the plea;

40 (6) if an individual, has been convicted of or entered a plea of
41 guilty or nolo contendere to a violation of a gambling statute
42 in any jurisdiction; or

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1 (7) fails to provide all materials requested by the commission.
 2 However, the commission may determine that a waiver is
 3 warranted under the circumstances for an individual described in
 4 subdivision (6).

5 **Sec. 9. Credit and security investigation information submitted**
 6 **in connection with an application for a license under this article is**
 7 **confidential and may not be disclosed except for official purposes**
 8 **under this article or under a judicial order.**

9 **Sec. 10. A license issued under this article may not be**
 10 **transferred without prior written approval of the commission.**

11 **Sec. 11. (a) An establishment license issued under this chapter**
 12 **expires one (1) year after the date of issuance.**

13 **(b) An establishment license may be renewed for a fee and in the**
 14 **manner determined by the commission.**

15 **Sec. 12. (a) A supplier's license issued under this chapter expires**
 16 **one (1) year after the date of issuance.**

17 **(b) A supplier's license issued under this chapter may be**
 18 **renewed for a fee and in a manner determined by the commission.**

19 **Chapter 4. Powers and Duties of the Commission**

20 **Sec. 1. The commission has the following powers and duties to**
 21 **administer, regulate, and enforce gambling operations:**

22 **(1) All powers and duties specified by this article.**

23 **(2) All powers necessary and proper to fully and effectively**
 24 **execute and enforce this article, including the power to do the**
 25 **following:**

26 **(A) Supervise and exercise jurisdiction over the following:**

27 **(i) Electronic gaming device gambling operations within**
 28 **establishments over which the commission has**
 29 **jurisdiction under this article.**

30 **(ii) Individuals in establishments over which the**
 31 **commission has jurisdiction under this article.**

32 **(B) Investigate and determine the eligibility of applicants**
 33 **for licenses and reinvestigate licensees.**

34 **(C) Take appropriate administrative enforcement or**
 35 **disciplinary action against a licensee.**

36 **(D) Investigate alleged violations of this article.**

37 **(E) Establish fees under IC 7.1-7-7 for licenses issued**
 38 **under this article.**

39 **(F) Conduct hearings.**

40 **(G) Issue subpoenas for the attendance of witnesses and**
 41 **subpoenas duces tecum for the production of relevant**
 42 **documents.**

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- 1 **(H) Administer oaths and affirmations to the witnesses and**
 2 **take depositions.**
- 3 **(I) Revoke, suspend, or renew licenses issued under this**
 4 **article.**
- 5 **(J) Hire employees to gather information, conduct**
 6 **investigations, and carry out other tasks under this article.**
- 7 **Sec. 2. The commission shall adopt rules under IC 4-22-2**
 8 **concerning the following:**
- 9 **(1) Administering this article.**
- 10 **(2) Establishing the conditions under which gambling**
 11 **operations may be conducted under this article.**
- 12 **(3) Preventing practices detrimental to the public interest and**
 13 **promoting the best interests of electronic gaming device**
 14 **gambling operations.**
- 15 **(4) Imposing penalties for noncriminal violations of this**
 16 **article.**
- 17 **(5) Protecting or enhancing the following:**
- 18 **(A) The credibility and integrity of gambling operations**
 19 **authorized by this article.**
- 20 **(B) The regulatory process provided in this article.**
- 21 **(6) Authorizing electronic gaming devices that are approved**
 22 **for gambling operations under this article.**
- 23 **(7) Establishing the method and procedure for the validation**
 24 **and payment of a winning ticket.**
- 25 **(8) Establishing other qualifications and procedures for**
 26 **granting supplier and establishment licenses under this**
 27 **article.**
- 28 **Sec. 3. The commission may employ or contract for additional**
 29 **investigators to oversee the gambling operations under this article.**
- 30 **Sec. 4. The commission shall require that a licensee's records**
 31 **concerning gambling operations must be maintained in the manner**
 32 **and for the time prescribed by the commission.**
- 33 **Sec. 5. (a) Except as provided in subsection (c), the commission**
 34 **may do any combination of the following to a licensee that violates**
 35 **this article:**
- 36 **(1) Suspend, revoke, or restrict the license of the licensee.**
- 37 **(2) Impose a civil penalty set by the commission against a**
 38 **licensee for each violation of this article.**
- 39 **(b) If a licensee holding an establishment license under**
 40 **IC 7.1-7-3 no longer holds a permit issued by the commission as**
 41 **required under IC 7.1-7-6-2, the commission shall revoke the**
 42 **establishment license.**

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1 (c) A license issued under this article is automatically revoked
 2 if the commission determines that a licensee has offered, installed,
 3 serviced, maintained, possessed, or otherwise made available to the
 4 public an electronic gaming device that is not licensed by the
 5 commission.

6 (d) A person whose license is revoked under subsection (c) may
 7 not be licensed under this article for three (3) years after the
 8 revocation.

9 **Sec. 6.** The state police department shall assist the commission
 10 in conducting background investigations of applicants. The
 11 commission shall reimburse the state police department for the
 12 costs incurred as a result of the assistance. The commission shall
 13 make the payment from fees collected from applicants.

14 **Chapter 5. Supplier's License**

15 **Sec. 1.** A person must possess a supplier's license to:

- 16 (1) own more than twenty (20) electronic gaming devices; or
- 17 (2) distribute, sell, or lease electronic gaming devices or
- 18 associated equipment to a person holding an establishment
- 19 license issued under this article.

20 **Sec. 2.** To qualify for a supplier's license, an applicant must:

- 21 (1) prove, using tax records and bills of sale, that the applicant
- 22 has been doing business in Indiana for at least two (2) years
- 23 before the date of the application; and
- 24 (2) maintain a place of business located in Indiana, including
- 25 at least a warehouse and service facility.

26 **Sec. 3.** (a) For each supplier's license that is issued by the
 27 commission, the commission shall create and maintain a list of the
 28 following:

- 29 (1) The name of the individual who signed the application for
- 30 the license.
- 31 (2) The name, address, and telephone number of the person
- 32 holding the supplier's license.
- 33 (3) The number of electronic gaming devices owned by the
- 34 supplier.
- 35 (4) The serial number of each electronic gaming device owned
- 36 by the supplier.

37 (b) The list described in subsection (a) must be made available
 38 for public inspection in the offices of the commission.

39 **Sec. 4.** A supplier may not own, manage, or control an
 40 establishment licensed under IC 7.1-7-6.

41 **Sec. 5.** A supplier may not distribute an electronic gaming
 42 device in Indiana unless the device is approved by the commission

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1 under this article.

2 **Sec. 6. A supplier may not distribute an electronic gaming**
 3 **device to an establishment unless the establishment is licensed**
 4 **under IC 7.1-7-6.**

5 **Chapter 6. Establishment License**

6 **Sec. 1. (a) Except as provided in subsections (b) and (c), this**
 7 **chapter applies to a person licensed under IC 7.1 to sell alcoholic**
 8 **beverages to customers for consumption on the person's licensed**
 9 **premises.**

10 **(b) This chapter does not apply to a person holding a horse**
 11 **track permit under IC 7.1-3-17.7.**

12 **(c) Except as provided in subsection (d), this chapter does not**
 13 **apply to a person holding a supplemental retailer's permit issued**
 14 **under IC 7.1-3-16.5.**

15 **(d) Notwithstanding subsection (c), this chapter applies to a**
 16 **person authorized to sell alcoholic beverages on Sundays to**
 17 **customers for consumption on the person's licensed premises under**
 18 **IC 7.1-3-20-2.5.**

19 **Sec. 2. An establishment license issued under IC 7.1-7-3 entitles**
 20 **the licensee to conduct gambling operations on the premises of the**
 21 **establishment.**

22 **Sec. 3. (a) For each establishment license that is issued by the**
 23 **commission, the commission shall create and maintain a list of the**
 24 **following:**

25 **(1) The name of the individual who signed the application for**
 26 **the license.**

27 **(2) The name, address, and telephone number of the person**
 28 **holding the license.**

29 **(3) The number of electronic gaming devices located at the**
 30 **establishment.**

31 **(4) The serial number of each electronic gaming device**
 32 **located at the establishment.**

33 **(5) The sticker numbers required under section 4(d) of this**
 34 **chapter.**

35 **(b) The list described in subsection (a) must be available for**
 36 **public inspection in the offices of the commission.**

37 **Sec. 4. (a) Except as provided in subsection (b), an establishment**
 38 **license issued under IC 7.1-7-3 authorizes an establishment to have**
 39 **five (5) electronic gaming devices placed in the establishment.**

40 **(b) An establishment license issued under IC 7.1-7-3 authorizes**
 41 **a club (as defined in IC 7.1-1-3-10) or a fraternal club (as defined**
 42 **in IC 7.1-3-20-7) to have ten (10) electronic gaming devices placed**

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1 in the establishment plus an additional electronic gaming device
 2 per one hundred (100) members and a maximum of twenty (20)
 3 electronic gaming devices per establishment.

4 (c) An establishment must pay an annual fee established under
 5 IC 7.1-7-7 for each electronic gaming device located on the
 6 premises of the establishment.

7 (d) The commission shall annually issue a sticker with a number
 8 for each licensed electronic gaming device. The establishment must
 9 place the sticker on each licensed electronic gaming device in a
 10 manner determined by the commission.

11 (e) A person holding an establishment license may not own more
 12 than the lesser of:

- 13 (1) the number of electronic gaming devices authorized to be
 14 placed in the person's establishment under subsection (a); or
 15 (2) twenty (20) electronic gaming devices.

16 Sec. 5. (a) An establishment license issued under IC 7.1-7-3 must
 17 be conspicuously displayed in the establishment.

18 (b) Gambling operations may not take place unless the
 19 establishment license is conspicuously displayed in the licensed
 20 establishment as required by subsection (a).

21 Chapter 7. Fees

22 Sec. 1. The commission shall adopt rules under IC 4-22-2 to
 23 establish fees for licenses issued under this article. The fees may
 24 not exceed the following:

- 25 (1) Five thousand dollars (\$5,000) annually for each supplier's
 26 license.
 27 (2) One thousand dollars (\$1,000) annually for an
 28 establishment license if the establishment has one (1)
 29 electronic gaming device. The licensee shall pay an additional
 30 one thousand dollars (\$1,000) annually for each additional
 31 electronic gaming device that the licensee will operate in the
 32 establishment.

33 Sec. 2. Fees collected under this chapter must be deposited in the
 34 electronic gaming fund established by IC 7.1-7-10-2.

35 Sec. 3. A local governmental authority may not charge an
 36 additional fee or charge for the licensing of suppliers or
 37 establishments under this article.

38 Chapter 8. Operation of Electronic Gaming Devices

39 Sec. 1. Electronic gaming devices and equipment associated with
 40 electronic gaming devices must be maintained and serviced in the
 41 manner and condition required by the commission.

42 Sec. 2. (a) An establishment licensee is responsible for keeping

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1 a written service log in each of the electronic gaming devices. The
 2 log must be located in the main cabinet access area of the electronic
 3 gaming device's terminal.

4 (b) An individual, including an employee or agent of the
 5 commission, who gains entry into any internal space of an
 6 electronic gaming device shall sign the log and indicate the time,
 7 date, and purpose of entry, the electronic and mechanical meter
 8 readings, and the parts of the terminal inspected or repaired.

9 (c) Service log forms must be obtained from the commission and
 10 be retained by an establishment during the time that the electronic
 11 gaming device is being used for gambling operations and for at
 12 least one (1) year after the electronic gaming device is removed
 13 from service.

14 (d) Service logs created under this section must be available for
 15 immediate inspection by an employee or agent of the commission
 16 upon request.

17 **Sec. 3.** The commission may inspect an electronic gaming device
 18 terminal before the electronic gaming device or terminal is placed
 19 in operation to ensure that the electronic gaming device is in
 20 compliance with this article and the rules of the commission.

21 **Sec. 4.** An electronic gaming device must prominently display a
 22 table listing the available prizes and the odds of winning.

23 **Sec. 5.** An electronic gaming device must dispense to each
 24 winning player a ticket indicating the amount won and containing:

- 25 (1) information on how to redeem the ticket for cash; and
- 26 (2) a notice that the ticket must be redeemed within the time
 27 set forth in section 6(c) of this chapter.

28 **Sec. 6. (a)** The holder of an establishment license shall
 29 immediately pay a winning player the amount won on an electronic
 30 gaming device upon presentation of a winning ticket by the player.

31 (b) An establishment may not pay a player for a winning ticket
 32 from another establishment.

33 (c) A ticket that is not redeemed within seventy-two (72) hours
 34 after the ticket is dispensed is void.

35 **Sec. 7. (a)** A licensee shall maintain records of the electronic
 36 gaming devices the licensee owns. The records shall be made
 37 available to the commission upon request and must be sufficient to
 38 ensure that the electronic gaming device is operated in compliance
 39 with this article and the rules of the commission.

40 (b) The records required under this section must be held by the
 41 licensee during the time that each electronic gaming device is
 42 located in Indiana and for at least one (1) year after the device is

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1 no longer being used for gambling operations.

2 **Sec. 8. (a)** An electronic gaming device may not be operated in
3 a location in an establishment where a person less than twenty-one
4 (21) years of age has access to the electronic gaming device.

5 **(b)** An establishment may not allow a person less than
6 twenty-one (21) years of age to wager on an electronic gaming
7 device.

8 **Sec. 9. (a)** Except as provided in subsection (b), an establishment
9 licensee may not advertise or promote in any way the presence of
10 electronic gaming devices in an establishment.

11 **(b)** An establishment licensee may advertise electronic gaming
12 devices within the establishment if:

13 (1) the advertising cannot be viewed from outside the
14 establishment; and

15 (2) the licensee complies with the rules of the commission
16 concerning advertising.

17 **Sec. 10.** An establishment licensee may not include within the
18 name of the business the term "casino", "electronic gaming
19 devices", or any related term that may be identified with casino
20 gambling.

21 **Sec. 11.** The minimum payout percentage required of electronic
22 gaming devices authorized under this article is eighty percent
23 (80%).

24 **Sec. 12.** The minimum amount for a wager in an electronic
25 gaming device under this article is five cents (\$0.05).

26 **Sec. 13.** The maximum amount for a wager in an electronic
27 gaming device under this article is six dollars and forty cents
28 (\$6.40).

29 **Sec. 14.** The maximum prize on a game played on an electronic
30 gaming device under this article is one thousand five hundred
31 dollars (\$1,500).

32 **Sec. 15.** A wager may be made on an electronic gaming device
33 using currency, a token, or an electronic card.

34 **Sec. 16.** Currency, tokens, or electronic cards may be acquired
35 by means of an agreement under which the licensee extends credit
36 to a patron.

37 **Chapter 9. Electronic Gaming Wagering Tax**

38 **Sec. 1.** As used in this chapter, "adjusted gross receipts" means:

39 (1) the total of all cash and property (including checks
40 received by a licensee, whether collected or not) received by
41 a licensee for electronic gaming wagering; minus

42 (2) the total of:

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- (A) all cash paid out to patrons as winnings for electronic gaming wagering; and
- (B) uncollectible electronic gaming receivables, not to exceed the lesser of:
 - (i) a reasonable provision for uncollectible patron checks received from electronic gaming wagering; or
 - (ii) two percent (2%) of the total of all sums, including checks, whether collected or not, less the amount paid out to patrons as winnings from electronic gaming wagering.

For purposes of this section, a counter or personal check that is invalid or unenforceable under this article is considered cash received by the licensee from electronic gaming wagering.

Sec. 2. As used in this chapter, "department" refers to the department of state revenue.

Sec. 3. (a) A tax is imposed on the adjusted gross receipts received from electronic gaming wagering authorized under this article at the rate of fifteen percent (15%) of the amount of adjusted gross receipts.

(b) The licensee shall remit the tax imposed by this section to the department before the close of the business day following the day the wagers are made.

(c) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(d) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensee to file a monthly report to reconcile the amounts remitted to the department.

Sec. 4. The department shall deposit tax revenue collected under this chapter in the electronic gaming fund.

Chapter 10. Electronic Gaming Fund and Disbursement of Fund Money

Sec. 1. As used in this chapter, "fund" refers to the electronic gaming fund established by section 2 of this chapter.

Sec. 2. The electronic gaming fund is established. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 3. Sufficient funds are annually appropriated to the commission to administer this article.

Sec. 4. The fund consists of:

- (1) licensing fees deposited into the fund under IC 7.1-7-7-2;
- and

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(2) taxes deposited into the fund under IC 7.1-7-9-4.
Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 6. After funds are appropriated under section 3 of this chapter, each month the treasurer of state shall distribute the money deposited in the electronic gaming fund under this article to the following:

- (1) Forty percent (40%) to the fiscal officer of each city according to the ratio that the city's population bears to the total population of all the cities.
- (2) Thirty percent (30%) to the county treasurer of each county according to the ratio that the county's population bears to the total population of all the counties.
- (3) Thirty percent (30%) to the clerk-treasurer of each town according to the ratio that the town's population bears to the total population of all the towns.

Sec. 7. Money received under section 6 of this chapter must be used for police officers' and firefighters' pensions.

Sec. 8. With respect to a reimbursement that the commission is required to pay to the state or to an agency of the state, the commission may enter into an agreement with the state or the state agency under which the commission pays to the state or the state agency an amount reasonably anticipated to cover reimbursable expenses before these expenses are incurred.

Chapter 11. Crimes and Penalties

Sec. 1. A person who knowingly or intentionally tampers with an electronic gaming device with intent to interfere with the proper operation of the electronic gaming device commits electronic gaming device tampering, a Class D felony.

Sec. 2. A person who knowingly or intentionally, with intent to manipulate the outcome, payoff, or operation of an electronic gaming device, manipulates or attempts to manipulate the outcome, payoff, or operation of an electronic gaming device commits electronic gaming device manipulation, a Class D felony.

Sec. 3. (a) Except as provided in subsection (b), a person who knowingly or intentionally purchases, sells, leases, or places in an establishment for use by the public a type of machine that is authorized by the commission for play but that is not licensed under this article commits unlicensed electronic gaming device operation, a Class D felony.

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1 **(b) Subsection (a) does not apply to a coin operated machine**
 2 **used for amusement only.**

3 SECTION 3. IC 33-19-7-7 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) This section
 5 applies to a county in which there is established a pension trust under
 6 IC 36-8-10-12.

7 (b) From the county share distributed under section 2 of this chapter
 8 and deposited into the county general fund, the county fiscal body shall
 9 appropriate ~~twelve~~ **twenty-four** dollars (~~\$12~~) (**\$24**) for each verified
 10 claim presented by the sheriff to the fiscal body under subsection (c).
 11 Amounts appropriated under this subsection shall be deposited by the
 12 county auditor into the pension trust established under IC 36-8-10-12.

13 (c) For each service of a writ, order, process, notice, tax warrant, or
 14 other paper completed by the sheriff, the sheriff shall submit to the
 15 county fiscal body a verified claim of service.

16 SECTION 4. IC 35-45-5-11 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2003]: **Sec. 11. This chapter does not apply to gambling on**
 19 **electronic gaming devices licensed for use in an establishment**
 20 **licensed under IC 7.1-7.**

21 SECTION 5. IC 36-8-1-11.5 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2003]: **Sec. 11.5. "Salary of the rank" means the base salary of**
 24 **the rank held by a member of the:**

25 **(1) police department; or**

26 **(2) fire department;**

27 **in the year of death, retirement, disability, or occurrence of**
 28 **disease, plus all longevity increases, if provided by the employer,**
 29 **but does not include remuneration or allowances for fringe**
 30 **benefits, incentive pay, holiday pay, insurance, clothing,**
 31 **automobiles, firearms, education, overtime, or compensatory time**
 32 **off.**

33 SECTION 6. IC 36-8-5-2 IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The police chief or fire chief
 35 may be granted a leave of absence by the authority who appointed him.
 36 This appointing authority may also grant a leave of absence to any
 37 other full-time, fully paid police officer or firefighter.

38 (b) A leave of absence under subsection (a) shall be granted for
 39 service in the Indiana general assembly and may also be granted only
 40 for one (1) of the following reasons:

41 (1) Sickness.

42 (2) Disability.



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1 (3) Sabbatical purposes.

2 However, a leave of absence because of disability may not be granted
3 to a member of the 1977 fund under this subsection unless a leave
4 granted under subsection (g) has expired without disability benefits
5 having been paid from the 1977 fund. In the case of such an expiration,
6 a leave for purposes of disability may be granted under this subsection
7 but only until the member's eligibility for disability benefits is finally
8 determined.

9 (c) Before a leave of absence may be granted for sabbatical
10 purposes, the member must submit a written request explaining and
11 justifying the leave to the appointing authority. Sabbatical purposes
12 must be related to the improvement of the member's professional
13 performance and skills, such as education, special training, work
14 related experience, and exchange programs.

15 (d) This subsection applies to leaves of absence granted under
16 subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for
17 a period of not more than one (1) year, determined by the appointing
18 authority, and may be renewed upon written request of the member.

19 (e) This subsection applies to leaves of absence granted for service
20 in the Indiana general assembly. If a police officer or firefighter serves
21 in the general assembly, he shall be granted a leave for the time spent
22 in this service, including the time spent for committee or legislative
23 council meetings.

24 (f) This subsection applies to leaves of absence granted under
25 subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive
26 compensation in an amount determined by the appointing authority, up
27 to a maximum amount that equals his salary before the leave began.

28 (g) This subsection applies only to members of the 1977 fund. The
29 local board may grant a leave of absence for purposes of disability to
30 full-time, fully paid police officers or firefighters (including the police
31 chief or fire chief). The leave is subject to the following conditions:

32 (1) The police chief or fire chief must make a written
33 determination that there is no suitable and available work on the
34 appropriate department for which the fund member is or may be
35 capable of becoming qualified.

36 (2) The leave must be approved by the local board after a hearing
37 conducted under IC 36-8-8-12.7.

38 (3) The leave may not begin until the police officer or firefighter
39 has exhausted all paid leave for sickness.

40 (4) The leave shall continue until disability benefits are paid from
41 the 1977 fund. However, the leave may not continue for more
42 than six (6) months.

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- (5) During the leave:
 - (A) the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins; **or**
 - (B) if the leave begins after December 31, 2004, a member of a police department or a member of a fire department may receive compensation in an amount determined by the appointing authority, up to a maximum amount that equals the salary of the rank of the member before the leave began.**

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the public employees' retirement fund.

SECTION 7. IC 36-8-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The 1925 fund is derived from the following sources:

(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest of any money, chose in action, personal property, or real property, or an interest in it. The local board shall take the property in the name of the local board and may hold, assign, transfer, or sell it.

(2) From money, fees, and awards that are paid or given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1925 fund:

(A) before January 1, 2005, an amount equal to six percent (6%) of the salary of a first class patrolman; and

(B) after December 31, 2004, an amount equal to six percent (6%) of the salary of the rank of the member.

However, the employer may pay all or a part of the assessment for

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1 the member.

2 (b) The secretary of the local board shall prepare a roll of each of
3 the assessments and place opposite the name of every member of the
4 police department the amount of the assessment against him. The
5 treasurer of the local board shall retain out of the salary paid to the
6 member each month the amount of the assessment, other than any
7 amount paid on behalf of the member, and credit it to the 1925 fund.
8 Except to the extent the assessment is paid on behalf of the member,
9 every person becoming a member of the police department is liable for
10 the payment of the assessments and is conclusively considered to agree
11 to pay it and have it deducted from his salary as required in this section.

12 SECTION 8. IC 36-8-6-8, AS AMENDED BY P.L.185-2002,
13 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2003]: Sec. 8. (a) For a member who became disabled before
15 July 1, 2000, the 1925 fund shall be used to pay a pension in a sum
16 determined by the local board, but not exceeding:

- 17 (1) for a disability or disease occurring before July 1, 1982, fifty
18 percent (50%); ~~and~~
19 (2) for a disability or disease occurring after June 30, 1982, **and**
20 **before January 1, 2005**, fifty-five percent (55%) of the salary of
21 a first class patrolman; **and**
22 **(3) for a disability or disease occurring after December 31,**
23 **2004, fifty-five percent (55%) of the salary of the rank of the**
24 **member;**

25 to a member of the police department who has suffered or contracted
26 a mental or physical disease or disability that renders the patrolman
27 unable to perform the essential functions of any duty in the police
28 department, considering reasonable accommodation to the extent
29 required by the Americans with Disabilities Act. If a member who
30 becomes eligible for a disability pension has more than twenty (20)
31 years of service, the member is entitled to receive a disability pension
32 equal to the pension the member would have received if the member
33 had retired on the date of the disability.

34 (b) Except as otherwise provided in this subsection, for a member
35 who becomes disabled after June 30, 2000, **and before January 1,**
36 **2005**, the 1925 fund shall be used to pay a pension in a sum determined
37 by the local board, but not exceeding fifty-five percent (55%) of the
38 salary of a first class patrolman, to a member of the police department
39 who has suffered or contracted a mental or physical disease or
40 disability:

- 41 (1) that is:
42 (A) the direct result of:



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- 1 (i) a personal injury that occurs while the fund member is on
2 duty;
- 3 (ii) a personal injury that occurs while the fund member is
4 off duty and is responding to an offense or a reported
5 offense, in the case of a police officer; or
- 6 (iii) an occupational disease (as defined in IC 22-3-7-10),
7 including a duty related disease that is also included within
8 clause (B);
- 9 (B) a duty related disease (for purposes of this section, a "duty
10 related disease" means a disease arising out of the fund
11 member's employment; a disease is considered to arise out of
12 the fund member's employment if it is apparent to the rational
13 mind, upon consideration of all of the circumstances, that:
- 14 (i) there is a connection between the conditions under which
15 the fund member's duties are performed and the disease;
- 16 (ii) the disease can be seen to have followed as a natural
17 incident of the fund member's duties as a result of the
18 exposure occasioned by the nature of the fund member's
19 duties; and
- 20 (iii) the disease can be traced to the fund member's
21 employment as the proximate cause); or
- 22 (C) a disability presumed incurred in the line of duty under
23 IC 5-10-13; and
- 24 (2) that renders the member unable to perform the essential
25 functions of any duty in the police department, considering
26 reasonable accommodation to the extent required by the
27 Americans with Disabilities Act.
- 28 If a member who becomes eligible for a disability pension has more
29 than twenty (20) years of service, the member is entitled to receive a
30 disability pension equal to the pension the member would have
31 received if the member had retired on the date of the disability.
- 32 (c) Except as otherwise provided in this subsection, for a member
33 who becomes disabled after June 30, 2000, **and before January 1,**
34 **2005**, the 1925 fund shall be used to pay a pension in a sum determined
35 by the local board, but not exceeding fifty-five percent (55%) of the
36 salary of a first class patrolman, to a member of the police department
37 who has suffered or contracted a mental or physical disease or
38 disability:
- 39 (1) that is not described in subsection (b)(1); and
- 40 (2) that renders the member unable to perform the essential
41 functions of any duty in the police department, considering
42 reasonable accommodation to the extent required by the

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Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(d) Except as otherwise provided in this subsection, for a member who becomes disabled after December 31, 2004, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of the rank of the member, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

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

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

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

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the

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Americans with Disabilities Act.
If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(e) Except as otherwise provided in this subsection, for a member who becomes disabled after December 31, 2004, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of the rank of the member, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

- (1) that is not described in subsection (d)(1); and**
- (2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.**

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(f) The member must have retired from active service after a physical examination by the police surgeon or another surgeon appointed by the local board. The disability must be determined solely by the local board after the examination and a hearing conducted under IC 36-8-8-12.7. A member shall be retained on active duty with full pay until the member is retired by the local board because of the disability.

(g) After a member has been retired upon pension, the local board may, at any time, require the retired member to again be examined by the police surgeon or another surgeon appointed by the local board. After the examination the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the retired member should remain on the pension roll. The retired member shall be retained on the pension roll until reinstated in the service of the police department, except in case of resignation. If after the examination and hearing the retired member is found to have recovered from the member's disability and to be again fit for active duty, then the member shall be put on active duty with full pay and from that time is no longer entitled to payments from the 1925 fund. If the member fails or refuses to return to active duty, the member waives all rights to further benefits from the 1925 fund.

(h) If the salary of a first class patrolman is increased or

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1 decreased, the pension payable **under subsection (a), (b), or (c)** shall
 2 be proportionately increased or decreased. However, the monthly
 3 pension payable to a member or survivor may not be reduced below:

4 (1) the amount of the first full monthly pension received by that
 5 person; or

6 (2) fifty-five percent (55%) of the salary of a first class patrolman;
 7 whichever is greater.

8 ~~(g)~~ **(i)** Time spent receiving disability benefits is considered active
 9 service for the purpose of determining retirement benefits until the
 10 member has a total of twenty (20) years of service.

11 ~~(h)~~ **(j)** A fund member who is receiving disability benefits under this
 12 chapter shall be transferred from disability to regular retirement status
 13 when the member becomes fifty-five (55) years of age.

14 SECTION 9. IC 36-8-6-9 IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) Benefits paid under this
 16 section are subject to section 1.5 of this chapter.

17 (b) The 1925 fund shall be used to provide a member of the police
 18 department who retires from active duty after twenty (20) or more years
 19 of active duty an annual pension equal to fifty percent (50%) of the
 20 salary of a first class patrolman in the police department, plus:

21 (1) for a member who retires before January 1, 1986, two percent
 22 (2%) of the first class patrolman's salary for each year of service;

23 or

24 (2) for a member who retires after December 31, 1985, **and**
 25 **before January 1, 2005**, one percent (1%) of the first class
 26 patrolman's salary for each six (6) months of service;

27 of the retired member over twenty (20) years. However, the pension
 28 may not exceed in any year an amount greater than seventy-four
 29 percent (74%) of the salary of a first class patrolman. The pensions
 30 shall be computed on an annual basis but shall be paid in not less than
 31 twelve (12) equal monthly installments. If the salary of a first class
 32 patrolman is increased or decreased, the pension payable shall be
 33 proportionately increased or decreased.

34 **(c) The 1925 fund shall be used to provide a member of the**
 35 **police department who retires after December 31, 2004, from**
 36 **active duty after at least twenty (20) years of service an annual**
 37 **pension equal to fifty percent (50%) of the salary of the rank of the**
 38 **member at the date of retirement. The pension shall be computed**
 39 **on an annual basis but shall be paid in not less than twelve (12)**
 40 **equal monthly installments. If the salary of the rank of the member**
 41 **is increased or decreased after the date of the member's**
 42 **retirement, the pension payable shall be proportionately increased**



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1 **or decreased.**

2 (d) If a member voluntarily retires after twenty (20) or more years
3 of service, the member is entitled to retirement and the pension,
4 without reference to his physical condition at the time of application.
5 However, he then relinquishes all rights to other benefits or pensions
6 for temporary disability. After retirement the member is not required
7 to render further services on the police department, is no longer subject
8 to the rules of the department, and may not be deprived of other
9 benefits under this chapter that may accrue to him or his dependents.

10 ~~(d)~~ (e) To be retired based upon length of service, only the time
11 served by the member on the regularly constituted police department
12 may be computed. Time served by a member as a special police officer,
13 a merchant police officer, or a private police officer may not be
14 considered in computing length of service.

15 SECTION 10. IC 36-8-6-9.6, AS ADDED BY P.L.118-2000,
16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2003]: Sec. 9.6. (a) This section applies to an active or retired
18 member who dies other than in the line of duty (as defined in section
19 10.1 of this chapter).

20 (b) A payment shall be made to the surviving spouse of a deceased
21 member in an amount fixed by ordinance, but at least an amount equal
22 to the following:

23 (1) To the surviving spouse of a member who died before January
24 1, 1989, an amount equal to thirty percent (30%) of the monthly
25 pay of a first class patrolman per month during the surviving
26 spouse's life if the spouse did not remarry before September 1,
27 1983. If the spouse remarried before September 1, 1983, and
28 benefits ceased on the date of remarriage, the benefits for the
29 surviving spouse shall be reinstated on July 1, 1997, and continue
30 during the life of the surviving spouse.

31 (2) Except as otherwise provided in this subdivision, to the
32 surviving spouse of a member who dies after December 31, 1988,
33 **and before January 1, 2005**, an amount per month, during the
34 spouse's life, equal to the greater of:

35 (A) thirty percent (30%) of the monthly pay of a first class
36 patrolman; or

37 (B) fifty-five percent (55%) of the monthly benefit the
38 deceased member was receiving or was entitled to receive on
39 the date of the member's death.

40 However, if the deceased member was not entitled to a benefit
41 because the member had not completed twenty (20) years of
42 service, for purposes of computing the amount under clause (B),

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1 the member's benefit shall be considered to be fifty percent (50%)
 2 of the monthly salary of a first class patrolman. The amount
 3 provided in this subdivision is subject to adjustment as provided
 4 in subsection (e).

5 **(3) To the surviving spouse of a member who dies after**
 6 **December 31, 2004, an amount per month, during the spouse's**
 7 **life, equal to fifty-five percent (55%) of the monthly benefit**
 8 **the deceased member was receiving or was entitled to receive**
 9 **on the date of the member's death. However, if the deceased**
 10 **member was not entitled to a benefit because the member had**
 11 **not completed twenty (20) years of service, for purposes of**
 12 **computing the amount, the member's benefit shall be**
 13 **considered to be fifty percent (50%) of the monthly salary of**
 14 **the member at the time of death. The amount provided in this**
 15 **subsection is subject to adjustment as provided in subsection**
 16 **(f).**

17 (c) Except as otherwise provided in this subsection, a payment shall
 18 also be made to each child of a deceased member less than eighteen
 19 (18) years of age, in an amount fixed by ordinance, but at least an
 20 amount equal to twenty percent (20%) of the monthly pay of a first
 21 class patrolman **if the member dies before January 1, 2005, and**
 22 **twenty percent (20%) of the salary of the rank that the deceased**
 23 **member held at the time of death if the member dies after**
 24 **December 31, 2004, per month:**

- 25 (1) until the child becomes eighteen (18) years of age;
 26 (2) until the child becomes twenty-three (23) years of age if the
 27 child is enrolled in and regularly attending a secondary school or
 28 is a full-time student at an accredited college or university; or
 29 (3) during the entire period of the child's physical or mental
 30 disability;

31 whichever period is longer. However, the total of benefits under this
 32 subsection added to the benefits under subsection (b) may not exceed
 33 the maximum benefits computed under section 9 of this chapter for
 34 pension payments to a member who retires from active service after
 35 twenty (20) years or more of active service. **This maximum benefit is**
 36 **equal to fifty percent (50%) of the salary of a first class patrolman in**
 37 **the police department plus, for a member who retired before January**
 38 **1, 1986, two percent (2%) of the first class patrolman's salary for each**
 39 **year of service of the retired member over twenty (20) years or, for a**
 40 **member who retires after December 31, 1985, plus one percent (1%)**
 41 **of the first class patrolman's salary for each six (6) months of service**
 42 **of the retired member over twenty (20) years. However, the maximum**

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1 benefit may not exceed in any year an amount greater than seventy-four
2 percent (74%) of the salary of a first class patrolman:

3 (d) Except as otherwise provided in this subsection, if a deceased
4 member leaves no surviving spouse and no child who qualifies for
5 benefits under subsection (c) but does leave a dependent parent or
6 parents, an amount equal to twenty percent (20%) of the monthly pay
7 of a first class patrolman per month from the time of the member's
8 death shall be paid to the dependent parent or parents during their
9 dependency. When both parents survive, the total amount is still twenty
10 percent (20%), to be paid to them jointly. In all cases of payment to a
11 dependent relative of a deceased member, the board is the final judge
12 of the question of necessity and dependency and of the amount to be
13 paid. The board may also reduce or terminate temporarily or
14 permanently a payment to a dependent relative of a deceased member
15 when it determines that the condition of the fund or other
16 circumstances make this action necessary.

17 (e) If the salary of a first class patrolman **as provided under**
18 **subsection (b)(1) or (b)(2)** is increased or decreased, the pension
19 payable under this section shall be proportionately increased or
20 decreased. However, the monthly pension payable to a member or
21 survivor may not be reduced below the amount of the first full monthly
22 pension received by that person.

23 **(f) If the salary of a current member of the police department**
24 **holding the rank that the deceased member held at the time of**
25 **death as provided under subsection (b)(3) is increased or**
26 **decreased, the pension payable under this section shall be**
27 **proportionately increased or decreased.**

28 SECTION 11. IC 36-8-6-10.1, AS AMENDED BY P.L.185-2002,
29 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2003]: Sec. 10.1. ~~(a) This section applies to a member who~~
31 ~~dies in the line of duty after August 31, 1982.~~

32 ~~(b) (a) If a member dies in the line of duty after August 31, 1982,~~
33 ~~and before January 1, 2005,~~ the surviving spouse is entitled to a
34 monthly benefit, during the spouse's lifetime, equal to the benefit to
35 which the member would have been entitled on the date of the
36 member's death, but no less than fifty percent (50%) of the monthly
37 wage received by a first class patrolman. If the surviving spouse
38 remarried before September 1, 1983, and benefits ceased on the date
39 of remarriage, the benefits for the surviving spouse shall be reinstated
40 on July 1, 1997, and continue during the life of the surviving spouse.

41 **(b) If a member dies in the line of duty after December 31, 2004,**
42 **the surviving spouse is entitled to a monthly benefit, during the**

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1 spouse's lifetime, equal to the benefit to which the member would
 2 have been entitled on the date of the member's death, but not less
 3 than fifty percent (50%) of the monthly wage received by a
 4 member holding the rank that the deceased member held at the
 5 time of death.

6 (c) If a member dies in the line of duty after August 31, 1982,
 7 and before January 1, 2005, a payment shall also be made to each
 8 child of a deceased member less than eighteen (18) years of age, in an
 9 amount fixed by ordinance, but at least an amount equal to twenty
 10 percent (20%) of the monthly pay of a first class patrolman per month
 11 to each child:

12 (1) until the child becomes eighteen (18) years of age;

13 (2) until the child becomes twenty-three (23) years of age if the
 14 child is enrolled in and regularly attending a secondary school or
 15 is a full-time student at an accredited college or university; or

16 (3) during the entire period of the child's physical or mental
 17 disability;

18 whichever period is longer.

19 (d) The surviving children of the deceased member who are eligible
 20 to receive a benefit under subsection (c) may receive an additional
 21 benefit in an amount fixed by ordinance, but the total additional benefit
 22 under this subsection to all the member's children may not exceed a
 23 total of thirty percent (30%) of the monthly wage received by a first
 24 class patrolman. However, this limitation does not apply to the children
 25 of a member who are physically or mentally disabled.

26 (e) If a member dies in the line of duty after December 31, 2004,
 27 a payment shall also be made to each child of a deceased member
 28 less than eighteen (18) years of age, in an amount fixed by
 29 ordinance, but at least an amount equal to twenty percent (20%)
 30 of the salary of the rank that the deceased member held at the time
 31 of death per month to each child:

32 (1) until the child becomes eighteen (18) years of age;

33 (2) until the child becomes twenty-three (23) years of age if
 34 the child is enrolled in and regularly attending a secondary
 35 school or is a full-time student at an accredited college or
 36 university; or

37 (3) during the entire period of the child's physical or mental
 38 disability;

39 whichever period is longest.

40 (f) The surviving children of the deceased member who are
 41 eligible to receive a benefit under subsection (e) may receive an
 42 additional benefit in an amount fixed by ordinance, but the total

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1 **additional benefit under this subsection to all the member's**
 2 **children may not exceed a total of thirty percent (30%) of the**
 3 **salary of the rank that the deceased member held at the time of**
 4 **death. However, this limitation does not apply to the children of a**
 5 **member who are physically or mentally disabled.**

6 (g) If a deceased member leaves no surviving spouse and no child
 7 who qualifies for benefits under subsection (c) or (e) but does leave a
 8 dependent parent or parents, an amount equal to twenty percent (20%)
 9 of the monthly pay of a first class patrolman per month from the time
 10 of the member's death shall be paid to the dependent parent or parents
 11 during their dependency. When both parents survive, the total amount
 12 is still twenty percent (20%), to be paid to them jointly. In all cases of
 13 payment to a dependent relative of a deceased member, the board is the
 14 final judge of the question of necessity and dependency and of the
 15 amount to be paid. The board may also reduce or terminate temporarily
 16 or permanently a payment to a dependent relative of a deceased
 17 member when it determines that the condition of the fund or other
 18 circumstances make this action necessary.

19 (h) If the salary of a first class patrolman as provided under
 20 subsection (a) or (c) is increased or decreased, the pension payable
 21 under this section shall be proportionately increased or decreased.
 22 However, the monthly pension payable to a member or survivor may
 23 not be reduced below the amount of the first full monthly pension
 24 received by that person.

25 (i) If the salary of a current member of the police department
 26 holding the rank that the deceased member held at the time of
 27 death as provided under subsection (b) or (e) is increased or
 28 decreased, the pension payable under this section shall be
 29 proportionately increased or decreased. However, the monthly
 30 pension payable to a member or survivor may not be reduced
 31 below the amount of the first full monthly pension received by that
 32 person.

33 (j) For purposes of this section, "dies in the line of duty" means
 34 death that occurs as a direct result of personal injury or illness caused
 35 by incident, accident, or violence that results from any action that the
 36 member in the member's capacity as a police officer:

- 37 (1) is obligated or authorized by rule, regulation, condition of
- 38 employment or service, or law to perform; or
- 39 (2) performs in the course of controlling or reducing crime or
- 40 enforcing the criminal law.

41 The term includes a death presumed incurred in the line of duty under
 42 IC 5-10-13.

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1 SECTION 12. IC 36-8-6-11 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The 1925 fund
 3 shall be used to pay an amount, equal to the pensions provided by this
 4 chapter in the case of voluntary retirement **before January 1, 2005**,
 5 after twenty (20) years service, to a member of the police department
 6 who is dismissed for any reason after having been in actual service for
 7 twenty (20) years, including two percent (2%) additional for each full
 8 year of service in excess of twenty (20) years' service. However, a
 9 pension under this section may not exceed in any year an amount
 10 greater than seventy-four percent (74%) of the salary of a first class
 11 patrolman.

12 **(b) The 1925 fund shall be used to pay an amount, equal to the**
 13 **pensions provided by this chapter in the case of voluntary**
 14 **retirement after December 31, 2004, after twenty (20) years**
 15 **service, to a member of the police department who is dismissed for**
 16 **any reason after having been in actual service at least twenty (20)**
 17 **years.**

18 SECTION 13. IC 36-8-7-8 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The 1937 fund is
 20 derived from the following sources:

21 (1) From all money and other property that is given to the local
 22 board or 1937 fund for the uses and purposes for which the fund
 23 is created. The local board may take by gift, grant, devise, or
 24 bequest any money, personal property, real estate, or an interest
 25 in it. The gift, grant, devise, or bequest may be absolute or in fee
 26 simple or upon the condition that only the rents, income, or profits
 27 arising from it may be applied to the purposes for which the fund
 28 is established.

29 (2) All money, fees, rewards, or emoluments that are paid, given,
 30 devised, or bequeathed to the fire department or one (1) of the fire
 31 companies.

32 (3) All money accruing as interest on the securities or investments
 33 that are owned by and held in the name of the local board.

34 (4) All money received by the local board from the sale or by the
 35 maturity of securities or investments owned by the local board.

36 (5) An assessment made during the period of ~~his~~ **a member's**
 37 employment or for thirty-two (32) years, whichever is shorter, on
 38 the salary of each member equal to:

39 **(A) before January 1, 2005**, six percent (6%) of the salary of
 40 a fully paid first class firefighter; **and**

41 **(B) after December 31, 2004, six percent (6%) of the salary**
 42 **of the rank of the member.**



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1 However, the employer may pay all or a part of the assessment for
 2 the member. The secretary of the fire department, or the person
 3 whose duty it is to make out the payrolls, shall place on the
 4 payroll opposite the name of every member the amount of
 5 assessment on ~~his~~ **the member's** salary. The unit's fiscal officer
 6 shall deduct monthly from the salary of every member the sum
 7 listed opposite ~~his~~ **the member's** name, other than any amount
 8 paid on behalf of the member, and shall credit that amount to the
 9 1937 fund. Except to the extent the assessment is paid on behalf
 10 of the member, every person who becomes a member of the fire
 11 department is liable for the assessment and is conclusively
 12 considered to agree to pay it by having it deducted from ~~his~~ **the**
 13 **member's** salary as required in this section.

14 (6) Appropriations that are made for the fund by the unit's fiscal
 15 body.

16 SECTION 14. IC 36-8-7-11, AS AMENDED BY P.L.185-2002,
 17 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2003]: Sec. 11. (a) Benefits paid under this section are subject
 19 to section 2.5 of this chapter.

20 (b) If a member of the fire department becomes seventy (70) years
 21 of age or is found upon examination by a medical officer to be
 22 physically or mentally disabled and unable to perform the essential
 23 functions of the job, considering reasonable accommodation to the
 24 extent required by the Americans with Disabilities Act, so as to make
 25 necessary the person's retirement from all service with the department,
 26 the local board shall retire the person.

27 (c) The local board may retire a person for disability only after a
 28 hearing conducted under IC 36-8-8-12.7.

29 (d) If after the hearing the local board determines that a person who
 30 became disabled before July 1, 2000, is disabled and unable to perform
 31 the essential functions of the job, considering reasonable
 32 accommodation to the extent required by the Americans with
 33 Disabilities Act, the local board shall then authorize the monthly
 34 payment to the person from the 1937 fund of an amount equal to
 35 fifty-five percent (55%) of the salary of a fully paid first class
 36 firefighter in the unit at the time of the payment of the pension. All
 37 physical and mental examinations of members of the fire department
 38 shall be made on order of the local board by a medical officer
 39 designated by the local board.

40 (e) If after the hearing under this section and a recommendation
 41 under section 12.5 of this chapter, the 1977 fund advisory committee
 42 determines that a person who becomes disabled after June 30, 2000,

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- 1 **and before January 1, 2005:**
 2 (1) has a disability that is:
 3 (A) the direct result of:
 4 (i) a personal injury that occurs while the fund member is on
 5 duty;
 6 (ii) a personal injury that occurs while the fund member is
 7 responding to an emergency or reported emergency for
 8 which the fund member is trained; or
 9 (iii) an occupational disease (as defined in IC 22-3-7-10),
 10 including a duty related disease that is also included within
 11 clause (B);
 12 (B) a duty related disease (for purposes of this section, a "duty
 13 related disease" means a disease arising out of the fund
 14 member's employment; a disease is considered to arise out of
 15 the fund member's employment if it is apparent to the rational
 16 mind, upon consideration of all of the circumstances, that:
 17 (i) there is a connection between the conditions under which
 18 the fund member's duties are performed and the disease;
 19 (ii) the disease can be seen to have followed as a natural
 20 incident of the fund member's duties as a result of the
 21 exposure occasioned by the nature of the fund member's
 22 duties; and
 23 (iii) the disease can be traced to the fund member's
 24 employment as the proximate cause); or
 25 (C) a disability presumed incurred in the line of duty under
 26 IC 5-10-13; and
 27 (2) is unable to perform the essential functions of the job,
 28 considering reasonable accommodation to the extent required by
 29 the Americans with Disabilities Act;
 30 the local board shall then authorize the monthly payment to the person
 31 from the 1937 fund of an amount equal to fifty-five percent (55%) of
 32 the salary of a fully paid first class firefighter in the unit at the time of
 33 the payment of the pension. All physical and mental examinations of
 34 members of the fire department shall be made on order of the local
 35 board by a medical officer designated by the local board.
 36 (f) If after the hearing under this section and a recommendation
 37 under section 12.5 of this chapter, the 1977 fund advisory committee
 38 determines that a person who becomes disabled after June 30, 2000,
 39 **and before January 1, 2005:**
 40 (1) has a disability that is not a disability described in subsection
 41 (e)(1); and
 42 (2) is unable to perform the essential functions of the job,

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1 considering reasonable accommodation to the extent required by
 2 the Americans with Disabilities Act;
 3 the local board shall then authorize the monthly payment to the person
 4 from the 1937 fund of an amount equal to fifty-five percent (55%) of
 5 the salary of a fully paid first class firefighter in the unit at the time of
 6 the payment of the pension. All physical and mental examinations of
 7 members of the fire department shall be made on order of the local
 8 board by a medical officer designated by the local board.

9 **(g) If after the hearing under this section and a recommendation**
 10 **under section 12.5 of this chapter, the 1977 fund advisory**
 11 **committee determines that a person who becomes disabled after**
 12 **December 31, 2004:**

13 **(1) has a disability that is:**

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

15 **(i) a personal injury that occurs while the fund member**
 16 **is on duty;**

17 **(ii) a personal injury that occurs while the fund member**
 18 **is responding to an emergency or reported emergency**
 19 **for which the fund member is trained; or**

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

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

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

32 **(ii) the disease can be seen to have followed as a natural**
 33 **incident of the fund member's duties as a result of the**
 34 **exposure occasioned by the nature of the fund member's**
 35 **duties; and**

36 **(iii) the disease can be traced to the fund member's**
 37 **employment as the proximate cause); or**

38 **(C) a disability presumed incurred in the line of duty under**
 39 **IC 5-10-13; and**

40 **(2) is unable to perform the essential functions of the job,**
 41 **considering reasonable accommodation to the extent required**
 42 **by the Americans with Disabilities Act;**

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1 the local board shall then authorize the monthly payment to the
 2 person from the 1937 fund of an amount equal to fifty-five percent
 3 (55%) of the salary of the rank of the member before the date of
 4 the disability. All physical and mental examinations of members of
 5 the fire department shall be made on order of the local board by a
 6 medical officer designated by the local board.

7 (h) If after the hearing under this section and a recommendation
 8 under section 12.5 of this chapter, the 1977 fund advisory
 9 committee determines that a person who becomes disabled after
 10 December 31, 2004:

11 (1) has a disability that is not a disability described in
 12 subsection (e)(1); and

13 (2) is unable to perform the essential functions of the job,
 14 considering reasonable accommodation to the extent required
 15 by the Americans with Disabilities Act;

16 the local board shall then authorize the monthly payment to the
 17 person from the 1937 fund of an amount equal to fifty-five percent
 18 (55%) of the salary of the rank of the member before the date of
 19 the disability. All physical and mental examinations of members of
 20 the fire department shall be made on order of the local board by a
 21 medical officer designated by the local board.

22 SECTION 15. IC 36-8-7-12.1, AS AMENDED BY P.L.118-2000,
 23 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2003]: Sec. 12.1. (a) Benefits paid under this section are
 25 subject to section 2.5 of this chapter.

26 (b) A member who has been in service twenty (20) years, upon
 27 making a written application to the fire chief, may be retired from all
 28 service with the department **before January 1, 2005**, without a
 29 medical examination or disability. Except as provided in subsection (f)
 30 (g), the local board shall authorize the payment to the retired member
 31 of fifty percent (50%) of the salary of a fully paid first class firefighter
 32 of the unit at the time of the payment of the pension, plus:

33 (1) for a member who retires before January 1, 1986, two percent
 34 (2%) of that salary for each year of service; or

35 (2) for a member who retires after December 31, 1985, one
 36 percent (1%) of that salary for each six (6) months of service;
 37 over twenty (20) years. However, the pension in one (1) year may not
 38 exceed an amount greater than seventy-four percent (74%) of the salary
 39 of a fully paid first class firefighter.

40 (c) A member who has been in service at least twenty (20) years,
 41 upon making a written application to the fire chief, may be retired
 42 from all service with the department after December 31, 2004,



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1 **without a medical examination or disability. Except as provided in**
 2 **subsection (h), the local board shall authorize the payment to the**
 3 **retired member of fifty percent (50%) of the salary of the rank of**
 4 **the member on the date of the member's retirement.**

5 (d) A member who is discharged from the fire department after
 6 having served at least twenty (20) years is entitled to receive the
 7 amount **under subsection (b) or (c)** equal to the amount that the
 8 member would have received if the member retired voluntarily.

9 ~~(d)~~ (e) All pensions in a class are on an equal basis. The local board
 10 may not depart from this chapter in authorizing the payment of
 11 pensions.

12 ~~(e)~~ (f) The monthly pension payable to a member may not be
 13 reduced below the amount of the first full monthly pension received by
 14 that person.

15 ~~(f)~~ (g) The monthly pension payable to a member who is transferred
 16 from disability to regular retirement status **and received benefits**
 17 **under section 11(e) or 11(f) of this chapter** may not be reduced
 18 below fifty-five percent (55%) of the salary of a fully paid first class
 19 firefighter in the unit at the time of the payment of the pension.

20 (h) **The monthly pension payable to a member who is**
 21 **transferred from disability to regular retirement status and**
 22 **received benefits under section 11(g) or 11(h) of this chapter may**
 23 **not be reduced below fifty-five percent (55%) of the current salary**
 24 **of the rank of the member before the date of the member's**
 25 **disability.**

26 ~~(g)~~ (i) A benefit payable under this section shall be paid in not less
 27 than twelve (12) monthly installments.

28 ~~(h)~~ (j) A fund member who is receiving disability benefits under this
 29 chapter shall be transferred from disability to regular retirement status
 30 when the member becomes fifty-five (55) years of age.

31 SECTION 16. IC 36-8-7-12.2, AS ADDED BY P.L.118-2000,
 32 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2003]: Sec. 12.2. (a) This section applies to an active or
 34 retired member who dies other than in the line of duty (as defined in
 35 section 12.4 of this chapter).

36 (b) If a member of the fire department or a retired member of the
 37 1937 fund dies and leaves:

- 38 (1) a surviving spouse;
 39 (2) a child or children less than eighteen (18) years of age;
 40 (3) a child or children at least eighteen (18) years of age who are
 41 mentally or physically incapacitated; or
 42 (4) a child or children less than twenty-three (23) years of age

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- 1 who are:
- 2 (A) enrolled in and regularly attending a secondary school; or
- 3 (B) full-time students at an accredited college or university;
- 4 the local board shall authorize the payment to the surviving spouse and
- 5 to the child or children the amount from the fund as prescribed by this
- 6 section. If the surviving spouse of a deceased member remarried before
- 7 September 1, 1983, and pension benefits ceased on the date of
- 8 remarriage, the benefits for the surviving spouse shall be reinstated on
- 9 July 1, 1997, and continue during the life of the surviving spouse. If the
- 10 pension of the surviving spouse of a deceased member has ceased by
- 11 virtue of the spouse's remarriage, and if the person to whom the spouse
- 12 has remarried was a retired member of the fire department who was
- 13 also entitled to a pension, then upon the death of the member to whom
- 14 the spouse had remarried, the spouse is entitled to receive a pension as
- 15 the surviving spouse of a deceased member as though the spouse had
- 16 not been remarried.
- 17 (c) If a deceased member of the fire department leaves no surviving
- 18 spouse or children but leaves a dependent parent, and upon satisfactory
- 19 proof that the parent was wholly dependent upon the deceased member,
- 20 the local board shall authorize the monthly payment to the parent from
- 21 the 1937 fund that is prescribed by this section.
- 22 (d) If a member dies while in active service or after retirement:
- 23 (1) the surviving spouse is entitled to receive an amount fixed by
- 24 ordinance but not less than:
- 25 (A) for the surviving spouse of a member who dies before
- 26 January 1, 1989, thirty percent (30%) of the salary of a fully
- 27 paid first class firefighter in the unit at the time of the payment
- 28 of the pension; ~~and~~
- 29 (B) for the surviving spouse of a member who dies after
- 30 December 31, 1988, **but before January 1, 2005**, except as
- 31 otherwise provided in this clause, an amount per month,
- 32 during the spouse's life, equal to the greater of thirty percent
- 33 (30%) of the monthly pay of a first class firefighter or fifty-five
- 34 percent (55%) of the monthly benefit the deceased member
- 35 was receiving or was entitled to receive on the date of the
- 36 member's death (these amounts shall be proportionately
- 37 increased or decreased if the salary of a first class firefighter
- 38 is increased or decreased); however, if the deceased member
- 39 was not entitled to a benefit because the member had not
- 40 completed twenty (20) years of service, for purposes of
- 41 computing the second amount under this item, the member's
- 42 benefit is considered to be fifty percent (50%) of the monthly

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1 salary of a first class firefighter in the unit at the time of
2 payment of the pension; **and**

3 **(C) for the surviving spouse of a member who dies after**
4 **December 31, 2004, an amount per month, during the**
5 **spouse's life, equal to the greater of thirty percent (30%)**
6 **of the monthly salary of the rank held by the member at**
7 **the time of death or fifty-five percent (55%) of the monthly**
8 **benefit the deceased member was receiving or was entitled**
9 **to receive on the date of the member's death (these**
10 **amounts shall be proportionately increased or decreased**
11 **if the salary of the rank of a member holding the same**
12 **rank as the deceased member is increased or decreased).**
13 **However, if the deceased member was not entitled to a**
14 **benefit because the member had not completed twenty (20)**
15 **years of service, for purposes of computing the second**
16 **amount under this clause, the member's benefit is**
17 **considered to be fifty percent (50%) of the monthly salary**
18 **of the rank of the member at the time of death;**

19 (2) the member's children who are:

20 (A) less than eighteen (18) years of age; or

21 (B) less than twenty-three (23) years of age if the children are
22 enrolled in and regularly attending a secondary school or are
23 full-time students at an accredited college or university;

24 are each entitled to receive an amount fixed by ordinance but not
25 less than twenty percent (20%) of the salary of a fully paid first
26 class firefighter in the unit at the time of the payment of the
27 pension **if the member's death occurred before January 1,**
28 **2005, and not less than twenty percent (20%) of the current**
29 **salary of the rank held by the member at the time of death if**
30 **the member's death occurred after December 31, 2004; and**

31 (3) each parent of a deceased member who was eligible for a
32 pension is entitled to receive jointly an amount equal to thirty
33 percent (30%) of the salary of a fully paid first class firefighter in
34 the unit at the time of the payment of the pension **if the member's**
35 **death occurred before January 1, 2005, and not less than**
36 **thirty percent (30%) of the current salary of the rank held by**
37 **the member at the time of death if the member's death**
38 **occurred after December 31, 2004.**

39 If the local board finds upon the submission of satisfactory proof that
40 a child eighteen (18) years of age or older is mentally or physically
41 incapacitated, is not a ward of the state, and is not receiving a benefit
42 under subdivision (2)(B), the child is entitled to receive the same

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1 amount as is paid to the surviving spouse of a deceased firefighter, as
 2 long as the mental or physical incapacity continues. A sum paid for the
 3 benefit of a child or children shall be paid to the remaining parent, if
 4 alive, as long as the child or children reside with and are supported by
 5 the parent. If the parent dies, the sum shall be paid to the lawful
 6 guardian of the child or children.

7 (e) The monthly pension payable to a survivor may not be reduced
 8 below the amount of the first full monthly pension received by that
 9 person.

10 (f) A benefit payable under this section shall be paid in not less than
 11 twelve (12) monthly installments.

12 SECTION 17. IC 36-8-7-12.4, AS AMENDED BY P.L.185-2002,
 13 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2003]: Sec. 12.4. (a) This section applies to an active member
 15 who dies in the line of duty after August 31, 1982.

16 (b) If a member dies in the line of duty after August 31, 1982, **and**
 17 **before January 1, 2005**, the surviving spouse is entitled to a monthly
 18 benefit, during the spouse's lifetime, equal to the benefit to which the
 19 member would have been entitled on the date of the member's death,
 20 but not less than fifty percent (50%) of the monthly wage received by
 21 a fully paid first class firefighter. If the spouse remarried before
 22 September 1, 1983, and benefits ceased on the date of remarriage, the
 23 benefits for the surviving spouse shall be reinstated on July 1, 1997,
 24 and continue during the life of the surviving spouse. If the pension of
 25 the surviving spouse of a deceased member has ceased by virtue of the
 26 spouse's remarriage, and if the person to whom the spouse has
 27 remarried was a retired member of the fire department who was also
 28 entitled to a pension, then upon the death of the member to whom the
 29 spouse had remarried, the spouse is entitled to receive a pension as the
 30 surviving spouse of a deceased member as though the spouse had not
 31 been remarried.

32 (c) **If a member dies in the line of duty after December 31, 2004,**
 33 **the surviving spouse is entitled to a monthly benefit, during the**
 34 **spouse's lifetime, equal to the benefit to which the member would**
 35 **have been entitled on the date of the member's death, but not less**
 36 **than fifty percent (50%) of the monthly wage received by a**
 37 **member holding the rank that the deceased member held at the**
 38 **time of death.**

39 (d) If a member dies **in the line of duty** while in active service **after**
 40 **August 31, 1982, and before January 1, 2005**, the member's children
 41 who are:

- 42 (1) less than eighteen (18) years of age; or

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1 (2) less than twenty-three (23) years of age if the children are
 2 enrolled in and regularly attending a secondary school or are
 3 full-time students at an accredited college or university;
 4 are each entitled to receive an amount fixed by ordinance but not less
 5 than twenty percent (20%) of the salary of a fully paid first class
 6 firefighter in the unit at the time of the payment of the pension.

7 **(e) If a member dies in the line of duty while in active service**
 8 **after December 31, 2004, the member's children who are:**

9 **(1) less than eighteen (18) years of age; or**

10 **(2) less than twenty-three (23) years of age if the children are**
 11 **enrolled in and regularly attending a secondary school or are**
 12 **full-time students at an accredited college or university;**
 13 **are each entitled to receive an amount fixed by ordinance but not**
 14 **less than twenty percent (20%) of the current salary of the rank**
 15 **that the deceased member held at the time of death.**

16 ~~(d)~~ **(f)** The surviving children of the deceased member who are
 17 eligible to receive a benefit under subsection ~~(e)~~ **(d)** may receive an
 18 additional benefit in an amount fixed by ordinance, but the total
 19 additional benefit under this subsection to all the member's children
 20 may not exceed a total of thirty percent (30%) of the monthly wage
 21 received by a first class firefighter. However, this limitation does not
 22 apply to the children of a member who are physically or mentally
 23 disabled.

24 **(g) The surviving children of the deceased member who are**
 25 **eligible to receive a benefit under subsection (e) may receive an**
 26 **additional benefit in an amount fixed by ordinance, but the total**
 27 **additional benefit under this subsection to all the member's**
 28 **children may not exceed a total of thirty percent (30%) of the**
 29 **current salary of the rank that the deceased member held at the**
 30 **time of death. However, this limitation does not apply to the**
 31 **children of a member who are physically or mentally disabled.**

32 ~~(e)~~ **(h)** If a deceased member of the fire department leaves no
 33 surviving spouse or children but leaves a dependent parent, and upon
 34 satisfactory proof that the parent was wholly dependent upon the
 35 deceased member, the local board shall authorize the monthly payment
 36 to the parent from the 1937 fund. Each parent of a deceased member
 37 who was eligible for a pension under this subsection is entitled to
 38 receive jointly an amount equal to thirty percent (30%) of the salary of
 39 a fully paid first class firefighter in the unit at the time of the payment
 40 of the pension.

41 ~~(f)~~ **(i)** For purposes of this section, "dies in the line of duty" means
 42 death that occurs as a direct result of personal injury or illness caused

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1 by incident, accident, or violence that results from any action that the
2 member, in the member's capacity as a firefighter:

- 3 (1) is obligated or authorized by rule, regulation, condition of
- 4 employment or service, or law to perform; or
- 5 (2) performs while on the scene of an emergency run (including
- 6 false alarms) or on the way to or from the scene.

7 The term includes a death presumed incurred in the line of duty under
8 IC 5-10-13.

9 ~~(g)~~ **(j)** If the local board finds upon the submission of satisfactory
10 proof that a child eighteen (18) years of age or older is mentally or
11 physically incapacitated, is not a ward of the state, and is not receiving
12 a benefit under subsection ~~(c)(2)~~ **(d)(2) or (e)(2)**, the child is entitled
13 to receive the same amount as is paid to the surviving spouse of a
14 deceased firefighter, as long as the mental or physical incapacity
15 continues. A sum paid for the benefit of a child or children shall be
16 paid to the remaining parent, if alive, as long as the child or children
17 reside with and are supported by the parent. If the parent dies, the sum
18 shall be paid to the lawful guardian of the child or children.

19 ~~(h)~~ **(k)** The monthly pension payable to a survivor may not be
20 reduced below the amount of the first full monthly pension received by
21 that person.

22 ~~(i)~~ **(l)** A benefit payable under this section shall be paid in not less
23 than twelve (12) monthly installments.

24 SECTION 18. IC 36-8-7.5-8 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The 1953 fund is
26 derived from the following sources:

27 (1) From money or other property that is given to the local board
28 for the use of the fund. The local board may take by gift, grant,
29 devise, or bequest any money, chose in action, personal property,
30 real property, or use the same for the purposes of the 1953 fund
31 or for such purposes specified by the grantor.

32 (2) From money, fees, and awards of every nature that are given
33 to the police department of the municipality or to a member of the
34 department because of service or duty performed by the
35 department or a member. This includes fines imposed by the
36 safety board against a member of the department, all money from
37 gambling cases and from gambling devices as well as the
38 proceeds from the sale of lost, stolen, and confiscated property
39 recovered or taken into possession by members of the police
40 department in the performance of their duties and confiscated by
41 court order, and sold at a public sale in accordance with law.

42 (3) From an assessment made during the period of his

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1 employment or for thirty-two (32) years, whichever is shorter, on
 2 the salary of each member whom the local board has accepted and
 3 designated as a beneficiary of the 1953 fund, an amount equal to:

4 **(A) before January 1, 2005**, six percent (6%) of the salary of
 5 a first class patrolman; **and**

6 **(B) after December 31, 2004, an amount equal to six**
 7 **percent (6%) of the salary of the rank of the member.**

8 However, the employer may pay all or a part of the assessment for
 9 the member.

10 (4) From the income from investments of the 1953 fund.

11 (5) From the proceeds of a tax levied by the police special service
 12 district upon taxable property in the district, which the treasurer
 13 **of state** shall collect and credit to the 1953 fund, to be used
 14 exclusively by the 1953 fund.

15 SECTION 19. IC 36-8-7.5-12 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) Benefits paid
 17 under this section are subject to section 1.5 of this chapter.

18 (b) The 1953 fund shall be used to provide a member of the police
 19 department who retires from active duty after twenty (20) or more years
 20 of active duty an annual pension equal to fifty percent (50%) of the
 21 salary of a first class patrolman in the police department, plus:

22 (1) for a member who retires before January 1, 1986, two percent
 23 (2%) of the first class patrolman's salary for each year of service;
 24 or

25 (2) for a member who retires after December 31, 1985, **and**
 26 **before January 1, 2005**, one percent (1%) of the first class
 27 patrolman's salary for each six (6) months of service;

28 of the retired member over twenty (20) years. The pension may not
 29 exceed in any year an amount greater than seventy-four percent (74%)
 30 of the salary of a first class patrolman. The pensions shall be computed
 31 on an annual basis but shall be paid in twelve (12) equal monthly
 32 installments. If the salary of a first class patrolman is increased or
 33 decreased, the pension payable shall be proportionately increased or
 34 decreased.

35 (c) **The 1953 fund shall be used to provide a member of the**
 36 **police department who retires after December 31, 2004, from**
 37 **active duty after at least twenty (20) years of service an annual**
 38 **pension equal to fifty percent (50%) of the salary of the rank of the**
 39 **member at the date of retirement. The pension shall be computed**
 40 **on an annual basis but shall be paid in not less than twelve (12)**
 41 **equal monthly installments. If the salary of the rank of the member**
 42 **is increased or decreased after the date of the member's**

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1 **retirement, the pension payable shall be proportionately increased**
 2 **or decreased.**

3 (d) If a member retires upon his voluntary application after twenty
 4 (20) years or more of active service, he then relinquishes all rights to
 5 other benefits or pensions for disability during the time of his
 6 retirement.

7 ~~(d)~~ (e) After retirement the member is not required to render further
 8 services on the police department and is no longer subject to the rules
 9 of the police department, unless a national emergency has been
 10 declared by the local board, on application by the executive, the safety
 11 board, and the police chief of the city. Upon declaration of such an
 12 emergency, the retired member, if physically able, shall return to active
 13 duty under the rank he attained at the time of his retirement, and if he
 14 refuses to return to active duty upon being declared physically fit, he
 15 forfeits his right to receive his pension until the time he returns to
 16 active duty and again is retired or discharged from service.

17 ~~(e)~~ (f) No pension, annuity, or benefit provided by this chapter is
 18 payable by the local board except upon written application by the
 19 member of the police department, or the surviving spouse or other
 20 dependent, upon the forms and with the information required by the
 21 local board

22 SECTION 20. IC 36-8-7.5-13, AS AMENDED BY P.L.185-2002,
 23 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2003]: Sec. 13. (a) For a member who becomes disabled
 25 before July 1, 2000, the 1953 fund shall be used to pay a pension in an
 26 annual sum equal to:

- 27 (1) fifty percent (50%) for a disease or disability occurring before
 28 July 1, 1991; and
 29 (2) fifty-five percent (55%) for a disease or disability occurring
 30 after June 30, 1991;

31 of the salary of a first class patrolman in the police department,
 32 computed and payable as prescribed by section 12(b) of this chapter,
 33 to an active member of the police department who has been in active
 34 service for more than one (1) year and who has suffered or contracted
 35 a mental or physical disease or disability that render the member
 36 permanently unfit for active duty in the police department, or to an
 37 active member of the police department who has been in active service
 38 for less than one (1) year who has suffered or received personal injury
 39 from violent external causes while in the actual discharge of the
 40 member's duties as a police officer. The pensions provided for in this
 41 subsection shall be paid only so long as the member of the police
 42 department remains unfit for active duty in the police department.



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1 (b) For a member who becomes disabled after June 30, 2000, **and**
 2 **before January 1, 2005**, the 1953 fund shall be used to pay a pension
 3 in an annual sum equal to fifty-five percent (55%) of the salary of a
 4 first class patrolman in the police department, computed on an annual
 5 basis and payable in twelve (12) equal monthly installments, to an
 6 active member of the police department who:

7 (1) has suffered or incurred a disability that renders the member
 8 permanently unfit for active duty in the police department and
 9 that is:

10 (A) the direct result of:

11 (i) a personal injury that occurs while the fund member is on
 12 duty;

13 (ii) a personal injury that occurs while the fund member is
 14 off duty and is responding to an offense or a reported
 15 offense; or

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

19 (B) a duty related disease (for purposes of this section, a "duty
 20 related disease" means a disease arising out of the fund
 21 member's employment; a disease is considered to arise out of
 22 the fund member's employment if it is apparent to the rational
 23 mind, upon consideration of all of the circumstances, that:

24 (i) there is a connection between the conditions under which
 25 the fund member's duties are performed and the disease;

26 (ii) the disease can be seen to have followed as a natural
 27 incident of the fund member's duties as a result of the
 28 exposure occasioned by the nature of the fund member's
 29 duties; and

30 (iii) the disease can be traced to the fund member's
 31 employment as the proximate cause); or

32 (C) a disability presumed incurred in the line of duty under
 33 IC 5-10-13; and

34 (2) is unable to perform the essential functions of the job,
 35 considering reasonable accommodation to the extent required by
 36 the Americans with Disabilities Act.

37 The pensions provided for in this subsection shall be paid only so long
 38 as the member of the police department remains unfit for active duty
 39 in the police department. If the salary of a first class patrolman is
 40 increased or decreased, the pension payable shall be proportionately
 41 increased or decreased. However, the monthly pension payable to a
 42 member or survivor may not be reduced below the amount of the first

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1 full monthly pension received by that person.

2 (c) For a member who becomes disabled after June 30, 2000, **and**
 3 **before January 1, 2005**, the 1953 fund shall be used to pay a pension
 4 in an annual sum equal to fifty-five percent (55%) of the salary of a
 5 first class patrolman in the police department, computed on an annual
 6 basis and payable in twelve (12) equal monthly installments, to an
 7 active member of the police department who has been in active service
 8 for at least one (1) year and:

9 (1) has suffered or incurred a disability that:

10 (A) renders the member permanently unfit for active duty in
 11 the police department; and

12 (B) is not described in subsection (b)(1); and

13 (2) is unable to perform the essential functions of the job,
 14 considering reasonable accommodation to the extent required by
 15 the Americans with Disabilities Act.

16 The pension provided in this subsection shall be paid only so long as
 17 the member of the police department remains unfit for active duty in
 18 the police department. If the salary of a first class patrolman is
 19 increased or decreased, the pension payable shall be proportionately
 20 increased or decreased. However, the monthly pension payable to a
 21 member or survivor may not be reduced below the amount of the first
 22 full monthly pension received by that person.

23 (d) **For a member who becomes disabled after December 31,**
 24 **2004, the 1953 fund shall be used to pay a pension in an annual sum**
 25 **equal to fifty-five percent (55%) of the salary of the rank of the**
 26 **member before the disability, computed on an annual basis and**
 27 **payable in twelve (12) equal monthly installments, to an active**
 28 **member of the police department who:**

29 (1) has suffered or incurred a disability that renders the
 30 member permanently unfit for active duty in the police
 31 department and that is:

32 (A) the direct result of:

33 (i) a personal injury that occurs while the fund member
 34 is on duty;

35 (ii) a personal injury that occurs while the fund member
 36 is off duty and is responding to an offense or a reported
 37 offense; or

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

41 (B) a duty related disease (for purposes of this section, a
 42 "duty related disease" means a disease arising out of the

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fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

- (i) there is a connection between the conditions under which the fund member's duties are performed and the disease;**
- (ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and**
- (iii) the disease can be traced to the fund member's employment as the proximate cause); or**

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of the rank the disabled member holds is increased or decreased after the date of the member's disability, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member may not be reduced below the amount of the first full monthly pension received by that person.

(e) For a member who becomes disabled after December 31, 2004, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of the rank of the member in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

- (1) has suffered or incurred a disability that:**
 - (A) renders the member permanently unfit for active duty in the police department; and**
 - (B) is not described in subsection (b)(1); and**
- (2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.**

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active

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1 **duty in the police department. If the salary of the rank the disabled**
 2 **member holds is increased or decreased after the date of the**
 3 **member's disability, the pension payable shall be proportionately**
 4 **increased or decreased. However, the monthly pension payable to**
 5 **a member may not be reduced below the amount of the first full**
 6 **monthly pension received by that person.**

7 (f) For a member who became disabled before July 1, 2000, the
 8 1953 fund shall be used to pay temporary benefits in an annual sum
 9 equal to thirty percent (30%) of the salary of a first class patrolman in
 10 the police department, computed and payable as prescribed by section
 11 12(a) of this chapter, to an active member of the police department who
 12 has been in active service for more than one (1) year and who has
 13 suffered any physical or mental disability that renders the member
 14 temporarily or permanently unable to perform his duties as a member
 15 of the police department, or to an active member of the police
 16 department who has been in active service for less than one (1) year
 17 and who has suffered or received personal injury from violent external
 18 causes while in the actual discharge of the member's duties as a police
 19 officer, until the time the member is physically and mentally able to
 20 return to active service on the police department.

21 (e) (g) For a member who becomes disabled after June 30, 2000,
 22 **and before January 1, 2005**, the 1953 fund shall be used to pay a
 23 pension in an annual sum equal to thirty percent (30%) of the salary of
 24 a first class patrolman in the police department, computed on an annual
 25 basis and payable in twelve (12) equal monthly installments, to an
 26 active member of the police department who:

27 (1) suffers or incurs a disability that renders the member
 28 temporarily unfit for active duty in the police department and that
 29 is:

30 (A) the direct result of:

31 (i) a personal injury that occurs while the fund member is on
 32 duty;

33 (ii) a personal injury that occurs while the fund member is
 34 off duty and is responding to an offense or a reported
 35 offense, in the case of a police officer; or

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

39 (B) a duty related disease (for purposes of this section, a "duty
 40 related disease" means a disease arising out of the fund
 41 member's employment; a disease is considered to arise out of
 42 the fund member's employment if it is apparent to the rational

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1 mind, upon consideration of all of the circumstances, that:

2 (i) there is a connection between the conditions under which
3 the fund member's duties are performed and the disease;

4 (ii) the disease can be seen to have followed as a natural
5 incident of the fund member's duties as a result of the
6 exposure occasioned by the nature of the fund member's
7 duties; and

8 (iii) the disease can be traced to the fund member's
9 employment as the proximate cause); or

10 (C) a disability presumed incurred in the line of duty under
11 IC 5-10-13; and

12 (2) is unable to perform the essential functions of the job,
13 considering reasonable accommodation to the extent required by
14 the Americans with Disabilities Act.

15 The pension provided in this subsection shall be paid only so long as
16 the member of the police department remains unfit for active duty in
17 the police department. If the salary of a first class patrolman is
18 increased or decreased, the pension payable shall be proportionately
19 increased or decreased. However, the monthly pension payable to a
20 member or survivor may not be reduced below the amount of the first
21 full monthly pension received by that person.

22 ~~(f)~~ **(h)** For a member who becomes disabled after June 30, 2000,
23 **and before January 1, 2005**, the 1953 fund shall be used to pay
24 temporary benefits in an annual sum equal to thirty percent (30%) of
25 the salary of a first class patrolman in the police department, computed
26 on an annual basis and payable in twelve (12) equal monthly
27 installments, to an active member of the police department:

28 (1) who has been in active service for at least one (1) year;

29 (2) suffers or incurs a disability that:

30 (A) renders the member temporarily unfit for active duty in the
31 police department; and

32 (B) is not described in subsection ~~(e)(1)~~; **(g)(1)**, and

33 (3) is unable to perform the essential functions of the job,
34 considering reasonable accommodation to the extent required by
35 the Americans with Disabilities Act.

36 The pension provided for in this subsection shall be paid only so long
37 as the member of the police department remains unfit for active duty
38 in the police department. If the salary of a first class patrolman is
39 increased or decreased, the pension payable shall be proportionately
40 increased or decreased. However, the monthly pension payable to a
41 member or survivor may not be reduced below the amount of the first
42 full monthly pension received by that person.



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1 (i) For a member who becomes disabled after December 31,
 2 2004, the 1953 fund shall be used to pay a pension in an annual sum
 3 equal to thirty percent (30%) of the salary of the rank of the
 4 member before the member's disability, computed on an annual
 5 basis and payable in twelve (12) equal monthly installments, to an
 6 active member of the police department who:

7 (1) suffers or incurs a disability that renders the member
 8 temporarily unfit for active duty in the police department and
 9 that is:

10 (A) the direct result of:

11 (i) a personal injury that occurs while the fund member
 12 is on duty;

13 (ii) a personal injury that occurs while the fund member
 14 is off duty and is responding to an offense or a reported
 15 offense, in the case of a police officer; or

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

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

25 (i) there is a connection between the conditions under
 26 which the fund member's duties are performed and the
 27 disease;

28 (ii) the disease can be seen to have followed as a natural
 29 incident of the fund member's duties as a result of the
 30 exposure occasioned by the nature of the fund member's
 31 duties; and

32 (iii) the disease can be traced to the fund member's
 33 employment as the proximate cause); or

34 (C) a disability presumed incurred in the line of duty under
 35 IC 5-10-13; and

36 (2) is unable to perform the essential functions of the job,
 37 considering reasonable accommodation to the extent required
 38 by the Americans with Disabilities Act.

39 The pension provided in this subsection shall be paid only so long
 40 as the member of the police department remains unfit for active
 41 duty in the police department. If the salary of the rank the disabled
 42 member holds is increased or decreased after the date of the

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1 member's disability, the pension payable shall be proportionately
 2 increased or decreased. However, the monthly pension payable to
 3 a member or survivor may not be reduced below the amount of the
 4 first full monthly pension received by that person.

5 (j) For a member who becomes disabled after December 31,
 6 2004, the 1953 fund shall be used to pay temporary benefits in an
 7 annual sum equal to thirty percent (30%) of the salary of the rank
 8 of the member before the member's disability, computed on an
 9 annual basis and payable in twelve (12) equal monthly installments,
 10 to an active member of the police department who:

11 (1) has been in active service for at least one (1) year;

12 (2) suffers or incurs a disability that:

13 (A) renders the member temporarily unfit for active duty
 14 in the police department; and

15 (B) is not described in subsection (e)(1); and

16 (3) is unable to perform the essential functions of the job,
 17 considering reasonable accommodation to the extent required
 18 by the Americans with Disabilities Act.

19 The pension provided for in this subsection shall be paid only so
 20 long as the member of the police department remains unfit for
 21 active duty in the police department. If the salary of the rank the
 22 disabled member holds is increased or decreased after the date of
 23 the member's disability, the pension payable shall be
 24 proportionately increased or decreased. However, the monthly
 25 pension payable to a member or survivor may not be reduced
 26 below the amount of the first full monthly pension received by that
 27 person.

28 ~~(g)~~ (k) If an application is made by an active member of the police
 29 department because of physical or mental disability for temporary
 30 benefits as provided in subsection ~~(d)~~, ~~(e)~~, or (f), (g), (h), (i), or (j), the
 31 benefit is not payable until the local board determines after a hearing
 32 conducted under IC 36-8-8-12.7 that the member is unfit for active duty
 33 on the police department, considering reasonable accommodation to
 34 the extent required by the Americans with Disabilities Act. Before the
 35 hearing, a physician to be appointed by the local board shall examine
 36 the member and certify in writing whether in the physician's opinion
 37 the member is unfit, physically or mentally, for active duty in the police
 38 department. After the pension or benefit has been granted by the local
 39 board, the payment commences with the original date of the injury or
 40 illness causing the disability.

41 ~~(h)~~ (l) A member who has been granted a disability benefit under
 42 this section and who fails or refuses to submit to a physical

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1 examination at any time by the local board physician has no right in the
 2 future to receive the disability benefit, and any benefit that has been
 3 granted shall be immediately canceled by the local board.

4 (†) (m) The local board may, from time to time, require a member
 5 of the police department who is receiving at any time disability benefits
 6 or pensions as provided in this section to be examined by the physician
 7 appointed by the local board. After the examination, the local board
 8 shall conduct a hearing under IC 36-8-8-12.7 to determine whether the
 9 disability still exists and whether the member should continue to
 10 receive the pension or benefit. If after the examination and hearing the
 11 member is found to have recovered from the member's disability and
 12 is fit for active duty on the police department, then upon written notice
 13 to the member by the local board, the member shall be reinstated in
 14 active service, the safety board shall be informed of the action of the
 15 local board, and from that time the member is no longer entitled to
 16 payments from the 1953 fund. If the member fails or refuses to return
 17 to active duty after ordered by the local board, the member ceases to be
 18 a member of the 1953 fund and waives all rights to any further
 19 pensions or benefits provided by the 1953 fund.

20 (†) (n) Notwithstanding any other provision of this chapter, no
 21 disability benefit may be paid for any disability based upon or caused
 22 by any mental or physical condition that a member had at the time the
 23 member entered or reentered the member's active service in the police
 24 department.

25 (†) (o) If a member who is receiving disability benefits under
 26 subsection (a), (b), or (c) for a disease or disability occurring after June
 27 30, 1991, **and before January 1, 2005**, is transferred from disability
 28 to regular retirement status, the member's monthly pension may not be
 29 reduced below fifty-five percent (55%) of the salary of a first class
 30 patrolman at the time of payment of the pension.

31 **(p) If a member who is receiving disability benefits under**
 32 **subsection (d) or (e) for a disease or disability occurring after**
 33 **December 31, 2004, is transferred from disability to regular**
 34 **retirement status, the member's monthly pension may not be**
 35 **reduced below fifty-five percent (55%) of the current salary of the**
 36 **rank of the member before the member's disability.**

37 (†) (q) To the extent required by the Americans with Disabilities
 38 Act, the transcripts, reports, records, and other material compiled to
 39 determine the existence of a disability shall be:

- 40 (1) kept in separate medical files for each member; and
- 41 (2) treated as confidential medical records.

42 (†) (r) A fund member who is receiving disability benefits under

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1 this chapter shall be transferred from disability to regular retirement
2 status when the member becomes fifty-five (55) years of age.

3 SECTION 21. IC 36-8-7.5-13.6, AS AMENDED BY P.L.1-2001,
4 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2003]: Sec. 13.6. (a) This section applies to an active or
6 retired member who dies other than in the line of duty (as defined in
7 section 14.1 of this chapter).

8 (b) The 1953 fund shall be used to pay an annuity, computed under
9 subsection (g) and payable in monthly installments, to the surviving
10 spouse of a member of the fund who dies from any cause after having
11 served for one (1) year or more. The annuity continues during the life
12 of the surviving spouse unless the spouse remarried before September
13 1, 1983. If the spouse remarried before September 1, 1983, benefits
14 ceased on the date of remarriage. If a member of the fund died, but not
15 in the line of duty, and the member's surviving spouse remarried before
16 September 1, 1983, the benefits of the surviving spouse shall be
17 reinstated on July 1, 1997, and continue during the life of the surviving
18 spouse.

19 (c) The 1953 fund shall also be used to pay:

20 (1) an annuity equal to twenty percent (20%) of the salary of a
21 first class patrolman on the police department, computed as
22 provided in section 12(b) of this chapter and payable in monthly
23 installments, to each dependent child of a member of the fund
24 who dies **before January 1, 2005; or**

25 **(2) an annuity equal to twenty percent (20%) of the salary of**
26 **the rank of the member, computed as provided in section**
27 **12(c) of this chapter and payable in monthly installments, to**
28 **each dependent child of a member of the fund who dies after**
29 **December 31, 2004;**

30 from any cause after having served for one (1) year or more as an active
31 member of the police department. The pension to each child continues

32 (†) until the child becomes eighteen (18) years of age,

33 (‡) until the child becomes twenty-three (23) years of age if the
34 child is enrolled in and regularly attending a secondary school or

35 is a full-time student at an accredited college or university, or

36 (⊕) during the entire period of the child's physical or mental
37 disability,

38 whichever period is longest. However, the pension to the child ceases
39 if the child marries or is legally adopted by any person.

40 (d) If a deceased member leaves no surviving spouse and no child
41 who qualifies for a benefit under subsection (c) but does leave a
42 dependent parent or parents, the 1953 fund is used to pay an annuity

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1 not greater than a sum equal to twenty percent (20%) of the salary of
 2 a first class patrolman on the police department, computed and payable
 3 as provided in section 12(b) of this chapter, payable monthly to the
 4 dependent parent or parents of a member of the police department who
 5 dies from any cause after having served for one (1) year or more as an
 6 active member of the police department. The annuity continues for the
 7 remainder of the life or lives of the parent or parents as long as either
 8 or both fail to have sufficient other income for their proper care,
 9 maintenance, and support.

10 (e) In all cases of payment to a dependent relative of a deceased
 11 member, the local board is the final judge of the question of necessity
 12 and dependency and of the amount within the stated limits to be paid.
 13 The local board may also reduce or terminate temporarily or
 14 permanently a payment to a dependent relative of a deceased member
 15 when it determines that the condition of the 1953 fund or other
 16 circumstances make this action necessary.

17 (f) If the salary of a:

18 **(1) first class patrolman as provided under subsection (g)(1) or**

19 **(g)(2); or**

20 **(2) member holding the rank that the deceased member held**
 21 **at the time of death as provided in subsection (g)(3);**

22 is increased or decreased, the pension payable under this section shall
 23 be proportionately increased or decreased. However, the monthly
 24 pension payable to a member or survivor may not be reduced below the
 25 amount of the first full monthly pension received by that person.

26 (g) Except as otherwise provided in this subsection, the annuity
 27 payable under subsection (b) equals one (1) of the following:

28 (1) For the surviving spouse of a member who dies before January
 29 1, 1989, thirty percent (30%) of the salary of a first class
 30 patrolman.

31 (2) For the surviving spouse of a member who dies after
 32 December 31, 1988, **and before January 1, 2005**, an amount per
 33 month during the spouse's life equal to the greater of:

34 (A) thirty percent (30%) of the monthly pay of a first class
 35 patrolman; or

36 (B) fifty-five percent (55%) of the monthly benefit the
 37 deceased member was receiving or was entitled to receive on
 38 the date of the member's death.

39 However, if the deceased member was not entitled to a benefit
 40 because the member had not completed twenty (20) years of
 41 service, for the purposes of computing the amount under
 42 subdivision (2)(B) the member's benefit is considered to be fifty

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1 percent (50%) of the monthly salary of a first class patrolman.
 2 The amount provided in this subdivision is subject to adjustment
 3 as provided in subsection (f).

4 **(3) For the surviving spouse of a member who dies after**
 5 **December 31, 2004, an amount per month during the spouse's**
 6 **life equal to the greater of:**

7 **(A) thirty percent (30%) of the monthly salary of the rank**
 8 **held by the member at the time of death; or**

9 **(B) fifty-five percent (55%) of the monthly benefit the**
 10 **deceased member was receiving or was entitled to receive**
 11 **on the date of the member's death.**

12 **However, if the deceased member was not entitled to a benefit**
 13 **because the member had not completed twenty (20) years of**
 14 **service, for the purposes of computing the amount under**
 15 **clause (B) the member's benefit is considered to be fifty**
 16 **percent (50%) of the monthly salary of the member at the**
 17 **time of death. The amount provided in this subdivision is**
 18 **subject to adjustment as provided in subsection (f).**

19 SECTION 22. IC 36-8-7.5-14.1, AS AMENDED BY P.L.185-2002,
 20 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2003]: Sec. 14.1. (a) This section applies to an active member
 22 who dies in the line of duty after August 31, 1982.

23 (b) If a member dies in the line of duty after August 31, 1982, **and**
 24 **before January 1, 2005**, the surviving spouse is entitled to a monthly
 25 benefit, during the spouse's lifetime, equal to the benefit to which the
 26 member would have been entitled on the date of the member's death,
 27 but not less than fifty percent (50%) of the monthly wage received by
 28 a first class patrolman. If the spouse remarried before September 1,
 29 1983, benefits ceased on the date of remarriage. However, if a member
 30 of the police department dies in the line of duty after August 31, 1982,
 31 and the member's surviving spouse remarried before September 1,
 32 1983, the benefits for the surviving spouse shall be reinstated on July
 33 1, 1995, and continue during the life of the surviving spouse.

34 (c) **If a member dies in the line of duty after December 31, 2004,**
 35 **the surviving spouse is entitled to a monthly benefit, during the**
 36 **spouse's lifetime, equal to the benefit to which the member would**
 37 **have been entitled on the date of the member's death, but not less**
 38 **than fifty percent (50%) of the monthly wage received by a**
 39 **member holding the rank that the deceased member held at the**
 40 **time of death.**

41 (d) **If a member dies in the line of duty after August 31, 1982,**
 42 **and before January 1, 2005**, the 1953 fund shall also be used to pay

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1 an annuity equal to twenty percent (20%) of the salary of a first class
 2 patrolman on the police department, computed as provided in section
 3 12(b) of this chapter and payable in monthly installments, to each
 4 dependent child of a member of the fund who dies from any cause
 5 while in the actual discharge of duties as a police officer. The pension
 6 to each child continues:

- 7 (1) until the child becomes eighteen (18) years of age;
 8 (2) until the child becomes twenty-three (23) years of age if the
 9 child is enrolled in and regularly attending a secondary school or
 10 is a full-time student at an accredited college or university; or
 11 (3) during the entire period of the child's physical or mental
 12 disability;

13 whichever period is longest. However, the pension to the child ceases
 14 if the child marries or is legally adopted by any person.

15 ~~(d)~~ (e) The surviving children of the deceased member who are
 16 eligible to receive a benefit under subsection ~~(e)~~ (d) may receive an
 17 additional benefit in an amount fixed by ordinance, but the total benefit
 18 to all the member's children under this subsection may not exceed a
 19 total of thirty percent (30%) of the monthly wage received by a first
 20 class patrolman. However, this limitation does not apply to the children
 21 of a member who are physically or mentally disabled.

22 **(f) If a member dies in the line of duty after December 31, 2004,**
 23 **the 1953 fund shall also be used to pay an annuity equal to twenty**
 24 **percent (20%) of the salary of the rank that the member held at the**
 25 **time of the member's death, computed as provided in section 12(b)**
 26 **of this chapter and payable in monthly installments, to each**
 27 **dependent child of a member of the fund who dies from any cause**
 28 **while in the actual discharge of duties as a police officer. The**
 29 **pension to each child continues:**

- 30 (1) until the child becomes eighteen (18) years of age;
 31 (2) until the child becomes twenty-three (23) years of age if
 32 the child is enrolled in and regularly attending a secondary
 33 school or is a full-time student at an accredited college or
 34 university; or
 35 (3) during the entire period of the child's physical or mental
 36 disability;

37 whichever period is longest. However, the pension to the child
 38 ceases if the child marries or is legally adopted by any person.

39 (g) The surviving children of the deceased member who are
 40 eligible to receive a benefit under subsection (f) may receive an
 41 additional benefit in an amount fixed by ordinance, but the total
 42 benefit to all the member's children under this subsection may not

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1 **exceed a total of thirty percent (30%) of the monthly salary of the**
 2 **rank that the deceased member held at the time of the member's**
 3 **death. However, this limitation does not apply to the children of a**
 4 **member who are physically or mentally disabled.**

5 ~~(e)~~ **(h)** If a deceased member leaves no surviving spouse and no
 6 child who qualifies for a benefit under subsection ~~(e)~~ **(d) or (f)** but does
 7 leave a dependent parent or parents, the 1953 fund shall be used to pay
 8 an annuity not greater than a sum equal to twenty percent (20%) of the
 9 salary of a first class patrolman on the police department, computed
 10 and payable as provided in section 12(b) of this chapter, payable
 11 monthly to the dependent parent or parents of a member of the police
 12 department who dies from any cause while in the actual discharge of
 13 duties as a police officer. The annuity continues for the remainder of
 14 the life or lives of the parent or parents as long as either or both fail to
 15 have sufficient other income for their proper care, maintenance, and
 16 support.

17 ~~(f)~~ **(i)** In all cases of payment to a dependent relative of a deceased
 18 member, the local board is the final judge of the question of necessity
 19 and dependency and of the amount within the stated limits to be paid.
 20 The local board may also reduce or terminate temporarily or
 21 permanently a payment to a dependent relative of a deceased member
 22 when it determines that the condition of the 1953 fund or other
 23 circumstances make this action necessary.

24 ~~(g)~~ **(j)** If the salary of a first class patrolman **as provided under**
 25 **subsection (b) or (d)** is increased or decreased, the pension payable
 26 under this section shall be proportionately increased or decreased.
 27 However, the monthly pension payable to a member or survivor may
 28 not be reduced below the amount of the first full monthly pension
 29 received by that person.

30 **(k) If the salary of a current member of the police department**
 31 **holding the rank that the deceased member held at the time of the**
 32 **member's death as provided under subsection (c) or (f) is increased**
 33 **or decreased, the pension payable under this section shall be**
 34 **proportionately increased or decreased. However, the monthly**
 35 **pension payable to a survivor may not be reduced below the**
 36 **amount of the first full monthly pension received by that person.**

37 ~~(h)~~ **(l)** For purposes of this section, "dies in the line of duty" means
 38 death that occurs as a direct result of personal injury or illness caused
 39 by incident, accident, or violence that results from any action that the
 40 member, in the member's capacity as a police officer:

41 (1) is obligated or authorized by rule, regulation, condition of
 42 employment or service, or law to perform; or

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1 (2) performs in the course of controlling or reducing crime or
2 enforcing the criminal law.

3 The term includes a death presumed incurred in the line of duty under
4 IC 5-10-13.

5 SECTION 23. IC 36-8-8-8 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Each fund
7 member shall contribute during the period of his employment or for
8 thirty-two (32) years, whichever is shorter:

- 9 (1) before January 1, 2005, an amount equal to six percent (6%)
10 of the salary of a first class patrolman or firefighter; and
11 (2) after December 31, 2004, an amount equal to six percent
12 (6%) of the salary of the rank of the member.

13 However, the employer may pay all or a part of the contribution for the
14 member. The amount of the contribution, other than contributions paid
15 on behalf of a member, shall be deducted each pay period from each
16 fund member's salary by the disbursing officer of the employer. The
17 employer shall send to the PERF board each year on March 31, June
18 30, September 30, and December 31, for the calendar quarters ending
19 on those dates, a certified list of fund members and a warrant issued by
20 the employer for the total amount deducted for fund members'
21 contributions.

22 (b) If a fund member ends his employment other than by death or
23 disability before he completes twenty (20) years of active service, the
24 PERF board shall return to him in a lump sum his contributions plus
25 interest as determined by the PERF board. If the fund member returns
26 to service, he is entitled to credit for the years of service for which his
27 contributions were refunded if he repays the amount refunded to him
28 in either a lump sum or a series of payments determined by the PERF
29 board.

30 SECTION 24. IC 36-8-8-9 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) This section
32 applies to all police officers and firefighters who converted their
33 benefits under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were
34 repealed September 1, 1981).

35 (b) A police officer or firefighter who converted his benefits from
36 a 1925, 1937, or 1953 fund to the benefits and conditions of this
37 chapter is not entitled to receive any benefits from the original fund.
38 However, he is entitled to credit for all years of service for which he
39 would have received credit before his conversion in that original fund.

- 40 (c) A police officer or firefighter who:
41 (1) converted his benefits from a 1925, 1937, or 1953 fund;
42 (2) retired or became disabled on or before June 30, 1998; and

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1 (3) is entitled to receive benefits provided under this chapter
 2 based on the eligibility requirements of this chapter;
 3 shall be treated as a member of this fund for purposes of paying his
 4 benefits from the 1977 fund effective for benefits paid on or after
 5 October 1, 1998. Prior to October 1, 1998, he remains a member of the
 6 original fund entitled to receive only the benefits provided under this
 7 chapter based on the eligibility requirements of this chapter.

8 (d) A police officer or firefighter who:

9 (1) converted his benefits from a 1925, 1937, or 1953 fund;

10 (2) ~~who~~ did not retire or become disabled on or before June 30,
 11 1998; and

12 (3) ~~who~~ is entitled to receive benefits provided under this chapter
 13 based on the eligibility requirements of this chapter;

14 remains a member of that original fund but is entitled to receive only
 15 the benefits provided under this chapter and based on the eligibility
 16 requirements of this chapter.

17 (e) A police officer or firefighter who converted shall contribute:

18 (1) six percent (6%) of the salary of a first class patrolman or
 19 firefighter **before January 1, 2005; and**

20 (2) **an amount equal to six percent (6%) of the salary of the**
 21 **rank of the member after December 31, 2004;**

22 to the 1925, 1937, or 1953 fund. This amount shall be deducted from
 23 his salary each pay period by the disbursing officer of the employer.
 24 Contributions under this subsection may not be refunded.

25 SECTION 25. IC 36-8-8-11 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Benefits paid
 27 under this section are subject to section 2.5 of this chapter.

28 (b) Each fund member who qualifies for a retirement benefit
 29 payment under section 10(b) of this chapter **and who retires before**
 30 **January 1, 2005**, is entitled to receive a monthly benefit equal to fifty
 31 percent (50%) of the monthly salary of a first class patrolman or
 32 firefighter in the year the member ended ~~his~~ active service plus:

33 (1) for a member who retires before January 1, 1986, two percent
 34 (2%) of that salary for each full year of active service; or

35 (2) for a member who retires after December 31, 1985, **and**
 36 **before January 1, 2005**, one percent (1%) of that salary for each
 37 six (6) months of active service;

38 over twenty (20) years, to a maximum of twelve (12) years.

39 (c) **Each fund member who qualifies for a retirement benefit**
 40 **under section 10(b) of this chapter and who retires after December**
 41 **31, 2004, is entitled to receive a monthly benefit equal to fifty**
 42 **percent (50%) of the monthly salary of the rank held by the**

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1 **member at the time the member ended active service.**

2 (d) Each fund member who qualifies for a retirement benefit
3 payment under section 10(c) of this chapter **and who retires before**
4 **January 1, 2005**, is entitled to receive a monthly benefit equal to fifty
5 percent (50%) of the monthly salary of a first class patrolman or
6 firefighter in the year the member ended his active service plus one
7 percent (1%) of that salary for each six (6) months of active service
8 over twenty (20) years, to a maximum of twelve (12) years, all
9 actuarially reduced for each month (if any) of benefit payments prior
10 to fifty-two (52) years of age, by a factor established by the fund's
11 actuary from time to time.

12 (e) **Each fund member who qualifies for a retirement benefit**
13 **payment under section 10(c) of this chapter and who retires after**
14 **December 31, 2004, is entitled to receive a monthly benefit equal to**
15 **fifty percent (50%) of the monthly salary of the rank held by the**
16 **member at the time the member ended active service all actuarially**
17 **reduced for each month (if any) of benefit payments before**
18 **fifty-two (52) years of age, by a factor established periodically by**
19 **the fund's actuary.**

20 SECTION 26. IC 36-8-8-13.5 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13.5. (a) This section
22 applies only to a fund member who:

- 23 (1) is hired for the first time after December 31, 1989;
24 (2) chooses coverage by this section and section 12.5 of this
25 chapter under section 12.4 of this chapter; or
26 (3) is described in section 12.3(c)(2) of this chapter.

27 (b) A fund member who is determined to have a Class 1 impairment
28 and for whom it is determined that there is no suitable and available
29 work within the fund member's department, considering reasonable
30 accommodation to the extent required by the Americans with
31 Disabilities Act, is entitled to a monthly base benefit:

- 32 (1) equal to forty-five percent (45%) of the monthly salary of a
33 first class patrolman or firefighter **for a Class 1 impairment**
34 **occurring before January 1, 2005; and**
35 (2) equal to forty-five percent (45%) of the monthly salary of
36 **the rank of the member at the time of the occurrence of the**
37 **Class 1 impairment for a Class 1 impairment occurring after**
38 **December 31, 2004;**

39 in the year of the local board's determination of impairment.

40 (c) A fund member who is determined to have a Class 2 impairment
41 and for whom it is determined that there is no suitable and available
42 work within the fund member's department, considering reasonable

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1 accommodation to the extent required by the Americans with
2 Disabilities Act, is entitled to a monthly base benefit:

3 **(1) equal to twenty-two percent (22%) of the monthly salary of a**
4 **first class patrolman or firefighter for a Class 2 impairment**
5 **occurring before January 1, 2005, in the year of the local**
6 **board's determination of impairment plus one-half percent (0.5%)**
7 **of that salary for each year of service, up to a maximum of thirty**
8 **(30) years of service; and**

9 **(2) equal to twenty-two percent (22%) of the monthly salary**
10 **of the rank of the member at the time of the occurrence of the**
11 **Class 2 impairment for a Class 2 impairment occurring after**
12 **December 31, 2004.**

13 (d) For applicants hired before March 2, 1992, a fund member who
14 is determined to have a Class 3 impairment and for whom it is
15 determined that there is no suitable and available work within the fund
16 member's department, considering reasonable accommodation to the
17 extent required by the Americans with Disabilities Act, is entitled to a
18 monthly base benefit:

19 **(1) equal to the product of the member's years of service (not to**
20 **exceed thirty (30) years of service) multiplied by one percent**
21 **(1%) of the monthly salary of a first class patrolman or firefighter**
22 **for a Class 3 impairment occurring before January 1, 2005;**
23 **and**

24 **(2) equal to the product of the member's years of service (not**
25 **to exceed thirty (30) years of service) multiplied by one**
26 **percent (1%) of the monthly salary of the rank of the member**
27 **at the time of the occurrence of the Class 3 impairment for a**
28 **Class 3 impairment occurring after December 31, 2004;**

29 in the year of the local board's determination of impairment.

30 (e) For applicants hired after March 1, 1992, or described in section
31 12.3(c)(2) of this chapter, a fund member who is determined to have a
32 Class 3 impairment and for whom it is determined that there is no
33 suitable and available work within the fund member's department,
34 considering reasonable accommodation to the extent required by the
35 Americans with Disabilities Act, is entitled to the following benefits
36 instead of benefits provided under subsection (d):

37 **(1) If the fund member did not have a Class 3 excludable**
38 **condition under section 13.6 of this chapter at the time the fund**
39 **member entered or reentered the fund, and the Class 3**
40 **impairment occurred:**

41 **(A) before January 1, 2005, the fund member is entitled to a**
42 **monthly base benefit equal to the product of the member's**

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years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; **or**

(B) after December 31, 2004, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of the rank of the member at the time of the occurrence of the Class 3 impairment in the year of the local board's determination of impairment.

(2) Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;

(B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and

(C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(3) Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment occurs before the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment is related in any manner to the Class 3 excludable condition.

(5) If during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental

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- 1 injury that is not related in any manner to the fund member's
 2 Class 3 excludable condition;
 3 the member is entitled to receive the benefits provided in
 4 subdivision (1) with respect to the accidental injury. For purposes
 5 of this subdivision, the local board shall make the initial
 6 determination of whether an impairment is attributable to an
 7 accidental injury. The local board shall forward the initial
 8 determination to the director of the PERF board for a final
 9 determination by the PERF board or the PERF board's designee.
- 10 (f) If a fund member is entitled to a monthly base benefit under:
 11 **(1) subsection ~~(b)~~; ~~(c)~~; ~~(d)~~; or ~~(e)~~ (b)(1), (c)(1), (d)(1), or**
 12 **(e)(1)(A), the fund member is also entitled to a monthly amount**
 13 **that is ~~no~~ not less than ten percent (10%) and ~~no~~ greater not more**
 14 **than forty-five percent (45%) of the monthly salary of a first class**
 15 **patrolman or firefighter in the year of the local board's**
 16 **determination of impairment; or**
 17 **(2) subsection (b)(2), (c)(2), (d)(2), or (e)(1)(B), the fund**
 18 **member is also entitled to a monthly amount that is not less**
 19 **than ten percent (10%) and not more than forty-five percent**
 20 **(45%) of the monthly salary of the rank of the member in the**
 21 **year of the local board's determination of impairment.**
- 22 The additional monthly amount **under either subdivision (1) or (2)**
 23 **shall be determined by the PERF medical authority based on the degree**
 24 **of impairment.**
- 25 (g) Benefits for a Class 1 impairment are payable until the fund
 26 member becomes fifty-two (52) years of age. Benefits for a Class 2 and
 27 a Class 3 impairment are payable:
- 28 **(1) for an impairment occurring:**
 29 **(A) before January 1, 2005, for a period equal to the years of**
 30 **service of the member, if the member's total disability benefit**
 31 **is less than thirty percent (30%) of the monthly salary of a first**
 32 **class patrolman or firefighter in the year of the local board's**
 33 **determination of impairment and the member has fewer than**
 34 **four (4) years of service; or**
 35 **(B) after December 31, 2004, for a period equal to the**
 36 **years of service of the member, if the member's total**
 37 **disability benefit is less than thirty percent (30%) of the**
 38 **monthly salary of the rank of the member in the year of**
 39 **the local board's determination of impairment and the**
 40 **member has less than four (4) years of service; or**
 41 **(2) for an impairment occurring:**
 42 **(A) before January 1, 2005, until the member becomes**

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fifty-two (52) years of age if the member's benefit is:

~~(A)~~ (i) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or
~~(B)~~ (ii) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service; or

(B) after December 31, 2004, until the member becomes fifty-two (52) years of age if the member's benefit is:

(i) equal to or more than thirty percent (30%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment; or
(ii) less than thirty percent (30%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(h) Upon becoming fifty-two (52) years of age, a fund member with a Class 1 or Class 2 impairment is entitled to receive the retirement benefit payable to a fund member with:

(1) twenty (20) years of service; or

(2) the total years of service and salary, as of the year the member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age;

whichever is greater.

(i) Upon becoming fifty-two (52) years of age a fund member:

(1) with a Class 3 impairment that occurred before January 1, 2005, who is receiving or has received a Class 3 impairment benefit that is:

~~(A)~~ (A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or
~~(B)~~ (B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service; or

(2) with a Class 3 impairment that occurred after December 31, 2004, who is receiving or has received a Class 3 impairment benefit that is:

(A) equal to or more than thirty percent (30%) of the monthly salary of the rank of the member in the year of

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**the local board's determination of impairment; or
(B) less than thirty percent (30%) of the monthly salary of
the rank of the member in the year of the local board's
determination of impairment if the member has at least
four (4) years of service;**

is entitled to receive the retirement benefit payable to a fund member with twenty (20) years of service.

(j) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

- (1) has had a covered impairment;
- (2) recovers and returns to active service with the department; and
- (3) within two (2) years after returning to active service has an impairment that, except for section 12.3(b)(3) of this chapter, would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 27. IC 36-8-8-13.8, AS ADDED BY P.L.118-2000, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13.8. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter) after August 31, 1982.

(b) If a fund member dies **before January 1, 2005**, while receiving retirement or disability benefits, the following apply:

- (1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:
 - (A) until the child becomes eighteen (18) years of age; or
 - (B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month

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1 that is equal to the greater of thirty percent (30%) of the monthly
 2 pay of a first class patrolman or first class firefighter or fifty-five
 3 percent (55%) of the monthly benefit the deceased member was
 4 receiving or was entitled to receive on the date of the member's
 5 death as long as the mental or physical incapacity of the child
 6 continues. Benefits paid for a child shall be paid to the surviving
 7 parent as long as the child resides with and is supported by the
 8 surviving parent. If the surviving parent dies, the benefits shall be
 9 paid to the legal guardian of the child.

10 (2) The member's surviving spouse is entitled to a monthly benefit
 11 equal to sixty percent (60%) of the fund member's monthly
 12 benefit during the spouse's lifetime. If the spouse remarried before
 13 September 1, 1983, and benefits ceased on the date of remarriage,
 14 the benefits for the surviving spouse shall be reinstated on July 1,
 15 1997, and continue during the life of the surviving spouse.

16 If a fund member dies while receiving retirement or disability benefits,
 17 there is no surviving eligible child or spouse, and there is proof
 18 satisfactory to the local board, subject to review in the manner
 19 specified in section 13.1(b) of this chapter, that the parent was wholly
 20 dependent on the fund member, the member's surviving parent is
 21 entitled, or both surviving parents if qualified are entitled jointly, to
 22 receive fifty percent (50%) of the fund member's monthly benefit
 23 during the parent's or parents' lifetime.

24 (c) **If a fund member dies after December 31, 2004, while**
 25 **receiving retirement or disability benefits, the following apply:**

26 (1) **Except as otherwise provided in this subsection, each of**
 27 **the member's surviving children is entitled to a monthly**
 28 **benefit equal to twenty percent (20%) of the fund member's**
 29 **monthly benefit:**

- 30 (A) **until the child becomes eighteen (18) years of age; or**
- 31 (B) **until the child becomes twenty-three (23) years of age**
 32 **if the child is enrolled in and regularly attending a**
 33 **secondary school or is a full-time student at an accredited**
 34 **college or university;**

35 **whichever period is longer. However, if the board finds upon**
 36 **the submission of satisfactory proof that a child who is at least**
 37 **eighteen (18) years of age is mentally or physically**
 38 **incapacitated, is not a ward of the state, and is not receiving**
 39 **a benefit under clause (B), the child is entitled to receive an**
 40 **amount each month that is equal to the greater of thirty**
 41 **percent (30%) of the monthly salary of the rank of the**
 42 **member or fifty-five percent (55%) of the monthly benefit the**

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deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(d) Except as otherwise provided in this subsection, if a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents are entitled to receive a monthly benefit determined under ~~subsection~~ subsections (b) and (c). If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was fifty-two (52) years of age.

SECTION 28. IC 36-8-8-14.1, AS AMENDED BY P.L.185-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue

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1 during the life of the surviving spouse.

2 (d) If a fund member dies in the line of duty **after August 31, 1982,**
 3 **and before January 1, 2005,** each of the member's surviving children
 4 is entitled to a monthly benefit equal to twenty percent (20%) of the
 5 fund member's monthly benefit:

6 (1) until the child reaches eighteen (18) years of age; or

7 (2) until the child reaches twenty-three (23) years of age if the
 8 child is enrolled in and regularly attending a secondary school or
 9 is a full-time student at an accredited college or university;

10 whichever period is longer. However, if the board finds upon the
 11 submission of satisfactory proof that a child who is at least eighteen
 12 (18) years of age is mentally or physically incapacitated, is not a ward
 13 of the state, and is not receiving a benefit under subdivision (2), the
 14 child is entitled to receive an amount each month that is equal to the
 15 greater of thirty percent (30%) of the monthly pay of a first class
 16 patrolman or first class firefighter or fifty-five percent (55%) of the
 17 monthly benefit the deceased member was receiving or was entitled to
 18 receive on the date of the member's death as long as the mental or
 19 physical incapacity of the child continues. Benefits paid for a child
 20 shall be paid to the surviving parent as long as the child resides with
 21 and is supported by the surviving parent. If the surviving parent dies,
 22 the benefits shall be paid to the legal guardian of the child.

23 (e) **If a fund member dies in the line of duty after December 31,**
 24 **2004, each of the member's surviving children is entitled to a**
 25 **monthly benefit equal to twenty percent (20%) of the fund**
 26 **member's monthly benefit:**

27 (1) **until the child becomes eighteen (18) years of age; or**

28 (2) **until the child becomes twenty-three (23) years of age if**
 29 **the child is enrolled in and regularly attending a secondary**
 30 **school or is a full-time student at an accredited college or**
 31 **university;**

32 **whichever period is longer. However, if the board finds upon the**
 33 **submission of satisfactory proof that a child who is at least eighteen**
 34 **(18) years of age is mentally or physically incapacitated, is not a**
 35 **ward of the state, and is not receiving a benefit under subdivision**
 36 **(2), the child is entitled to receive an amount each month that is**
 37 **equal to the greater of thirty percent (30%) of the monthly salary**
 38 **of the rank that the deceased member held at the time of death or**
 39 **fifty-five percent (55%) of the monthly benefit the deceased**
 40 **member was receiving or was entitled to receive on the date of the**
 41 **member's death as long as the mental or physical incapacity of the**
 42 **child continues. Benefits paid for a child shall be paid to the**

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1 **surviving parent as long as the child resides with and is supported**
2 **by the surviving parent. If the surviving parent dies, the benefits**
3 **shall be paid to the legal guardian of the child.**

4 (f) If there is no surviving eligible child or spouse, and there is proof
5 satisfactory to the local board, subject to review in the manner
6 specified in section 13.1(b) of this chapter, that the parent was wholly
7 dependent on the fund member, the member's surviving parent is
8 entitled, or both surviving parents if qualified are entitled jointly, to
9 receive fifty percent (50%) of the fund member's monthly benefit
10 during the parent's or parents' lifetime.

11 (†)(g) If the fund member did not have at least twenty (20) years of
12 service or was not at least fifty-two (52) years old, the benefit is
13 computed as if the member:

- 14 (1) did have twenty (20) years of service; and
- 15 (2) was fifty-two (52) years of age.

16 (g)(h) For purposes of this section, "dies in the line of duty" means
17 death that occurs as a direct result of personal injury or illness caused
18 by incident, accident, or violence that results from:

- 19 (1) any action that the member, in the member's capacity as a
20 police officer:

21 (A) is obligated or authorized by rule, regulation, condition of
22 employment or service, or law to perform; or

23 (B) performs in the course of controlling or reducing crime or
24 enforcing the criminal law; or

- 25 (2) any action that the member, in the member's capacity as a
26 firefighter:

27 (A) is obligated or authorized by rule, regulation, condition of
28 employment or service, or law to perform; or

29 (B) performs while on the scene of an emergency run
30 (including false alarms) or on the way to or from the scene.

31 The term includes a death presumed incurred in the line of duty under
32 IC 5-10-13.

33 SECTION 29. IC 36-8-8-18, AS AMENDED BY P.L.61-2002,
34 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2003]: Sec. 18. (a) Except as provided in subsection (b), if a
36 unit becomes a participant in the 1977 fund, credit for prior service by
37 police officers (including prior service as a full-time, fully paid town
38 marshal or full-time, fully paid deputy town marshal by a police officer
39 employed by a metropolitan board of police commissioners) or by
40 firefighters before the date of participation may be given by the PERF
41 board only if:

- 42 (1) the unit contributes to the 1977 fund the amount necessary to

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1 amortize prior service liability over a period of not more than
 2 forty (40) years, the amount and period to be determined by the
 3 PERF board; and
 4 (2) the police officers or firefighters pay, either in a lump sum or
 5 in a series of payments determined by the PERF board, the
 6 amount that they would have contributed if they had been
 7 members of the 1977 fund during their prior service.
 8 If the requirements of subdivisions (1) and (2) are not met, a fund
 9 member is entitled to credit only for years of service after the date of
 10 participation.

11 (b) If a unit becomes a participant in the 1977 fund under section
 12 3(c) of this chapter, or if a firefighter becomes a member of the 1977
 13 fund under section 7(g) of this chapter **before January 1, 2005**, credit
 14 for prior service before the date of participation or membership shall
 15 be given by the PERF board as follows:

16 (1) For a member who will accrue twenty (20) years of service
 17 credit in the 1977 fund by the time the member reaches the
 18 earliest retirement age under the fund at the time of the member's
 19 date of participation in the 1977 fund, the member will be given
 20 credit in the 1977 fund for one-third (1/3) of the member's years
 21 of participation in PERF as a police officer, a firefighter, or an
 22 emergency medical technician.

23 (2) For a member who will not accrue twenty (20) years of service
 24 credit in the 1977 fund by the time the member reaches the
 25 earliest retirement age under the fund at the time of the member's
 26 date of participation in the 1977 fund, such prior service shall be
 27 given only if:

28 (A) The unit contributes to the 1977 fund the amount
 29 necessary to fund prior service liability amortized over a
 30 period of not more than ten (10) years. The amount of
 31 contributions must be based on the actual salary earned by a
 32 first class firefighter at the time the unit becomes a participant
 33 in the 1977 fund, or the firefighter becomes a member of the
 34 1977 fund, or if no such salary designation exists, the actual
 35 salary earned by the firefighter. However, credit for prior
 36 service is limited to the amount necessary to allow the
 37 firefighter to accrue twenty (20) years of service credit in the
 38 1977 fund by the time the firefighter reaches the earliest
 39 retirement age under the 1977 fund at the time of the member's
 40 date of participation in the 1977 fund. The limit on credit for
 41 prior service does not apply if the firefighter was a member of
 42 the 1937 fund or 1977 fund whose participation was

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1 terminated due to the creation of a new fire protection district
 2 under IC 36-8-11-5 and who subsequently became a member
 3 of the 1977 fund. A firefighter who was a member of or
 4 reentered the 1937 fund or 1977 fund whose participation was
 5 terminated due to the creation of a new fire protection district
 6 under IC 36-8-11-5 is entitled to full credit for prior service in
 7 an amount equal to the firefighter's years of service before
 8 becoming a member of or reentering the 1977 fund. Service
 9 may only be credited for time as a full-time, fully paid
 10 firefighter or as an emergency medical technician under
 11 section 7(g) of this chapter.

12 (B) The amount the firefighter would have contributed if the
 13 firefighter had been a member of the 1977 fund during the
 14 firefighter's prior service must be fully paid and must be based
 15 on the firefighter's actual salary earned during that period
 16 before service can be credited under this section.

17 (C) Any amortization schedule for contributions paid under
 18 clause (A) and contributions to be paid under clause (B) must
 19 include interest at a rate determined by the PERF board.

20 (3) If, at the time a unit entered the 1977 fund, the unit
 21 contributed the amount required by subdivision (2) so that a fund
 22 member received the maximum prior service credit allowed by
 23 subdivision (2) and, at a later date, the earliest retirement age was
 24 lowered, the unit may contribute to the 1977 fund on the fund
 25 member's behalf an additional amount that is determined in the
 26 same manner as under subdivision (2) with respect to the
 27 additional prior service, if any, available as a result of the lower
 28 retirement age. If the unit pays the additional amount described in
 29 this subdivision in accordance with the requirements of
 30 subdivision (2), the fund member shall receive the additional
 31 service credit necessary for the fund member to retire at the lower
 32 earliest retirement age.

33 **(c) If a unit becomes a participant in the 1977 fund under**
 34 **section 3(c) of this chapter, or if a firefighter becomes a member of**
 35 **the 1977 fund under section 7(g) of this chapter after December 31,**
 36 **2004, credit for prior service before the date of participation or**
 37 **membership shall be given by the PERF board as follows:**

38 **(1) For a member who will accrue twenty (20) years of service**
 39 **credit in the 1977 fund by the time the member reaches the**
 40 **earliest retirement age under the fund at the time of the**
 41 **member's date of participation in the 1977 fund, the member**
 42 **will be given credit in the 1977 fund for one-third (1/3) of the**

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member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.

(2) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, credit for such prior service shall be given only if:

(A) The unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a period of not more than ten (10) years. The amount of contributions must be based on the actual salary of the rank of the member at the time the unit becomes a participant in the 1977 fund, or the firefighter becomes a member of the 1977 fund. However, credit for prior service is limited to the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter reaches the earliest retirement age under the 1977 fund at the time of the member's date of participation in the 1977 fund. The limit on credit for prior service does not apply if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter.

(B) The amount the firefighter would have contributed if the firefighter had been a member of the 1977 fund during the firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the PERF

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board.

(3) If, at the time a unit entered the 1977 fund, the unit contributed the amount required by subdivision (2) so that a fund member received the maximum prior service credit allowed by subdivision (2) and, at a later date, the earliest retirement age was lowered, the unit may contribute to the 1977 fund on the fund member's behalf an additional amount that is determined in the same manner as under subdivision (2) with respect to the additional prior service, if any, available as a result of the lower retirement age. If the unit pays the additional amount described in this subdivision in accordance with the requirements of subdivision (2), the fund member shall receive the additional service credit necessary for the fund member to retire at the lower earliest retirement age.

(d) This subsection applies to a unit that:

- (1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and
- (2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes fifty-five (55) years of age, whichever is less.

~~(d)~~ **(e)** The unit shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection ~~(e)~~, **(d)**, amortized over a period not to exceed ten (10) years with interest at a rate determined by the PERF board.

~~(e)~~ **(f)** If the township or municipality has accumulated money in its 1937 fund, any amount accumulated that exceeds the present value of all projected future benefits from the 1937 plan shall be paid by the township or municipality to the unit for the sole purpose of making the contributions determined in subsection ~~(d)~~: **(e)**.

~~(f)~~ **(g)** To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a)

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1 of the Internal Revenue Code.

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

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

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

10 ~~(g)~~ **(h)** To the extent permitted by the Internal Revenue Code and
11 the applicable regulations, the 1977 fund may accept, on behalf of a
12 fund member who is purchasing permissive service credit under this
13 chapter, a trustee to trustee transfer from any of the following:

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

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

18 SECTION 30. IC 36-8-8.5-7, AS ADDED BY P.L.62-2002,
19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2003]: Sec. 7. As used in this chapter, "DROP frozen benefit"
21 means a member's monthly retirement benefit calculated under the
22 provisions of the applicable fund and based on:

23 (1) the salary of:

24 **(A) a first class officer or firefighter that is in effect on the**
25 **member's DROP entry date, if the member's DROP entry**
26 **date is before January 1, 2005; or**

27 **(B) the rank of the member on the member's DROP entry**
28 **date, if the member's DROP entry date is after December**
29 **31, 2004; and**

30 (2) the member's years of service accrued on the member's DROP
31 entry date.

32 SECTION 31. IC 36-8-8.5-13, AS ADDED BY P.L.62-2002,
33 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2003]: Sec. 13. (a) A cost of living adjustment to the monthly
35 benefit of a member of the 1925 fund, 1937 fund, or 1953 fund **who**
36 **retires before January 1, 2005**, is determined in STEP FOUR of the
37 following formula:

38 STEP ONE: Calculate a percentage by dividing:

39 (A) the amount of any increase in the salary of a first class
40 officer or firefighter, whichever is applicable; by

41 (B) the prior year's salary of a first class officer or firefighter,
42 whichever is applicable.

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1 STEP TWO: Add:
 2 (A) the member's DROP frozen benefit; and
 3 (B) the amount of any prior cost of living adjustments
 4 calculated under this section.
 5 STEP THREE: Multiply the percentage determined under STEP
 6 ONE by the sum determined under STEP TWO.
 7 STEP FOUR: Add the product determined under STEP THREE
 8 to the sum determined under STEP TWO.
 9 (b) **A cost of living adjustment to the monthly benefit of a**
 10 **member of the 1925 fund, 1937 fund, or 1953 fund who retires**
 11 **after December 31, 2004, is determined in STEP FOUR of the**
 12 **following formula:**
 13 **STEP ONE: Calculate a percentage by dividing:**
 14 **(A) the amount of any increase in the salary of the rank of**
 15 **the member; by**
 16 **(B) the prior year's salary of the rank of the member.**
 17 **STEP TWO: Add:**
 18 **(A) the member's DROP frozen benefit; and**
 19 **(B) the amount of any prior cost of living adjustments**
 20 **calculated under this section.**
 21 **STEP THREE: Multiply the percentage determined under**
 22 **STEP ONE by the sum determined under STEP TWO.**
 23 **STEP FOUR: Add the product determined under STEP**
 24 **THREE to the sum determined under STEP TWO.**
 25 (c) A cost of living adjustment to the monthly benefit of a member
 26 of the 1977 fund is determined under the provisions of IC 36-8-8, as
 27 applied after the member's DROP retirement date.
 28 SECTION 32. [EFFECTIVE JULY 1, 2003] **IC 33-19-7-7, as**
 29 **amended by this act, applies to county budget years beginning after**
 30 **December 31, 2003.**

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