

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 363 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 33-23-5-13 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. **(a) Except as**
- 5 **provided in subsection (b),** a magistrate may:
- 6 (1) participate in the public employees' retirement fund as
- 7 provided in IC 5-10.3; or
- 8 (2) elect to remain in the judges' retirement system under IC 33-38
- 9 if the magistrate had previously participated in the system.
- 10 **(b) A person who:**
- 11 **(1) is serving as a full-time magistrate on July 1, 2005, and**
- 12 **makes an election under IC 33-38-8-10.5; or**
- 13 **(2) begins serving as a full-time magistrate after July 1, 2005;**
- 14 **shall, beginning January 1, 2006, participate in the judges' 1985**
- 15 **benefit system under IC 33-38-8."**
- 16 Page 4, between lines 38 and 39, begin a new paragraph and insert:
- 17 "SECTION 6. IC 33-38-6-9 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. As used in this
- 19 chapter, "participant" means a judge who participates in the fund. **After**
- 20 **December 31, 2005, "participant" means a judge or full-time**
- 21 **magistrate who participates in the fund.**
- 22 SECTION 7. IC 33-38-8-1 IS AMENDED TO READ AS
- 23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies
- 24 only to an individual who:
- 25 (1) begins service as a judge after August 31, 1985;

- 1 **(2) is serving as a full-time magistrate on July 1, 2005, and**
 2 **makes an election under section 10.5 of this chapter; or**
 3 **(3) begins service as a full-time magistrate after July 1, 2005.**

4 SECTION 8. IC 33-38-8-10 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. **(a)** A person who:

- 6 (1) begins service as a judge after August 31, 1985; and
 7 (2) is not a participant in the fund;
 8 shall become a participant in the fund.

9 **(b) A person who is serving as a full-time magistrate on July 1,**
 10 **2005, and makes an election under section 10.5 of this chapter is,**
 11 **beginning January 1, 2006, a participant in the judges' 1985 benefit**
 12 **system under this chapter.**

13 **(c) A person who begins serving as a full-time magistrate after**
 14 **July 1, 2005, is a participant in the judges' 1985 benefit system**
 15 **under this chapter beginning on the later of the following:**

- 16 (1) **January 1, 2006.**
 17 (2) **The date the person begins service as a full-time**
 18 **magistrate.**

19 SECTION 9. IC 33-38-8-10.5 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2005]: **Sec. 10.5. A person who is serving as**
 22 **a full-time magistrate on July 1, 2005, may elect to become a**
 23 **member of the judges' 1985 benefit system under this chapter. An**
 24 **election under this section:**

- 25 (1) **must be made in writing;**
 26 (2) **must be filed with the board, on a form prescribed by the**
 27 **board, before October 1, 2005; and**
 28 (3) **is irrevocable.**

29 SECTION 10. IC 33-38-8-12 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. **(a)** A participant
 31 who:

- 32 (1) ceases service:
 33 (A) **as a judge; or**
 34 (B) **after December 31, 2005, as a judge or full-time**
 35 **magistrate;**

36 other than by death or disability; and
 37 (2) is not eligible for a retirement benefit under this chapter;
 38 is entitled to withdraw from the fund, beginning on the date specified
 39 by the participant in a written application. The date on which the
 40 withdrawal begins may not be before the date of final termination of
 41 employment or the date thirty (30) days before the receipt of the
 42 application by the board.

43 (b) Upon the withdrawal, the participant is entitled to receive the
 44 total sum contributed, payable within sixty (60) days from **the** date of
 45 **the** withdrawal application or in monthly installments as the participant
 46 may elect.

47 SECTION 11. IC 33-38-8-13 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. A participant
 2 whose employment as a judge, **or after December 31, 2005, as a**
 3 **judge or full-time magistrate**, is terminated is entitled to a retirement
 4 benefit computed under section 14 of this chapter, beginning on the
 5 date specified by the participant in a written application, if the
 6 following conditions are met:

7 (1) The date on which the benefit begins is not:

8 (A) before the date of final termination of employment of the
 9 participant; or

10 (B) the date thirty (30) days before the receipt of the
 11 application by the board.

12 (2) The participant:

13 (A) is at least sixty-two (62) years of age and has at least eight
 14 (8) years of service credit;

15 (B) is at least fifty-five (55) years of age and the participant's
 16 age in years plus the participant's years of service is at least
 17 eighty-five (85); or

18 (C) has become permanently disabled.

19 (3) The participant is not receiving a salary from the state for
 20 services currently performed, except for services rendered in the
 21 capacity of judge pro tempore or senior judge.

22 SECTION 12. IC 33-38-8-22 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) This section
 24 applies to a person who:

25 (1) is:

26 (A) a judge; or

27 (B) **after December 31, 2005, a judge or full-time**
 28 **magistrate;**

29 participating under this chapter;

30 (2) before becoming:

31 (A) a judge; or

32 (B) **after December 31, 2005, a judge or full-time**
 33 **magistrate;**

34 was appointed by a court to serve as a full-time referee, full-time
 35 commissioner, or full-time magistrate;

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

38 (4) received credited service under the public employees'
 39 retirement fund for the employment described in subdivision (2).

40 (b) If a person becomes a participant in the judges' 1985 benefit
 41 system under section 1 of this chapter, credit for prior service by the
 42 judge, **or after December 31, 2005, by the judge or full-time**
 43 **magistrate**, as a full-time referee, full-time commissioner, or full-time
 44 magistrate shall be granted under this chapter by the board if:

45 (1) the prior service was credited under the public employees'
 46 retirement fund;

47 (2) the state contributes to the judges' 1985 benefit system the

- 1 amount the board determines necessary to amortize the prior
 2 service liability over a period determined by the board, but not
 3 more than ten (10) years; and
- 4 (3) the judge **or full-time magistrate** pays in a lump sum or in a
 5 series of payments determined by the board, not exceeding five
 6 (5) annual payments, the amount the judge **or full-time**
 7 **magistrate** would have contributed if the judge **or full-time**
 8 **magistrate** had been a member of the judges' 1985 benefit system
 9 during the prior service.
- 10 (c) If the requirements of subsection (b)(2) and (b)(3) are not
 11 satisfied, a participant is entitled to credit only for years of service after
 12 the date of participation in the **judges'** 1985 benefit system.
- 13 (d) An amortization schedule for contributions paid under subsection
 14 (b)(2) or (b)(3) must include interest at a rate determined by the board.
- 15 (e) The following provisions apply to a person described in
 16 subsection (a):
- 17 (1) A minimum benefit applies to participants receiving credit in
 18 the judges' 1985 benefit system from service covered by the
 19 public employees' retirement fund. The minimum benefit is
 20 payable at sixty-five (65) years of age or when the participant is
 21 at least fifty-five (55) years of age and meets the requirements
 22 under section 13(2)(b) of this chapter and equals the actuarial
 23 equivalent of the vested retirement benefit that is:
- 24 (A) payable to the member at normal retirement under
 25 IC 5-10.2-4-1 as of the day before the transfer; and
- 26 (B) based solely on:
- 27 (i) creditable service;
- 28 (ii) the average of the annual compensation; and
- 29 (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to
 30 the annuity savings account of the transferring member as of
 31 the day before the transfer.
- 32 (2) If the requirements of subsection (b)(2) and (b)(3) are satisfied,
 33 the board shall transfer from the public employees' retirement fund
 34 to the judges' 1985 benefit system the amount credited to the
 35 annuity savings account and the present value of the retirement
 36 benefit payable at sixty-five (65) years of age or at least fifty-five
 37 (55) years of age under section 13(2)(b) of this chapter that is
 38 attributable to the transferring participant.
- 39 (3) The amount the state and the participant must contribute to the
 40 judges' 1985 benefit system under subsection (b) shall be reduced
 41 by the amount transferred to the judges' 1985 benefit system by
 42 the board under subdivision (2).
- 43 (4) If the requirements of subsection (b)(2) and (b)(3) are satisfied,
 44 credit for prior service in the public employees' retirement fund as
 45 a full-time referee, full-time commissioner, or full-time magistrate
 46 is waived. Any credit for the prior service under the judges' 1985
 47 benefit system may be granted only under subsection (b).

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

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

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

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

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

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

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

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

25 SECTION 13. IC 33-38-8-23 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) This section
 27 applies only to a person who:

28 (1) is:

29 (A) a judge; or

30 (B) **after December 31, 2005, a judge or full-time**
 31 **magistrate;**

32 participating under this chapter;

33 (2) before becoming:

34 (A) a judge; or

35 (B) **after December 31, 2005, a judge or full-time**
 36 **magistrate;**

37 was a member of a public employees' retirement fund;

38 (3) received credited service under a public employees' retirement
 39 fund for the employment described in subdivision (2), and the
 40 credited service is not eligible for prior service credit under
 41 section 22 of this chapter;

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

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

47 (b) If a person becomes a participant in the judges' 1985 benefit

1 system under this chapter, credit for service described in subsection (a)
2 shall be granted under this chapter by the board if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (2) An eligible deferred compensation plan under Section 457(b)
- 2 of the Internal Revenue Code.".
- 3 Renumber all SECTIONS consecutively.
(Reference is to ESB 363 as printed March 25, 2005.)

Representative Cochran