
HOUSE BILL No. 1342

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-7-8.5; IC 36-3-2; IC 36-4; IC 36-5-5-9; IC 36-8.

Synopsis: Public safety issues. Provides that a full-time, fully paid firefighter of a fire department, fire protection district, or fire protection territory: (1) within annexed territory; (2) consolidated into the Indianapolis fire department; (3) of a municipality that merges with another municipality; or (4) of a political subdivision that enters into an interlocal agreement with another political subdivision regarding the provision of fire services; is entitled to be employed as a full-time, fully paid firefighter of the annexing municipality, Indianapolis fire department, merged municipality, or political subdivision subject to the interlocal agreement at not less than the same salary and with equivalent health benefits. Requires that the firefighter receive full credit under the pension plan for prior service with the firefighter's former department. Provides that firefighters in areas subject to annexation, merger, consolidation, or interlocal agreements remain members of the pension plan offered by the firefighters' former department. Provides that a town manager may not serve on a body that hears disciplinary charges against a member of the town fire department. Requires a town to pay for the care of a full-time, paid firefighter who suffers an injury or contracts an illness during the performance of the firefighter's duty. Provides that a safety board or county sheriff may not investigate or prefer a charge against a police officer or firefighter more than three years after the conduct that is the basis of the investigation or charge occurs.

Effective: July 1, 2006.

Crouch

January 12, 2006, read first time and referred to Committee on Government and Regulatory Reform.



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Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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HOUSE BILL No. 1342



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

- 1 SECTION 1. IC 36-1-7-8.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2006]: **Sec. 8.5. (a) This section applies to a political subdivision**
- 4 **that:**
- 5 **(1) enters into an interlocal agreement with at least one (1)**
- 6 **other political subdivision regarding the provision of fire**
- 7 **services to at least one (1) of the political subdivisions subject**
- 8 **to the interlocal agreement; and**
- 9 **(2) has a fire department that employs at least one (1)**
- 10 **full-time, fully paid firefighter.**
- 11 **(b) A full-time, fully paid firefighter of a political subdivision is**
- 12 **entitled to:**
- 13 **(1) employment as a full-time, fully paid firefighter of one (1)**
- 14 **of the political subdivisions that enter into the interlocal**
- 15 **agreement;**
- 16 **(2) receive not less than the:**
- 17 **(A) salary; and**



- 1 **(B) equivalent health benefits;**
- 2 **that the firefighter received from the political subdivision**
- 3 **before the effective date of the interlocal agreement;**
- 4 **(3) retain all vacation, sick, and personal days accrued before**
- 5 **the effective date of the interlocal agreement; and**
- 6 **(4) retirement benefits under IC 36-8-7-1, IC 36-8-8-1, or**
- 7 **IC 36-8-8-7;**

8 **as of the effective date of the interlocal agreement.**

9 **(c) A political subdivision may not reduce or terminate the**
10 **employment or benefits of a full-time, fully paid firefighter who is**
11 **employed by the political subdivision before the effective date of**
12 **the interlocal agreement because of or to facilitate the interlocal**
13 **agreement.**

14 **(d) This section does not prohibit a political subdivision from**
15 **taking disciplinary action for cause against a full-time, fully paid**
16 **firefighter, including suspending or discharging the firefighter.**

17 **SECTION 2. IC 36-3-2-3.5 IS ADDED TO THE INDIANA CODE**
18 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
19 **1, 2006]: Sec. 3.5. (a) This section applies if:**

- 20 **(1) a township fire department, fire protection district, or fire**
- 21 **protection territory is consolidated into the fire department**
- 22 **of a consolidated city under IC 36-3-1-6.1; and**
- 23 **(2) the township fire department, fire protection district, or**
- 24 **fire protection territory has at least one (1) full-time, fully**
- 25 **paid firefighter.**

26 **(b) A firefighter described in subsection (a)(2) is entitled to:**
27 **(1) employment as a full-time, fully paid firefighter of the fire**
28 **department of the consolidated city;**

- 29 **(2) receive not less than the:**
- 30 **(A) salary; and**
- 31 **(B) equivalent health benefits;**

- 32 **that the firefighter received from the unit before the effective**
- 33 **date of the consolidation;**
- 34 **(3) retain all vacation, sick, and personal days accrued before**
- 35 **the effective date of the consolidation; and**
- 36 **(4) retirement benefits under IC 36-8-7-1, IC 36-8-8-1, or**
- 37 **IC 36-8-8-7;**

38 **as of the effective date of the consolidation.**

39 **(c) The fire department of:**
40 **(1) the consolidated city; and**
41 **(2) the township, fire protection district, or fire protection**
42 **territory;**

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1 may not reduce or terminate the employment or benefits of a
 2 full-time, fully paid firefighter who is employed before the effective
 3 date of the consolidation because of or to facilitate the
 4 consolidation.

5 (d) This section does not prohibit a fire department, fire
 6 protection district, or fire protection territory from taking
 7 disciplinary action for cause against a full-time, fully paid
 8 firefighter, including suspending or discharging the firefighter.

9 SECTION 3. IC 36-3-2-8.5 IS ADDED TO THE INDIANA CODE
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2006]: Sec. 8.5. (a) This section applies if:

12 (1) a municipality annexes the territory of a unit that has a
 13 fire department or is part of a fire protection district or fire
 14 protection territory; and

15 (2) the annexation will result in:

16 (A) the reduction or elimination of the fire department, fire
 17 protection district, or fire protection territory; and

18 (B) the reduction or termination of the employment of at
 19 least one (1) full-time, fully paid firefighter of the fire
 20 department, fire protection district, or fire protection
 21 territory.

22 (b) A firefighter described in subsection (a)(2)(B) is entitled to:

23 (1) employment as a full-time, fully paid firefighter by the fire
 24 department, fire protection district, or fire protection
 25 territory of the annexing municipality;

26 (2) receive not less than the:

27 (A) salary; and

28 (B) equivalent health benefits;

29 that the firefighter received from the unit before the effective
 30 date of the annexation;

31 (3) retain all vacation, sick, and personal days accrued before
 32 the effective date of the annexation; and

33 (4) retirement benefits under IC 36-8-7-1, IC 36-8-8-1, or
 34 IC 36-8-8-7;

35 as of the effective date of the annexation.

36 (c) The fire department, fire protection district, or fire
 37 protection territory of:

38 (1) the annexing municipality; or

39 (2) the territory that is the subject of the annexation;

40 may not reduce or terminate the employment or benefits of a
 41 full-time, fully paid firefighter who is employed before the effective
 42 date of the annexation because of or to facilitate the annexation.

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1 (d) This section does not prohibit a fire department, fire
2 protection district, or fire protection territory from taking
3 disciplinary action for cause against a full-time, fully paid
4 firefighter, including suspending or discharging the firefighter.

5 SECTION 4. IC 36-4-2-18 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2006]: Sec. 18. (a) This section applies to a municipality that:

8 (1) merges with another municipality; and

9 (2) has a fire department that employs at least one (1)
10 full-time, fully paid firefighter.

11 (b) A firefighter described in subsection (a)(2) is entitled to:

12 (1) employment as a full-time, fully paid firefighter of the
13 merged municipality;

14 (2) receive not less than the:

15 (A) salary; and

16 (B) equivalent health benefits;

17 that the firefighter received from the other municipality
18 before the effective date of the merger;

19 (3) retain all vacation, sick, and personal days accrued before
20 the merger; and

21 (4) retirement benefits under IC 36-8-7-1, IC 36-8-8-1, or
22 IC 36-8-8-7;

23 as of the effective date of the merger.

24 (c) A municipality may not reduce or terminate the employment
25 or benefits of a full-time, fully paid firefighter who is employed
26 before the effective date of the merger because of or to facilitate
27 the merger.

28 (d) This section does not prohibit a fire department from taking
29 disciplinary action for cause against a full-time, fully paid
30 firefighter, including suspending or discharging the firefighter.

31 SECTION 5. IC 36-4-3-7.5 IS ADDED TO THE INDIANA CODE
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
33 1, 2006]: Sec. 7.5. (a) This section applies if:

34 (1) a municipality annexes the territory of a unit that has a
35 fire department or is part of a fire protection district or fire
36 protection territory; and

37 (2) the annexation will result in:

38 (A) the reduction or elimination of the fire department, fire
39 protection district, or fire protection territory; and

40 (B) the reduction or termination of the employment of at
41 least one (1) full-time, fully paid firefighter of the fire
42 department, fire protection district, or fire protection

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territory.
(b) A firefighter described in subsection (a)(2)(B) is entitled to:
(1) employment as a full-time, fully paid firefighter by the fire department, fire protection district or fire protection territory of the annexing municipality;
(2) receive not less than the:
(A) salary; and
(B) equivalent health benefits;
that the firefighter received from the unit before the effective date of the annexation;
(3) retain all vacation, sick, and personal days accrued before the effective date of the annexation; and
(4) retirement benefits under IC 36-8-7-1, IC 36-8-8-1, or IC 36-8-8-7;

as of the effective date of the annexation.
(c) The fire department, fire protection district, or fire protection territory of:

(1) the annexing municipality; or
(2) the territory that is the subject of the annexation;
may not reduce or terminate the employment or benefits of a full-time, fully paid firefighter who is employed before the effective date of the annexation because of or to facilitate the annexation.

(d) In the fiscal plan prepared by the annexing municipality under section 13 of this chapter, the municipality must address the municipality's employment of any full-time, fully paid firefighters of the territory proposed to be annexed.

(e) This section does not prohibit a municipality or unit from taking disciplinary action for cause against a full-time, fully paid firefighter, including suspending or discharging the firefighter.

SECTION 6. IC 36-5-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. The manager may not serve as a member of any body that hears disciplinary charges against:

(1) the town marshal; or
(2) a member of the town police department or fire department.

SECTION 7. IC 36-8-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) This section also applies to all towns and townships that have full-time, paid police or fire departments. For purposes of this section, the appropriate appointing authority of a town or township is considered the safety board of a town or township. In a town with a board of metropolitan police commissioners, that board is considered the safety board of the town for police department purposes.

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1 (b) Except as provided in subsection (m), a member of the police or
 2 fire department holds office or grade until the member is dismissed or
 3 demoted by the safety board. Except as provided in subsection (n), a
 4 member may be disciplined by demotion, dismissal, reprimand,
 5 forfeiture, or suspension upon either:

- 6 (1) conviction in any court of any crime; or
 7 (2) a finding and decision of the safety board that the member has
 8 been or is guilty of any one (1) or more of the following:
 9 (A) Neglect of duty.
 10 (B) A violation of rules.
 11 (C) Neglect or disobedience of orders.
 12 (D) Incapacity.
 13 (E) Absence without leave.
 14 (F) Immoral conduct.
 15 (G) Conduct injurious to the public peace or welfare.
 16 (H) Conduct unbecoming an officer.
 17 (I) Another breach of discipline.

18 The safety board may not consider the political affiliation of the
 19 member in making a decision under this section. If a member is
 20 suspended or placed on administrative leave under this subsection, the
 21 member is entitled to the member's allowances for insurance benefits
 22 to which the member was entitled before being suspended or placed on
 23 administrative leave. In addition, the local unit may provide the
 24 member's allowances for any other fringe benefits to which the member
 25 was entitled before being suspended or placed on administrative leave.

26 (c) Before a member of a police or fire department may be
 27 suspended in excess of five (5) days without pay, demoted, or
 28 dismissed, the safety board shall offer the member an opportunity for
 29 a hearing. If a member desires a hearing, the member must request the
 30 hearing not more than five (5) days after the notice of the suspension,
 31 demotion, or dismissal. Written notice shall be given either by service
 32 upon the member in person or by a copy left at the member's last and
 33 usual place of residence at least fourteen (14) days before the date set
 34 for the hearing. The hearing conducted under this subsection shall be
 35 held not more than thirty (30) days after the hearing is requested by the
 36 member, unless a later date is mutually agreed upon by the parties. The
 37 notice must state:

- 38 (1) the time and place of the hearing;
 39 (2) the charges against the member;
 40 (3) the specific conduct that comprises the charges;
 41 (4) that the member is entitled to be represented by counsel;
 42 (5) that the member is entitled to call and cross-examine

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1 witnesses;

2 (6) that the member is entitled to require the production of

3 evidence; and

4 (7) that the member is entitled to have subpoenas issued, served,

5 and executed in the county where the unit is located.

6 If the corporation counsel or city attorney is a member of the safety

7 board of a city, the counsel or attorney may not participate as a safety

8 board member in a disciplinary hearing concerning a member of either

9 department. The safety board shall determine if a member of the police

10 or fire department who is suspended in excess of five (5) days shall

11 continue to receive the member's salary during the suspension.

12 (d) Upon an investigation into the conduct of a member of the police

13 or fire department, or upon the trial of a charge preferred against a

14 member of either department, the safety board may compel the

15 attendance of witnesses, examine them under oath, and require the

16 production of books, papers, and other evidence at a meeting of the

17 board. For this purpose, the board may issue subpoenas and have them

18 served and executed in any part of the county where the unit is located.

19 If a witness refuses to testify or to produce books or papers in the

20 witness's possession or under the witness's control, IC 36-4-6-21

21 controls to the extent applicable. The proper court may compel

22 compliance with the order by attachment, commitment, or other

23 punishment.

24 (e) The reasons for the suspension, demotion, or dismissal of a

25 member of the police or fire department shall be entered as specific

26 findings of fact upon the records of the safety board. A member who is

27 suspended for a period exceeding five (5) days, demoted, or dismissed

28 may appeal the decision to the circuit or superior court of the county in

29 which the unit is located. However, a member may not appeal any other

30 decision.

31 (f) An appeal under subsection (e) must be taken by filing in court,

32 within thirty (30) days after the date the decision is rendered, a verified

33 complaint stating in concise manner the general nature of the charges

34 against the member, the decision of the safety board, and a demand for

35 the relief asserted by the member. A bond must also be filed that

36 guarantees the appeal will be prosecuted to a final determination and

37 that the plaintiff will pay all costs adjudged against the plaintiff. The

38 bond must be approved as bonds for costs are approved in other cases.

39 The unit must be named as the sole defendant, and the plaintiff shall

40 have a summons issued as in other cases against the unit. Neither the

41 safety board nor the members of it may be made parties defendant to

42 the complaint, but all are bound by service upon the unit and the

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1 judgment rendered by the court.

2 (g) In an appeal under subsection (e), no pleading is required by the
3 unit to the complaint, but the allegations are considered denied. The
4 unit may file a motion to dismiss the appeal for failure to perfect it
5 within the time and in the manner required by this section. If more than
6 one (1) person was included in the same charges and in the same
7 decision of dismissal by the safety board, then one (1) or more of the
8 persons may join as plaintiffs in the same complaint, but only the
9 persons that appeal from the decision are affected by it. The decision
10 of the safety board is final and conclusive upon all persons not
11 appealing. The decision appealed from is not stayed or affected
12 pending the final determination of the appeal, but remains in effect
13 unless modified or reversed by the final judgment of the court.

14 (h) A decision of the safety board is considered prima facie correct,
15 and the burden of proof is on the party appealing. All appeals shall be
16 tried by the court. The appeal shall be heard de novo only upon any
17 new issues related to the charges upon which the decision of the safety
18 board was made. The charges are considered to be denied by the
19 accused person. Within ten (10) days after the service of summons the
20 safety board shall file in court a complete transcript of all papers,
21 entries, and other parts of the record relating to the particular case.
22 Inspection of these documents by the person affected, or by the person's
23 agent, must be permitted by the safety board before the appeal is filed,
24 if requested. Each party may produce evidence relevant to the issues
25 that it desires, and the court shall review the record and decision of the
26 safety board upon appeal.

27 (i) The court shall make specific findings and state the conclusions
28 of law upon which its decision is made. If the court finds that the
29 decision of the safety board appealed from should in all things be
30 affirmed, its judgment should state that, and judgment for costs shall
31 be rendered against the party appealing. If the court finds that the
32 decision of the safety board appealed from should not be affirmed in all
33 things, then the court shall make a general finding, setting out
34 sufficient facts to show the nature of the proceeding and the court's
35 decision on it. The court shall either:

- 36 (1) reverse the decision of the safety board; or
37 (2) order the decision of the safety board to be modified.

38 (j) The final judgment of the court may be appealed by either party.
39 Upon the final disposition of the appeal by the courts, the clerk shall
40 certify and file a copy of the final judgment of the court to the safety
41 board, which shall conform its decisions and records to the order and
42 judgment of the court. If the decision is reversed or modified, then the

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1 safety board shall pay to the party entitled to it any salary or wages
2 withheld from the party pending the appeal and to which the party is
3 entitled under the judgment of the court.

4 (k) Either party shall be allowed a change of venue from the court
5 or a change of judge in the same manner as such changes are allowed
6 in civil cases. The Indiana Rules of Trial Procedure govern in all
7 matters of procedure upon the appeal that are not otherwise provided
8 for by this section.

9 (l) An appeal takes precedence over other pending litigation and
10 shall be tried and determined by the court as soon as practical.

11 (m) Except as provided in IC 36-5-2-13, the executive may reduce
12 in grade any member of the police or fire department who holds an
13 upper level policy making position. The reduction in grade may be
14 made without adhering to the requirements of subsections (b) through
15 (l). However, a member may not be reduced in grade to a rank below
16 that which the member held before the member's appointment to the
17 upper level policy making position.

18 (n) If the member is subject to criminal charges, the board may
19 place the member on administrative leave until the disposition of the
20 criminal charges in the trial court. Any other action by the board is
21 stayed until the disposition of the criminal charges in the trial court. An
22 administrative leave under this subsection may be with or without pay,
23 as determined by the board. If the member is placed on leave without
24 pay, the board, in its discretion, may award back pay if the member is
25 exonerated in the criminal matter.

26 (o) **A safety board may not:**
27 **(1) investigate the conduct of; or**
28 **(2) prefer a charge against;**
29 **a member of a police or fire department more than three (3) years**
30 **after the conduct that is the basis of the investigation or charge**
31 **occurs.**

32 SECTION 8. IC 36-8-7-1, AS AMENDED BY P.L.227-2005,
33 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2006]: Sec. 1. (a) This chapter applies to pension benefits for
35 members of fire departments hired before May 1, 1977, in units for
36 which a 1937 fund was established before May 1, 1977.

37 (b) A firefighter with twenty (20) years of service is covered by this
38 chapter and not by IC 36-8-8 if the firefighter:

- 39 (1) was hired before May 1, 1977;
40 (2) did not convert under IC 19-1-36.5-7 (repealed September 1,
41 1981); and
42 (3) is rehired after April 30, 1977, by the same employer.

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1 (c) A firefighter is covered by this chapter and not by IC 36-8-8 if
2 the firefighter:

- 3 (1) was hired before May 1, 1977;
- 4 (2) did not convert under IC 19-1-36.5-7 (repealed September 1,
5 1981);
- 6 (3) was rehired after April 30, 1977, but before February 1, 1979;
7 and
- 8 (4) was made, before February 1, 1979, a member of a 1937 fund.

9 (d) A firefighter who:
10 (1) is covered by this chapter before a consolidation under
11 IC 36-3-1-6.1; and
12 (2) becomes a member of a fire department of a consolidated city
13 under IC 36-3-1-6.1;

14 is covered by this chapter after the effective date of the consolidation,
15 and the firefighter's service as a member of a fire department of a
16 consolidated city is considered active service under this chapter.

17 **(e) This subsection applies to firefighters who are members of
18 a fire department involved in an annexation, a merger, a
19 consolidation, or an interlocal agreement, except for firefighters to
20 which subsection (d) applies. A firefighter who:**

- 21 **(1) is covered by this chapter before an annexation, a merger,
22 a consolidation, or an interlocal agreement; and**
- 23 **(2) becomes a member of a fire department of a municipality
24 or a township as the result of an annexation, a merger, a
25 consolidation, or an interlocal agreement;**

26 **is covered by this chapter after the effective date of the annexation,
27 merger, consolidation, or interlocal agreement, and the
28 firefighter's service as a member of a fire department described in
29 subdivision (2) is considered active service under this chapter.**

30 SECTION 9. IC 36-8-8-1, AS AMENDED BY P.L.227-2005,
31 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2006]: Sec. 1. This chapter applies to:

- 33 (1) full-time police officers hired or rehired after April 30, 1977,
34 in all municipalities, or who converted their benefits under
35 IC 19-1-17.8-7 (repealed September 1, 1981);
- 36 (2) full-time fully paid firefighters hired or rehired after April 30,
37 1977, or who converted their benefits under IC 19-1-36.5-7
38 (repealed September 1, 1981);
- 39 (3) a police matron hired or rehired after April 30, 1977, and
40 before July 1, 1996, who is a member of a police department in a
41 second or third class city on March 31, 1996;
- 42 (4) a park ranger who:

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1 (A) completed at least the number of weeks of training at the
2 Indiana law enforcement academy or a comparable law
3 enforcement academy in another state that were required at the
4 time the park ranger attended the Indiana law enforcement
5 academy or the law enforcement academy in another state;
6 (B) graduated from the Indiana law enforcement academy or
7 a comparable law enforcement academy in another state; and
8 (C) is employed by the parks department of a city having a
9 population of more than one hundred twenty thousand
10 (120,000) but less than one hundred fifty thousand (150,000);
11 (5) a full-time fully paid firefighter who is covered by this chapter
12 before the effective date of consolidation and becomes a member
13 of the fire department of a consolidated city under IC 36-3-1-6.1,
14 provided that the firefighter's service as a member of the fire
15 department of a consolidated city is considered active service
16 under this chapter;
17 (6) except as otherwise provided, a full-time fully paid firefighter
18 who is hired or rehired after the effective date of the consolidation
19 by a consolidated fire department established under
20 IC 36-3-1-6.1;
21 (7) a full-time police officer who is covered by this chapter before
22 the effective date of consolidation and becomes a member of the
23 consolidated law enforcement department as part of the
24 consolidation under IC 36-3-1-5.1, provided that the officer's
25 service as a member of the consolidated law enforcement
26 department is considered active service under this chapter; ~~and~~
27 (8) except as otherwise provided, a full-time police officer who is
28 hired or rehired after the effective date of the consolidation by a
29 consolidated law enforcement department established under
30 IC 36-3-1-5.1; ~~and~~
31 **(9) except as otherwise provided in subdivision (5) or (6), a**
32 **full-time fully paid firefighter who:**
33 **(A) is covered by this chapter before the effective date of**
34 **an annexation, a merger, a consolidation, or an interlocal**
35 **agreement; and**
36 **(B) becomes a member of a fire department of a**
37 **municipality or a township as the result of the annexation,**
38 **merger, consolidation, or interlocal agreement;**
39 **and the firefighter's service for the fire department described**
40 **in clause (B) is considered active service under this chapter;**
41 except as provided by section 7 of this chapter.
42 SECTION 10. IC 36-8-8-7, AS AMENDED BY P.L.227-2005,

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1 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2006]: Sec. 7. (a) Except as provided in subsections (d), (e),
3 (f), (g), (h), (k), (l), (m), and (n):

4 (1) a police officer; or

5 (2) a firefighter;

6 who is less than thirty-six (36) years of age and who passes the baseline
7 statewide physical and mental examinations required under section 19
8 of this chapter shall be a member of the 1977 fund and is not a member
9 of the 1925 fund, the 1937 fund, or the 1953 fund.

10 (b) A police officer or firefighter with service before May 1, 1977,
11 who is hired or rehired after April 30, 1977, may receive credit under
12 this chapter for service as a police officer or firefighter prior to entry
13 into the 1977 fund if the employer who rehires the police officer or
14 firefighter chooses to contribute to the 1977 fund the amount necessary
15 to amortize the police officer's or firefighter's prior service liability over
16 a period of not more than forty (40) years, the amount and the period
17 to be determined by the PERF board. If the employer chooses to make
18 the contributions, the police officer or firefighter is entitled to receive
19 credit for the police officer's or firefighter's prior years of service
20 without making contributions to the 1977 fund for that prior service. In
21 no event may a police officer or firefighter receive credit for prior years
22 of service if the police officer or firefighter is receiving a benefit or is
23 entitled to receive a benefit in the future from any other public pension
24 plan with respect to the prior years of service.

25 (c) Except as provided in section 18 of this chapter, a police officer
26 or firefighter is entitled to credit for all years of service after April 30,
27 1977, with the police or fire department of an employer covered by this
28 chapter.

29 (d) A police officer or firefighter with twenty (20) years of service
30 does not become a member of the 1977 fund and is not covered by this
31 chapter, if the police officer or firefighter:

32 (1) was hired before May 1, 1977;

33 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
34 of which were repealed September 1, 1981); and

35 (3) is rehired after April 30, 1977, by the same employer.

36 (e) A police officer or firefighter does not become a member of the
37 1977 fund and is not covered by this chapter if the police officer or
38 firefighter:

39 (1) was hired before May 1, 1977;

40 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
41 of which were repealed September 1, 1981);

42 (3) was rehired after April 30, 1977, but before February 1, 1979;

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1 and
2 (4) was made, before February 1, 1979, a member of a 1925,
3 1937, or 1953 fund.
4 (f) A police officer or firefighter does not become a member of the
5 1977 fund and is not covered by this chapter if the police officer or
6 firefighter:
7 (1) was hired by the police or fire department of a unit before May
8 1, 1977;
9 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
10 of which were repealed September 1, 1981);
11 (3) is rehired by the police or fire department of another unit after
12 December 31, 1981; and
13 (4) is made, by the fiscal body of the other unit after December
14 31, 1981, a member of a 1925, 1937, or 1953 fund of the other
15 unit.
16 If the police officer or firefighter is made a member of a 1925, 1937, or
17 1953 fund, the police officer or firefighter is entitled to receive credit
18 for all the police officer's or firefighter's years of service, including
19 years before January 1, 1982.
20 (g) As used in this subsection, "emergency medical services" and
21 "emergency medical technician" have the meanings set forth in
22 IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:
23 (1) is employed by a unit that is participating in the 1977 fund;
24 (2) was employed as an emergency medical technician by a
25 political subdivision wholly or partially within the department's
26 jurisdiction;
27 (3) was a member of the public employees' retirement fund during
28 the employment described in subdivision (2); and
29 (4) ceased employment with the political subdivision and was
30 hired by the unit's fire department due to the reorganization of
31 emergency medical services within the department's jurisdiction;
32 shall participate in the 1977 fund. A firefighter who participates in the
33 1977 fund under this subsection is subject to sections 18 and 21 of this
34 chapter.
35 (h) A police officer or firefighter does not become a member of the
36 1977 fund and is not covered by this chapter if the individual was
37 appointed as:
38 (1) a fire chief under a waiver under IC 36-8-4-6(c); or
39 (2) a police chief under a waiver under IC 36-8-4-6.5(c);
40 unless the executive of the unit requests that the 1977 fund accept the
41 individual in the 1977 fund and the individual previously was a
42 member of the 1977 fund.

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1 (i) A police matron hired or rehired after April 30, 1977, and before
2 July 1, 1996, who is a member of a police department in a second or
3 third class city on March 31, 1996, is a member of the 1977 fund.

4 (j) A park ranger who:

5 (1) completed at least the number of weeks of training at the
6 Indiana law enforcement academy or a comparable law
7 enforcement academy in another state that were required at the
8 time the park ranger attended the Indiana law enforcement
9 academy or the law enforcement academy in another state;

10 (2) graduated from the Indiana law enforcement academy or a
11 comparable law enforcement academy in another state; and

12 (3) is employed by the parks department of a city having a
13 population of more than one hundred twenty thousand (120,000)
14 but less than one hundred fifty thousand (150,000);

15 is a member of the fund.

16 (k) Notwithstanding any other provision of this chapter, a police
17 officer or firefighter:

18 (1) who is a member of the 1977 fund before a consolidation
19 under IC 36-3-1-5.1 or IC 36-3-1-6.1;

20 (2) whose employer is consolidated into the **consolidated law**
21 **enforcement department or the** fire department of a
22 consolidated city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and

23 (3) who, after the consolidation, becomes an employee of the
24 consolidated law enforcement department or the consolidated fire
25 department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

26 is a member of the 1977 fund without meeting the requirements under
27 sections 19 and 21 of this chapter.

28 (l) Notwithstanding any other provision of this chapter, ~~a police~~
29 ~~officer or firefighter who: if:~~

30 (1) before a consolidation under ~~IC 36-3-1-5.1 or IC 36-3-1-6.1;~~
31 **IC 8-22-3-11.6, a police officer or firefighter** provides law
32 enforcement services or fire protection services for an entity in a
33 consolidated city;

34 (2) ~~has~~ the provision of those services **is** consolidated into the **law**
35 **enforcement department or** fire department of a consolidated
36 city; and

37 (3) after the consolidation, **the police officer or firefighter**
38 becomes an employee of the consolidated law enforcement
39 department or the consolidated fire department under
40 ~~IC 36-3-1-5.1 or IC 36-3-1-6.1;~~ **IC 8-22-3-11.6;**

41 **the police officer or firefighter** is a member of the 1977 fund without
42 meeting the requirements under sections 19 and 21 of this chapter.

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1 (m) This subsection does not apply to firefighters covered by
2 subsection (k) or (l). Notwithstanding any other provision of this
3 chapter, a firefighter who:

4 (1) is a member of the 1977 fund before the effective date of
5 an annexation, a merger, a consolidation, or an interlocal
6 agreement; and

7 (2) becomes a member of a fire department of a municipality
8 or a township as the result of the annexation, merger,
9 consolidation, or interlocal agreement;

10 is a member of the 1977 fund without meeting the requirements
11 under sections 19 and 21 of this chapter.

12 ~~(m)~~ (n) A police officer or firefighter who is a member of the 1977
13 fund under subsection (k), ~~or~~ (l), or (m) may not be:

14 (1) retired for purposes of section 10 of this chapter; or

15 (2) disabled for purposes of section 12 of this chapter;

16 solely because of a change in employer under the **annexation, merger,**
17 **consolidation, or interlocal agreement.**

18 SECTION 11. IC 36-8-9.5 IS ADDED TO THE INDIANA CODE
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2006]:

21 **Chapter 9.5. Care for Injury or Illness of a Firefighter**

22 **Sec. 1. A town shall pay for the care of a full-time, paid**
23 **firefighter who:**

24 (1) suffers an injury; or

25 (2) contracts an illness;

26 during the performance of the firefighter's duties.

27 **Sec. 2. A town shall pay for the following expenses incurred by**
28 **a firefighter described in section 1 of this chapter:**

29 (1) Medical and surgical care.

30 (2) Medicines and laboratory, curative, and palliative agents
31 and means.

32 (3) X-ray, diagnostic, and therapeutic service, including
33 services during the recovery period.

34 (4) Hospital and special nursing care if the physician or
35 surgeon in charge considers the care necessary for proper
36 recovery.

37 **Sec. 3. Expenditures required by this chapter shall be paid from**
38 **the town general fund.**

39 **Sec. 4. A town that has paid for the care of a firefighter under**
40 **this chapter has a cause of action for reimbursement of the amount**
41 **paid under this chapter against any third party against whom the**
42 **firefighter has a cause of action for an injury sustained because of,**

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1 **or an illness caused by, the third party. The town's cause of action**
 2 **under this section is in addition to, and not instead of, the cause of**
 3 **action of the firefighter against the third party.**
 4 SECTION 12. IC 36-8-10-11 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The sheriff may
 6 dismiss, demote, or temporarily suspend a county police officer for
 7 cause after preferring charges in writing and after a fair public hearing
 8 before the board, which is reviewable in the circuit court. Written
 9 notice of the charges and hearing must be delivered by certified mail
 10 to the officer to be disciplined at least fourteen (14) days before the
 11 date set for the hearing. The officer may be represented by counsel. The
 12 board shall make specific findings of fact in writing to support its
 13 decision.
 14 (b) The sheriff may temporarily suspend an officer with or without
 15 pay for a period not exceeding fifteen (15) days, without a hearing
 16 before the board, after preferring charges of misconduct in writing
 17 delivered to the officer.
 18 (c) A county police officer may not be dismissed, demoted, or
 19 temporarily suspended because of political affiliation nor after the
 20 officer's probationary period, except as provided in this section. An
 21 officer may:
 22 (1) be a candidate for elective office and serve in that office if
 23 elected;
 24 (2) be appointed to an office and serve in that office if appointed;
 25 and
 26 (3) except when in uniform or on duty, solicit votes or campaign
 27 funds for the officer or others.
 28 (d) The board has subpoena powers enforceable by the circuit court
 29 for hearings under this section. An officer on probation may be
 30 dismissed by the sheriff without a right to a hearing.
 31 (e) An appeal under subsection (a) must be taken by filing in court,
 32 within thirty (30) days after the date the decision is rendered, a verified
 33 complaint stating in a concise manner the general nature of the charges
 34 against the officer, the decision of the board, and a demand for the
 35 relief asserted by the officer. A bond must also be filed that guarantees
 36 the appeal will be prosecuted to a final determination and that the
 37 plaintiff will pay all costs only if the court finds that the board's
 38 decision should be affirmed. The bond must be approved as bonds for
 39 costs are approved in other cases. The county must be named as the
 40 sole defendant and the plaintiff shall have a summons issued as in other
 41 cases against the county. Neither the board nor the members of it may
 42 be made parties defendant to the complaint, but all are bound by

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1 service upon the county and the judgment rendered by the court.

2 (f) All appeals shall be tried by the court. The appeal shall be heard

3 de novo only upon any new issues related to the charges upon which

4 the decision of the board was made. Within ten (10) days after the

5 service of summons, the board shall file in court a complete written

6 transcript of all papers, entries, and other parts of the record relating to

7 the particular case. Inspection of these documents by the person

8 affected, or by the person's agent, must be permitted by the board

9 before the appeal is filed, if requested. The court shall review the

10 record and decision of the board on appeal.

11 (g) The court shall make specific findings and state the conclusions

12 of law upon which its decision is made. If the court finds that the

13 decision of the board appealed from should in all things be affirmed,

14 its judgment should so state. If the court finds that the decision of the

15 board appealed from should not be affirmed in all things, then the court

16 shall make a general finding, setting out sufficient facts to show the

17 nature of the proceeding and the court's decision on it. The court shall

18 either:

19 (1) reverse the decision of the board; or

20 (2) order the decision of the board to be modified.

21 (h) The final judgment of the court may be appealed by either party.

22 Upon the final disposition of the appeal by the courts, the clerk shall

23 certify and file a copy of the final judgment of the court to the board,

24 which shall conform its decisions and records to the order and

25 judgment of the court. If the decision is reversed or modified, then the

26 board shall pay to the party entitled to it any salary or wages withheld

27 from the party pending the appeal and to which the party is entitled

28 under the judgment of the court.

29 (i) Either party shall be allowed a change of venue from the court or

30 a change of judge in the same manner as such changes are allowed in

31 civil cases. The rules of trial procedure govern in all matters of

32 procedure upon the appeal that are not otherwise provided for by this

33 section.

34 (j) An appeal takes precedence over other pending litigation and

35 shall be tried and determined by the court as soon as practical.

36 **(k) A sheriff may not prefer a charge against a county police**

37 **officer under this section more than three (3) years after the**

38 **conduct that is the basis of the charge occurs.**

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