

**SENATE BILL No. 556**

**DIGEST OF INTRODUCED BILL**

**Citations Affected:** IC 33-23-5-13; IC 33-38.

**Synopsis:** Judges' pensions. With respect to both the 1977 and the 1985 benefit systems of the judges' retirement fund: (1) adds four years of service to the schedule that determines the percentage of salary to which a retiree is entitled (ending at 26 years of service instead of 22 years); and (2) increases the maximum percentage to 64% after 26 years (instead of 60% after 22 years). Allows a person serving as a full-time magistrate on July 1, 2007, and requires a person who begins serving as a full-time magistrate after that date and before January 1, 2008, to become a participant in the judges' 1985 benefit system. Allows magistrates who are participants in the judges' 1985 benefit system to purchase, at full actuarial cost, service credit for prior service covered by an Indiana public employees' retirement fund. Changes the salary base that is used to determine benefits under the 1985 benefit system to the salary currently being paid for the last office held by the retiree (instead of the salary that was paid for that office at the time the retiree left service). Increases the monthly benefit payable to participants, survivors, and beneficiaries of the judges' 1985 benefit system under the same conditions as the monthly benefit is increased for participants, survivors, and beneficiaries of the judges' 1977 benefit system. Provides that the changes in the benefit structure of both the 1977 and the 1985 benefit systems apply only to persons who retire, become disabled, or die after June 30, 2007 (and their surviving spouses and dependent children). Authorizes a participant with at least eight years of creditable service in the judges' retirement system who is also vested in the public employees' retirement fund (PERF) to elect to use not more than ten years of PERF service credit to qualify for a  
(Continued next page)

**C  
o  
p  
y**

**Effective:** July 1, 2007.

**Kruse**

January 23, 2007, read first time and referred to Committee on Pensions and Labor.



retirement benefit from the judges' retirement system and waive the right to a retirement benefit from PERF. Requires the PERF board to transfer to the judges' retirement system the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at 65 years of age that is attributable to the participant who makes the election. Provides that the PERF service credit may not be used to compute the participant's retirement benefit from the judges' retirement system. Establishes the judges' defined contribution fund (defined contribution fund). Provides that an individual who first begins service as a judge or full-time magistrate after December 31, 2007, is a participant in the defined contribution fund. Provides that the PERF board shall administer the defined contribution fund. Requires a participant in the defined contribution fund to make contributions equal to 6% of the salary the participant receives for services as judge or magistrate. Allows a participant in the defined contribution fund to make additional contributions not to exceed the maximum allowed under Internal Revenue Code rules. Requires the state to make contributions to the defined contribution fund on behalf of each participant equal to 15% of the salary received by the participant for service as a judge or magistrate.

**C  
o  
p  
y**



Introduced

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

C  
O  
P  
Y

## SENATE BILL No. 556

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers and to make an appropriation.

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

1 SECTION 1. IC 33-23-5-13 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. **(a) Except as**  
 3 **provided in subsection (b) or (c),** a magistrate may:  
 4 (1) participate in the public employees' retirement fund as  
 5 provided in IC 5-10.3; or  
 6 (2) elect to remain in the judges' retirement system under  
 7 IC 33-38 if the magistrate had previously participated in the  
 8 system.  
 9 **(b) A person who:**  
 10 **(1) is serving as a full-time magistrate on July 1, 2007, and**  
 11 **makes an election under IC 33-38-8-10.5; or**  
 12 **(2) begins serving as a full-time magistrate after July 1, 2007,**  
 13 **and before January 1, 2008;**  
 14 **shall, beginning January 1, 2008, participate in the judges' 1985**  
 15 **benefit system under IC 33-38-8.**



1           (c) A person who first begins service as a full-time magistrate  
2 after December 31, 2007, shall participate in the judges' defined  
3 contribution fund under IC 33-38-8.5.

4           SECTION 2. IC 33-38-6-9 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. As used in this  
6 chapter, "participant" means, before January 1, 2008, a judge who  
7 participates in the fund. After December 31, 2007, "participant"  
8 means a judge or full-time magistrate who participates in the fund.

9           SECTION 3. IC 33-38-6-27 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. A reference to the  
11 judges' retirement system under this chapter:

12           (1) is considered a reference to the judges' retirement fund under  
13 this article; and

14           (2) is not considered a reference to the judges' defined  
15 contribution fund under IC 33-38-8.5.

16           SECTION 4. IC 33-38-7-10 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) A person who  
18 completed at least eight (8) years of service as a judge before July 1,  
19 1953, may become a participant in the fund and be subject to this  
20 chapter if the person qualifies for benefits under section 11 of this  
21 chapter. A person who is a judge on July 1, 1953, shall become a  
22 participant in the fund and be subject to this chapter, beginning on July  
23 1, 1953, unless twenty (20) days before July 1, 1953, the judge files  
24 with the board a written notice of election not to participate in the fund.

25           (b) A person who:

26           (1) becomes a judge after July 1, 1953, and before September 1,  
27 1985; and

28           (2) is not a participant in the fund;

29 becomes a participant in the fund and is subject to this chapter,  
30 beginning on the date the person becomes a judge, unless within twenty  
31 (20) days after that date the judge files with the board a written notice  
32 of election not to participate in the fund. An election filed under this  
33 subsection is irrevocable.

34           (c) A person who irrevocably:

35           (1) elects not to participate in the fund; or

36           (2) withdraws from the fund under section 13 of this chapter;  
37 is ineligible to participate and to receive benefits under this chapter.

38           (d) Participation of a judge in the fund continues until the date on  
39 which the judge:

40           (1) becomes an annuitant;

41           (2) dies; or

42           (3) accepts a refund;

C  
o  
p  
y



1 but a person is not required to pay into the fund during any period that  
 2 the person is not serving as a judge, except as otherwise provided in  
 3 this chapter.

4 (e) A participant is considered to have made a one (1) time  
 5 irrevocable salary reduction agreement of six percent (6%) of each  
 6 payment of salary that a participant would otherwise have received for  
 7 services as a judge.

8 (f) The auditor of state and the county auditor shall pay and credit  
 9 to the fund the amounts described in subsection (e) as provided in  
 10 IC 33-38-6-21 and IC 33-38-6-22. However, no amounts shall be paid  
 11 on behalf of a participant for more than ~~twenty-two (22)~~ **twenty-six**  
 12 **(26)** years.

13 SECTION 5. IC 33-38-7-11, AS AMENDED BY P.L.28-2005,  
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2007]: Sec. 11. (a) Benefits provided under this section are  
 16 subject to IC 33-38-6-13 and section 16 of this chapter.

17 (b) A participant whose employment as judge is terminated,  
 18 regardless of cause, is entitled to a retirement annuity beginning on the  
 19 date specified by the participant in a written application, if the  
 20 following conditions are met:

21 (1) The date the annuity begins is not:

- 22 (A) before the date of final termination of employment by the
- 23 participant; or
- 24 (B) the date thirty (30) days before the receipt of the
- 25 participant's written application by the board.

26 (2) The participant:

- 27 (A) is at least sixty-two (62) years of age and has at least eight
- 28 (8) years of service credit;
- 29 (B) is at least fifty-five (55) years of age and the participant's
- 30 age in years plus the participant's years of service is at least
- 31 eighty-five (85); or
- 32 (C) has become permanently disabled.

33 (3) The participant is not receiving a salary from the state for  
 34 services currently performed as:

- 35 (A) a judge (as defined in IC 33-38-6-7); or
- 36 (B) a magistrate under IC 33-23-5.

37 (c) A participant:

38 (1) who:

- 39 (A) elects to accept retirement after June 30, 1977; and
- 40 (B) is at least sixty-five (65) years of age; or

41 (2) who:

- 42 (A) elects to accept retirement after June 30, 1999;

**C**  
**O**  
**P**  
**Y**



1 (B) is at least fifty-five (55) years of age; and  
 2 (C) meets the requirements under subsection (b)(2)(B);  
 3 is entitled to an annual retirement benefit as calculated in subsection  
 4 (d).

5 (d) The annual retirement benefit for a participant who meets the  
 6 requirements of subsection (c) equals the product of:

- 7 (1) the salary being paid for the office that the participant held at  
 8 the time of the participant's separation from service; multiplied by  
 9 (2) the percentage prescribed in the following table:

TABLE A

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%
<b>23</b>	<b>61%</b>
<b>24</b>	<b>62%</b>
<b>25</b>	<b>63%</b>
<b>26 or more</b>	<b>64%</b>

32 If a participant has a partial year of service in addition to at least eight  
 33 (8) full years of service, an additional percentage shall be calculated by  
 34 prorating between the applicable percentages, based on the number of  
 35 months in the partial year of service. A participant who elects to accept  
 36 retirement before July 1, 1977, is entitled to an annual retirement  
 37 benefit that equals the average of the benefit computed under this  
 38 subsection and the benefit the participant would have received under  
 39 IC 33-38-6 as in effect on June 30, 1977.

40 (e) If the annual retirement benefit of a participant who began  
 41 service as a judge before July 1, 1977, as computed under subsection  
 42 (d), is less than the amount the participant would have received under

C  
o  
p  
y



1 IC 33-38-6 as in effect on June 30, 1977, the participant is entitled to  
2 receive the greater amount as the participant's annual retirement benefit  
3 instead of the benefit computed under subsection (d).

4 (f) Except as provided in subsections (b)(2)(B) and (d), if a  
5 participant who elects to accept retirement after June 30, 1977, has not  
6 attained sixty-five (65) years of age, the participant is entitled to  
7 receive a reduced annual retirement benefit that equals the benefit that  
8 would be payable if the participant were sixty-five (65) years of age  
9 reduced by one-tenth percent (0.1%) for each month that the  
10 participant's age at retirement precedes the participant's sixty-fifth  
11 birthday. This reduction does not apply to:

- 12 (1) participants who are separated from service because of
- 13 permanent disability;
- 14 (2) survivors of participants who die while in service after August
- 15 1, 1992; or
- 16 (3) survivors of participants who die while not in service but
- 17 while entitled to a future benefit.

18 (g) A participant who is permanently disabled is entitled to an  
19 annual benefit equal to the product of:

- 20 (1) the salary being paid for the office that the participant held at
- 21 the time of separation from service; multiplied by
- 22 (2) the percentage prescribed in the following table:

23 TABLE B

24 Participant's Years	25 Percentage
26 of Service	
27 0-12	50%
28 13	51%
29 14	52%
30 15	53%
31 16	54%
32 17	55%
33 18	56%
34 19	57%
35 20	58%
36 21	59%
37 22 or more	60%
38 <b>23</b>	<b>61%</b>
39 <b>24</b>	<b>62%</b>
40 <b>25</b>	<b>63%</b>
<b>26 or more</b>	<b>64%</b>

41 If a participant has a partial year of service in addition to at least eight  
42 (8) full years of service, an additional percentage shall be calculated by

C  
o  
p  
y



1 prorating between the applicable percentages, based on the number of  
2 months in the partial year of service.

3 (h) The surviving spouse or surviving child or children, as  
4 designated by the participant, of a participant who has qualified before  
5 July 1, 1977, to receive the retirement annuity under the provisions of  
6 this chapter, either by length of service or by being permanently  
7 disabled, shall, upon the death of such participant, be entitled to an  
8 annuity in an amount equal to the greater of:

9 (1) the sum of:

10 (A) two thousand dollars (\$2,000); plus

11 (B) fifty percent (50%) of the amount of retirement annuity the  
12 participant was drawing at the time of the participant's death,  
13 or to that which the participant would have been entitled had  
14 the participant retired and begun receiving retirement annuity  
15 benefits prior to the participant's death; or

16 (2) the amount determined under the following table:

17 TABLE C

18 Year	19 Amount
20 July 1, 1995, to 21 June 30, 1996	\$10,000
22 July 1, 1996, to 23 June 30, 1997	\$11,000
24 July 1, 1997, and 25 thereafter	\$12,000

26 (i) If a participant who qualifies after June 30, 1977, and before July  
27 1, 1983, to receive a retirement annuity under the provisions of this  
28 chapter, either by length of service or by being permanently disabled,  
29 dies, the participant's surviving spouse or surviving child or children,  
30 as designated by the participant, is or are entitled to an annuity in an  
31 amount equal to the greater of:

32 (1) fifty percent (50%) of the amount of retirement annuity the  
33 participant was drawing at the time of death, or to that which the  
34 participant would have been entitled had the participant retired  
35 and begun receiving retirement annuity benefits before death; or

36 (2) the amount determined under TABLE C in subsection (h)(2).

37 (j) If a participant:

38 (1) dies after June 30, 1983; and

39 (2) on the date of the participant's death:

40 (A) was receiving benefits under this chapter;

41 (B) had completed at least eight (8) years of service and was  
42 in service as a judge;

(C) was permanently disabled; or

C  
o  
p  
y





1 (D) had completed at least eight (8) years of service, was not  
 2 still in service as a judge, and was entitled to a future benefit;  
 3 the participant's surviving spouse or surviving child or children, as  
 4 designated by the participant, is or are entitled, regardless of the  
 5 participant's age, to an annuity in an amount equal to the greater of the  
 6 amount determined under TABLE C in subsection (h)(2) or fifty  
 7 percent (50%) of the amount of retirement annuity the participant was  
 8 drawing at the time of death, or to that which the participant would  
 9 have been entitled had the participant retired and begun receiving  
 10 retirement annuity benefits on the participant's date of death, with  
 11 reductions as necessary under subsection (f).

12 (k) Notwithstanding subsection (j), if a participant:

13 (1) died after June 30, 1983, and before July 1, 1985; and

14 (2) was serving as a judge at the time of death;

15 the surviving spouse is entitled to the same retirement annuity as the  
 16 surviving spouse of a permanently disabled participant entitled to  
 17 benefits under subsection (i).

18 (l) The annuity payable to a surviving child or children under  
 19 subsection (h), (i), or (j) is subject to the following:

20 (1) The total monthly benefit payable to a surviving child or  
 21 children is equal to the same monthly annuity that was to have  
 22 been payable to the surviving spouse.

23 (2) If there is more than one (1) child designated by the  
 24 participant, then the children are entitled to share the annuity in  
 25 equal monthly amounts.

26 (3) Each child entitled to an annuity shall receive that child's  
 27 share until the child becomes eighteen (18) years of age or during  
 28 the entire period of the child's physical or mental disability,  
 29 whichever period is longer.

30 (4) Upon the cessation of payments to one (1) designated child,  
 31 if there is at least one (1) other child then surviving and still  
 32 entitled to payments, the remaining child or children shall share  
 33 equally the annuity. If the surviving spouse of the participant is  
 34 surviving upon the cessation of payments to all designated  
 35 children, the surviving spouse will then receive the annuity for the  
 36 remainder of the surviving spouse's life.

37 (5) The annuity shall be payable to the participant's surviving  
 38 spouse if any of the following occur:

39 (A) No child named as a beneficiary by a participant survives  
 40 the participant.

41 (B) No children designated by the participant are entitled to an  
 42 annuity due to their age at the time of death of the participant.

**C**  
**O**  
**P**  
**Y**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

(C) A designation is not made.

(6) An annuity payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 6. IC 33-38-7-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20. (a) As used in this section, "retirement fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.**

**(b) This section applies only to a person who:**

- (1) is a judge participating under this chapter;**
- (2) before becoming a judge was employed in a position that resulted in the person being a member of the retirement fund;**
- (3) received credited service in the retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 18 or 19 of this chapter;**
- (4) has attained vested status in the retirement fund for the employment described in subdivision (2), but has not begun receiving a benefit from the retirement fund; and**
- (5) has at least eight (8) years of service credit in the judges' retirement system.**

**(c) If a person becomes a participant in the judges' 1977 benefit system under this chapter, the person may elect credit for the service described in subsection (b)(3) solely for the purpose of meeting the age plus years of service requirement described in section 11(b)(2)(B) of this chapter, if the following conditions are met:**

- (1) The prior service was credited under the retirement fund.**
- (2) The maximum amount of service that a person may elect to transfer under this section is ten (10) years.**
- (3) The person waives the right to a retirement benefit from the retirement fund based on the service transferred under this section.**

**(d) If a participant makes an election under subsection (c), the board shall transfer from the retirement fund to the judges' 1977 benefit system the amount credited to the participant's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the participant.**

**(e) The service for which an election is made under this section**

C  
o  
p  
y



1 **may not be used as years of service for the purpose of computing**  
2 **a participant's retirement benefit under section 11(d) of this**  
3 **chapter.**

4 SECTION 7. IC 33-38-8-1 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies  
6 only to an individual who:

- 7 (1) begins service as a judge after August 31, 1985, **and before**
- 8 **January 1, 2008;**
- 9 (2) **is serving as a full-time magistrate on July 1, 2007, and**
- 10 **makes an election under section 10.5 of this chapter; or**
- 11 (3) **begins service as a full-time magistrate after July 1, 2007,**
- 12 **and before January 1, 2008.**

13 SECTION 8. IC 33-38-8-10 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) A person who:

- 15 (1) begins service as a judge after August 31, 1985, **and before**
- 16 **January 1, 2008;** and
- 17 (2) is not a participant in the fund;
- 18 shall become a participant in the fund.

19 (b) **A person who:**

- 20 (1) **is serving as a full-time magistrate on July 1, 2007; and**
- 21 (2) **makes an election under section 10.5 of this chapter;**

22 **is, beginning January 1, 2008, a participant in the judges' 1985**  
23 **benefit system under this chapter.**

24 (c) **A person who begins service as a full-time magistrate after**  
25 **July 1, 2007, and before January 1, 2008, is, beginning January 1,**  
26 **2008, a participant in the judges' 1985 benefit system under this**  
27 **chapter.**

28 SECTION 9. IC 33-38-8-10.5 IS ADDED TO THE INDIANA  
29 CODE AS A NEW SECTION TO READ AS FOLLOWS  
30 [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. A person who is serving as**  
31 **a full-time magistrate on July 1, 2007, may elect to become a**  
32 **member of the judges' 1985 benefit system under this chapter. An**  
33 **election under this section:**

- 34 (1) **must be made in writing;**
- 35 (2) **must be filed with the board, on a form prescribed by the**
- 36 **board, before October 1, 2007; and**
- 37 (3) **is irrevocable.**

38 SECTION 10. IC 33-38-8-11 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A participant  
40 shall make contributions to this fund of six percent (6%) of each  
41 payment of salary received for services as judge. However, the  
42 employer may elect to pay the contribution for the participant as a

**C**  
**O**  
**P**  
**Y**



1 pickup under Section 414(h) of the Internal Revenue Code.

2 (b) Participants' contributions, other than participants' contributions  
3 paid by the employer, shall be deducted from the monthly salary of  
4 each participant by the auditor of state and by the county auditor and  
5 credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22.  
6 However, a contribution is not required:

7 (1) because of any salary received after the participant has  
8 contributed to the fund for ~~twenty-two (22)~~ **twenty-six (26)** years;  
9 or

10 (2) during any period that the participant is not serving as judge.

11 SECTION 11. IC 33-38-8-12 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) A participant  
13 who:

14 (1) ceases service:

15 (A) as a judge; or

16 (B) **after December 31, 2007, as a judge or full-time**  
17 **magistrate;**

18 other than by death or disability; and

19 (2) is not eligible for a retirement benefit under this chapter;

20 is entitled to withdraw from the fund, beginning on the date specified  
21 by the participant in a written application. The date on which the  
22 withdrawal begins may not be before the date of final termination of  
23 employment or the date thirty (30) days before the receipt of the  
24 application by the board.

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

29 SECTION 12. IC 33-38-8-13, AS AMENDED BY P.L.28-2005,  
30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2007]: Sec. 13. A participant whose employment as a judge,  
32 **or after December 31, 2007, as a judge or full-time magistrate,** is  
33 terminated is entitled to a retirement benefit computed under section  
34 14 of this chapter, beginning on the date specified by the participant in  
35 a written application, if the following conditions are met:

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

37 (A) before the date of final termination of employment of the  
38 participant; or

39 (B) the date thirty (30) days before the receipt of the  
40 application by the board.

41 (2) The participant:

42 (A) is at least sixty-two (62) years of age and has at least eight

C  
O  
P  
Y



- 1 (8) years of service credit;
- 2 (B) is at least fifty-five (55) years of age and the participant's
- 3 age in years plus the participant's years of service is at least
- 4 eighty-five (85); or
- 5 (C) has become permanently disabled.
- 6 (3) The participant is not receiving a salary from the state for
- 7 services currently performed as:
- 8 (A) a judge (as defined in IC 33-38-6-7); or
- 9 (B) a magistrate under IC 33-23-5.

10 SECTION 13. IC 33-38-8-14 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) Benefits  
 12 provided under this section are subject to IC 33-38-6-13 and section 20  
 13 of this chapter.

- 14 (b) A participant who:
- 15 (1) applies for a retirement benefit; and
- 16 (2) is at least:
- 17 (A) sixty-five (65) years of age; or
- 18 (B) fifty-five (55) years of age and meets the requirements
- 19 under section 13(2)(B) of this chapter;

20 is entitled to an annual retirement benefit as calculated in subsection  
 21 (c).

22 (c) The annual retirement benefit for a participant who meets the  
 23 requirements of subsection (b) equals the product of:

- 24 (1) the salary ~~that was being paid to~~ **being paid to for the office that** the  
 25 participant **held** at the time of **the participant's** separation from  
 26 service; multiplied by

27 (2) the percentage prescribed in the following table:

28 Participant's Years	Percentage
29 of Service	
30 8	24%
31 9	27%
32 10	30%
33 11	33%
34 12	50%
35 13	51%
36 14	52%
37 15	53%
38 16	54%
39 17	55%
40 18	56%
41 19	57%
42 20	58%

C  
o  
p  
y



1	21	59%
2	22 or more	60%
3	<b>23</b>	<b>61%</b>
4	<b>24</b>	<b>62%</b>
5	<b>25</b>	<b>63%</b>
6	<b>26 or more</b>	<b>64%</b>

7 If a participant has a partial year of service in addition to at least eight  
 8 (8) full years of service, an additional percentage shall be calculated by  
 9 prorating between the applicable percentages, based on the number of  
 10 months in the partial year of service.

11 (d) Except as provided in section 13(2)(B) of this chapter and  
 12 subsection (b)(2)(B), if a participant who applies for a retirement  
 13 benefit has not attained sixty-five (65) years of age, the participant is  
 14 entitled to receive a reduced annual retirement benefit that equals the  
 15 benefit that would be payable if the participant were sixty-five (65)  
 16 years of age reduced by one-tenth percent (0.1%) for each month that  
 17 the participant's age at retirement precedes the participant's sixty-fifth  
 18 birthday. This reduction does not apply to:

- 19 (1) participants who are separated from service because of
- 20 permanent disability;
- 21 (2) survivors of participants who die while in service after August
- 22 1, 1992; or
- 23 (3) survivors of participants who die while not in service but while
- 24 entitled to a future benefit.

25 SECTION 14. IC 33-38-8-16 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Benefits  
 27 provided under this section are subject to IC 33-38-6-13 and section 20  
 28 of this chapter.

29 (b) A participant who becomes permanently disabled is entitled to an  
 30 annual benefit that equals the product of:

- 31 (1) the salary ~~that was being paid to~~ **for the office that the**  
 32 **participant held** at the time of **the participant's** separation from  
 33 service; multiplied by
- 34 (2) the percentage prescribed in the following table:

35	Participant's Years	Percentage
36	of Service	
37	0-12	50%
38	13	51%
39	14	52%
40	15	53%
41	16	54%
42	17	55%

C  
o  
p  
y



1	18	56%
2	19	57%
3	20	58%
4	21	59%
5	22 or more	60%
6	<b>23</b>	<b>61%</b>
7	<b>24</b>	<b>62%</b>
8	<b>25</b>	<b>63%</b>
9	<b>26 or more</b>	<b>64%</b>

10 If a participant has a partial year of service in addition to at least eight  
 11 (8) full years of service, an additional percentage shall be calculated by  
 12 prorating between the applicable percentages, based on the number of  
 13 months in the partial year of service.

14 SECTION 15. IC 33-38-8-22 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) This section  
 16 applies to a person who:

17 (1) is:  
 18 (A) a judge; or

19 (B) after December 31, 2007, a judge or full-time magistrate;  
 20 participating under this chapter;

21 (2) before becoming a judge serving in a position described in  
 22 subdivision (1), was appointed by a court to serve as a full-time  
 23 referee, full-time commissioner, or full-time magistrate;

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

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

28 (b) If a person becomes a participant in the judges' 1985 benefit  
 29 system under section 1 of this chapter, credit for prior service by the  
 30 judge, or after December 31, 2007, by the judge or full-time  
 31 magistrate, as a full-time referee, full-time commissioner, or full-time  
 32 magistrate shall be granted under this chapter by the board if:

33 (1) the prior service was credited under the public employees'  
 34 retirement fund;

35 (2) the state contributes to the judges' 1985 benefit system the  
 36 amount the board determines necessary to amortize the prior  
 37 service liability over a period determined by the board, but not  
 38 more than ten (10) years; and

39 (3) the judge or full-time magistrate pays in a lump sum or in a  
 40 series of payments determined by the board, not exceeding five (5)  
 41 annual payments, the amount the judge or full-time magistrate  
 42 would have contributed if the judge or full-time magistrate had

C  
o  
p  
y



1           been a member of the judges' 1985 benefit system during the prior  
2           service.

3           (c) If the requirements of subsection (b)(2) and (b)(3) are not  
4           satisfied, a participant is entitled to credit only for years of service after  
5           the date of participation in the **judges'** 1985 benefit system.

6           (d) An amortization schedule for contributions paid under subsection  
7           (b)(2) or (b)(3) must include interest at a rate determined by the board.

8           (e) The following provisions apply to a person described in  
9           subsection (a):

10           (1) A minimum benefit applies to participants receiving credit in  
11           the judges' 1985 benefit system from service covered by the public  
12           employees' retirement fund. The minimum benefit is payable at  
13           sixty-five (65) years of age or when the participant is at least  
14           fifty-five (55) years of age and meets the requirements under  
15           section 13(2)(b) of this chapter and equals the actuarial equivalent  
16           of the vested retirement benefit that is:

17           (A) payable to the member at normal retirement under  
18           IC 5-10.2-4-1 as of the day before the transfer; and

19           (B) based solely on:

20           (i) creditable service;

21           (ii) the average of the annual compensation; and

22           (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the  
23           annuity savings account of the transferring member as of the  
24           day before the transfer.

25           (2) If the requirements of subsection (b)(2) and (b)(3) are satisfied,  
26           the board shall transfer from the public employees' retirement fund  
27           to the judges' 1985 benefit system the amount credited to the  
28           annuity savings account and the present value of the retirement  
29           benefit payable at sixty-five (65) years of age or at least fifty-five  
30           (55) years of age under section 13(2)(b) of this chapter that is  
31           attributable to the transferring participant.

32           (3) The amount the state and the participant must contribute to the  
33           judges' 1985 benefit system under subsection (b) shall be reduced  
34           by the amount transferred to the judges' 1985 benefit system by the  
35           board under subdivision (2).

36           (4) If the requirements of subsection (b)(2) and (b)(3) are satisfied,  
37           credit for prior service in the public employees' retirement fund as  
38           a full-time referee, full-time commissioner, or full-time magistrate  
39           is waived. Any credit for the prior service under the judges' 1985  
40           benefit system may be granted only under subsection (b).

41           (f) To the extent permitted by the Internal Revenue Code and the  
42           applicable regulations, the judges' 1985 benefit system may accept, on

COPY





1 behalf of a participant who is purchasing permissive service credit  
 2 under subsection (b), a rollover of a distribution from any of the  
 3 following:

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

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

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

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

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

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

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

23 SECTION 16. IC 33-38-8-23 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) This section  
 25 applies only to a person who:

26 (1) is:

27 (A) a judge; or

28 (B) after December 31, 2007, a judge or full-time magistrate;  
 29 participating under this chapter;

30 (2) before becoming a judge serving in a position described in  
 31 subdivision (1) was a member of a public employees' retirement  
 32 fund;

33 (3) received credited service under a public employees' retirement  
 34 fund for the employment described in subdivision (2), and the  
 35 credited service is not eligible for prior service credit under section  
 36 22 of this chapter;

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

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

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

C  
O  
P  
Y



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 (5)  
7 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

C  
O  
P  
Y



1 behalf of a participant who is purchasing permissive service credit  
2 under subsection (b), a trustee to trustee transfer from any of the  
3 following:

- 4 (1) An annuity contract or account described in Section 403(b) of
- 5 the Internal Revenue Code.
- 6 (2) An eligible deferred compensation plan under Section 457(b)
- 7 of the Internal Revenue Code.

8 SECTION 17. IC 33-38-8-24 IS ADDED TO THE INDIANA CODE  
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 2007]: **Sec. 24. (a) As used in this section, "retirement fund"**  
11 **refers to the public employees' retirement fund established by**  
12 **IC 5-10.3-2-1.**

- 13 **(b) This section applies only to a person who:**
- 14 **(1) is a judge participating under this chapter;**
- 15 **(2) before becoming a judge, was employed in a position that**
- 16 **resulted in the person being a member of the retirement fund;**
- 17 **(3) received credited service in the retirement fund for the**
- 18 **employment described in subdivision (2), and the credited**
- 19 **service is not eligible for prior service credit under section 22**
- 20 **or 23 of this chapter;**
- 21 **(4) has attained vested status in the retirement fund for the**
- 22 **employment described in subdivision (2), but has not begun**
- 23 **receiving a benefit from the retirement fund; and**
- 24 **(5) has at least eight (8) years of service credit in the judges'**
- 25 **retirement system.**

26 **(c) If a person becomes a participant in the judges' 1985 benefit**  
27 **system under this chapter, the person may elect credit for the**  
28 **service described in subsection (b)(3) solely for the purpose of**  
29 **meeting the age plus years of service requirement described in**  
30 **section 13(2)(B) of this chapter, if the following conditions are met:**

- 31 **(1) The prior service was credited under the retirement fund.**
- 32 **(2) The maximum amount of service that a person may elect to**
- 33 **transfer under this section is ten (10) years.**
- 34 **(3) The person waives the right to a retirement benefit from**
- 35 **the retirement fund based on the service transferred under this**
- 36 **section.**

37 **(d) If a participant makes an election under subsection (c), the**  
38 **board shall transfer from the retirement fund to the judges' 1985**  
39 **benefit system the amount credited to the participant's annuity**  
40 **savings account and the present value of the retirement benefit**  
41 **payable at sixty-five (65) years of age that is attributable to the**  
42 **participant.**

C  
o  
p  
y



1 (e) The service for which an election is made under this section  
 2 may not be used as years of service for the purpose of computing  
 3 a participant's retirement benefit under section 14 of this chapter.  
 4 SECTION 18. IC 33-38-8-25 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2007]: **Sec. 25. Subject to section 20 of this chapter, after June  
 7 30, 2007, the monthly benefit payable under this chapter to  
 8 participants, survivors, and beneficiaries shall be increased under  
 9 the same conditions as the monthly benefit is increased for  
 10 members, survivors, and beneficiaries of the 1977 judges' benefit  
 11 system established under IC 33-38-7.**  
 12 SECTION 19. IC 33-38-8.5 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2007]:  
 15 **Chapter 8.5. Judges' Defined Contribution Fund**  
 16 **Sec. 1. (a) This chapter applies only to an individual who first  
 17 begins service as a judge or full-time magistrate after December  
 18 31, 2007.**  
 19 **(b) An individual described in subsection (a) shall become a  
 20 participant in the defined contribution fund.**  
 21 **Sec. 2. As used in this chapter, "defined contribution fund"  
 22 refers to the judges' defined contribution fund established by  
 23 section 8 of this chapter.**  
 24 **Sec. 3. As used in this chapter, "Internal Revenue Code":**  
 25 **(1) means the Internal Revenue Code of 1954, as in effect  
 26 September 1, 1974, if permitted with respect to governmental  
 27 plans; or**  
 28 **(2) to the extent not inconsistent with subdivision (1), has the  
 29 meaning set forth in IC 6-3-1-11.**  
 30 **Sec. 4. As used in this chapter, "judge" means a person who  
 31 serves as a regular judge or justice of one (1) or more of the  
 32 following courts:**  
 33 **(1) Supreme court.**  
 34 **(2) Court of appeals.**  
 35 **(3) Indiana tax court.**  
 36 **(4) Circuit court of a judicial circuit.**  
 37 **(5) Superior court of a county.**  
 38 **(6) Criminal court of a county having a separate criminal  
 39 court.**  
 40 **(7) Probate court of a county having a separate probate court.**  
 41 **(8) Juvenile court of a county having a separate juvenile court.**  
 42 **(9) Municipal court of a county.**

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**(10) County court of a county.**

**Sec. 5. As used in this chapter, "participant" means an individual who participates in the defined contribution fund.**

**Sec. 6. As used in this chapter, "PERF board" refers to the board of trustees of the public employees' retirement fund.**

**Sec. 7. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties for the participant's service as a judge or full-time magistrate, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.**

**Sec. 8. (a) The judges' defined contribution fund is established.**

**(b) The defined contribution fund shall be administered by the PERF board. The defined contribution fund is a trust, separate and distinct from all other entities, maintained for the purpose of paying benefits to participants and their beneficiaries and paying the costs associated with administering the defined contribution fund.**

**(c) The PERF board shall adopt rules under IC 4-22-2 necessary for the administration of the defined contribution fund.**

**Sec. 9. The defined contribution fund must satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the defined contribution fund. In order to meet those requirements, the defined contribution fund is subject to the following provisions, notwithstanding any other law:**

**(1) The PERF board shall distribute the corpus and income of the defined contribution fund to participants and their beneficiaries in accordance with this chapter.**

**(2) No part of the corpus or income of the defined contribution fund may be used for or diverted to a purpose other than the exclusive benefit of participants and their beneficiaries.**

**(3) Forfeitures arising from severance of employment, death, or any other reason may not be applied to increase the benefits a participant or beneficiary would otherwise receive under this chapter.**

**(4) If the defined contribution fund is terminated, or if all contributions to the defined contribution fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of termination or discontinuance, to the extent then funded, are nonforfeitable.**

**(5) All benefits paid from the defined contribution fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations**

**C  
o  
p  
y**



1 under that Section. In order to meet those requirements, the  
 2 defined contribution fund is subject to the following  
 3 provisions:

4 (A) The life expectancy of a participant, the participant's  
 5 spouse, or the participant's beneficiary may not be  
 6 recalculated after the initial determination for purposes of  
 7 determining benefits.

8 (B) If a participant dies before the distribution of the  
 9 participant's benefits has begun, distributions to  
 10 beneficiaries must begin not later than December 31 of the  
 11 calendar year immediately following the calendar year in  
 12 which the participant dies.

13 (6) The PERF board may not:

14 (A) determine eligibility for benefits;

15 (B) compute rates of contribution; or

16 (C) compute benefits of a participant's beneficiaries;

17 in a manner that discriminates in favor of participants who are  
 18 considered officers, supervisors, or highly compensated, as  
 19 prohibited under Section 401(a)(4) of the Internal Revenue  
 20 Code.

21 (7) Benefits paid under this chapter may not exceed the  
 22 maximum benefits and contributions specified by Section 415  
 23 of the Internal Revenue Code. If a participant's benefits under  
 24 this chapter would exceed those maximum benefits and  
 25 contributions, the participant contribution made under this  
 26 chapter shall be reduced as necessary.

27 (8) The salary taken into account under this chapter may not  
 28 exceed the applicable amount under Section 401(a)(17) of the  
 29 Internal Revenue Code.

30 (9) The PERF board may not engage in a transaction  
 31 prohibited by Section 503(b) of the Internal Revenue Code.

32 Sec. 10. (a) The PERF board shall:

33 (1) determine eligibility for and make payments of benefits  
 34 under this chapter;

35 (2) administer the defined contribution fund in accordance  
 36 with the powers and duties granted in IC 5-10.3-3-7,  
 37 IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through  
 38 IC 5-10.3-5-6; and

39 (3) provide by rule for the implementation of this chapter.

40 (b) A determination by the PERF board may be appealed under  
 41 IC 4-21.5.

42 (c) The powers and duties of:

**C**  
**O**  
**P**  
**Y**



1 (1) the director and the actuary of the PERF board;

2 (2) the treasurer of state;

3 (3) the attorney general; and

4 (4) the auditor of state;

5 with respect to the defined contribution fund are those specified in  
6 IC 5-10.3-3 and IC 5-10.3-4.

7 (d) Money in the defined contribution fund may be commingled  
8 with the public employees' retirement fund for investment  
9 purposes.

10 (e) The defined contribution fund records of individual  
11 participants and participants' information are confidential, except  
12 for the name and contributions made by and on behalf of a  
13 participant.

14 Sec. 11. (a) The defined contribution fund consists of the  
15 following:

16 (1) Each participant's contributions to the defined contribution  
17 fund.

18 (2) Contributions made by the state to the defined contribution  
19 fund.

20 (3) All gifts, grants, devises, and bequests in money, property,  
21 or other form made to the defined contribution fund. Gifts,  
22 grants, devises, and bequests shall be divided equally among all  
23 participants' accounts.

24 (4) All earnings on investments or on deposits of the defined  
25 contribution fund.

26 (5) All contributions or payments to the defined contribution  
27 fund made in a manner provided by the general assembly.  
28 Contributions and payments, other than participants'  
29 contributions and contributions made by the state on behalf of  
30 participants, shall be divided equally among all participants'  
31 accounts.

32 (b) Each participant shall be credited individually with:

33 (1) the participant's contributions to the defined contribution  
34 fund under section 12 of this chapter, which shall be credited  
35 to the participant's account;

36 (2) the contributions made to the defined contribution fund on  
37 behalf of the participant under section 13 of this chapter,  
38 which shall be credited to the participant's account; and

39 (3) the net earnings on the participant's account.

40 Sec. 12. (a) A participant shall make contributions to the defined  
41 contribution fund equal to six percent (6%) of each payment of  
42 salary received by the participant for services as a judge or

C  
O  
P  
Y



1 full-time magistrate. However, the employer may elect to pay the  
2 contribution for the participant as a pickup under Section 414(h)  
3 of the Internal Revenue Code.

4 (b) In compliance with rules established by the PERF board, a  
5 participant may make contributions to the participant's account in  
6 addition to the contributions required under subsection (a). The  
7 total amount of contributions that may be made to a participant's  
8 account each payroll period under this subsection may not exceed  
9 the maximum amount allowable under the applicable Internal  
10 Revenue Code rules.

11 (c) A participant's contributions, other than contributions paid  
12 by the employer on behalf of the participant, shall be deducted  
13 from the monthly salary of the participant by the auditor of state  
14 and by the county auditor and credited to the defined contribution  
15 fund. However, a contribution is not required during any period  
16 that the participant is not serving as either a judge or full-time  
17 magistrate.

18 Sec. 13. The state shall make contributions annually to the  
19 defined contribution fund on behalf of each participant. The  
20 amount of the contributions made on behalf of a participant must  
21 equal fifteen percent (15%) of the salary received by the  
22 participant for the participant's service as a judge or full-time  
23 magistrate.

24 Sec. 14. (a) The PERF board shall establish investment programs  
25 within the defined contribution fund, based on the following  
26 requirements:

27 (1) The PERF board shall maintain at least one (1) investment  
28 program that is an indexed stock fund and one (1) investment  
29 program that is a bond fund.

30 (2) The programs should represent a variety of investment  
31 objectives.

32 (3) The programs may not permit a participant to withdraw  
33 money from the participant's account, except as provided in  
34 this chapter.

35 (4) All administrative costs of each investment program shall  
36 be paid from the earnings on that program.

37 (5) A valuation of each participant's account must be  
38 completed as of the last day of each quarter.

39 (b) A participant shall direct the allocation of the amount  
40 credited to the participant among the available investment  
41 programs, subject to the following conditions:

42 (1) A participant may make a selection or change an existing

C  
o  
p  
y





1 selection under rules established by the PERF board. The  
 2 PERF board shall allow a participant to make a selection or  
 3 change any existing selection at least once each quarter.

4 (2) The PERF board shall implement the participant's selection  
 5 not later than the next business day following receipt of the  
 6 participant's selection by the PERF board. This date is the  
 7 effective date of the participant's selection.

8 (3) A participant may select any combination of the available  
 9 investment programs.

10 (4) A participant's selection remains in effect until a new  
 11 selection is made.

12 (5) On the effective date of a participant's selection, the PERF  
 13 board shall reallocate the participant's existing balance or  
 14 balances in accordance with the participant's direction, based  
 15 on the market value of the participant's balance or balances on  
 16 the effective date.

17 (6) If a participant does not make an investment selection of an  
 18 investment program, the participant's account shall be  
 19 invested in the PERF board's general investment fund.

20 (7) All contributions to the participant's account shall be  
 21 allocated not later than the last day of the quarter in which the  
 22 contributions are received and reconciled in accordance with  
 23 the participant's most recent effective direction.

24 (c) When a participant transfers the amount credited to the  
 25 participant from an investment program to another investment  
 26 program, the amount credited to the participant shall be valued at  
 27 the market value of the participant's investment, as of the day  
 28 before the effective date of the participant's selection. When a  
 29 participant retires, becomes disabled, dies, or withdraws from the  
 30 defined contribution fund, the amount credited to the participant  
 31 is the market value of the participant's investment as of five (5)  
 32 business days preceding the participant's distribution or  
 33 annuitization at retirement, disability, death, or withdrawal, plus  
 34 contributions received after that date.

35 (d) The PERF board shall determine the value of each investment  
 36 program in the defined contribution fund, as of the last day of each  
 37 calendar quarter, as follows:

38 (1) The market value shall exclude the employer contributions  
 39 and employee contributions received during the quarter ending  
 40 on the current allocation date.

41 (2) The market value as of the immediately preceding quarter  
 42 end date shall include the employer contributions and

**C**  
**O**  
**P**  
**Y**



1           employee contributions received during that preceding  
2           quarter.

3           (3) The market value as of the immediately preceding quarter  
4           end date shall exclude benefits paid from the defined  
5           contribution fund during the quarter ending on the current  
6           quarter end date.

7           **Sec. 15. (a)** A participant who no longer is serving as either a  
8           judge or a full-time magistrate is entitled to withdraw the balance  
9           in the participant's account in the defined contribution fund. The  
10          withdrawal shall be made not later than the required beginning  
11          date under the Internal Revenue Code. The amount available for  
12          the withdrawal is the amount specified in section 14(c) of this  
13          chapter.

14          **(b)** The withdrawal amount shall be paid in a lump sum, a partial  
15          lump sum, a monthly annuity as purchased by the PERF board, or  
16          a series of monthly installment payments over sixty (60), one  
17          hundred twenty (120), or one hundred eighty (180) months, as  
18          elected by the participant. The forms of annuity and installments  
19          shall be established by the PERF board by rule, in consultation  
20          with the system's actuary. The PERF board shall give participants  
21          information on these forms of payments and the effects of various  
22          dates of withdrawal.

23          **Sec. 16. (a)** This section applies to a participant who dies:

24                (1) while serving as a judge or full-time magistrate; or  
25                (2) after terminating service as a judge or full-time magistrate  
26                and before withdrawing the balance in the participant's  
27                account from the defined contribution fund.

28          **(b)** The balance in the participant's account shall be paid to a  
29          beneficiary or the beneficiaries designated on a form prescribed by  
30          the PERF board. The amount paid shall be the amount specified in  
31          section 14(c) of this chapter. If there is no properly designated  
32          beneficiary, or if no beneficiary survives the participant, the  
33          participant's accounts shall be paid to:

34                (1) the surviving spouse of the participant;  
35                (2) if there is no surviving spouse, a surviving child or the  
36                surviving children of the participant; or  
37                (3) if there is no surviving spouse and no surviving child, the  
38                estate of the participant.

39          **(c)** Amounts payable under this section shall be paid in a lump  
40          sum, a partial lump sum, a monthly annuity as purchased by the  
41          PERF board, or a series of monthly installment payments over  
42          sixty (60) months, as elected by the recipient. The forms of annuity

**C**  
**O**  
**P**  
**Y**



1 and installments available shall be established by the PERF board  
2 by rule, in consultation with the system's actuary.

3 Sec. 17. The amount required to make the state's employer  
4 contributions required by this chapter is annually appropriated  
5 from the state general fund.

6 Sec. 18. A participant or beneficiary may not assign any payment  
7 under this chapter except for premiums on a life, hospitalization,  
8 surgical, or medical group insurance plan maintained in part by a  
9 state agency.

10 Sec. 19. The PERF board shall adopt rules establishing  
11 procedures for making loans to a participant from the participant's  
12 employee contribution account and employer contribution account  
13 within the defined contribution fund. Rules adopted under this  
14 section must comply with the requirements of Section 72(p) of the  
15 Internal Revenue Code and must apply to each participant in the  
16 defined contribution fund, regardless of whether the participant is  
17 serving as a judge or full-time magistrate at the time of the loan. A  
18 loan made in accordance with rules adopted under this section is  
19 not considered receipt of retirement benefits for purposes of  
20 IC 5-10-8-1.

21 Sec. 20. Notwithstanding any other provision of this chapter, to  
22 the extent required by Section 401(a)(31) of the Internal Revenue  
23 Code and any amendments and regulations related to Section  
24 401(a)(31) of the Internal Revenue Code, the defined contribution  
25 fund shall allow participants to elect a direct rollover of eligible  
26 distributions to another eligible retirement plan.

27 Sec. 21. (a) To the extent permitted by the Internal Revenue Code  
28 and applicable regulations, the defined contribution fund may  
29 accept, on behalf of any active participant, a rollover distribution  
30 from any of the following:

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

33 (2) An annuity contract or account described in Section 403(b)  
34 of 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  
37 or political subdivision of a state under Section 457(b) of the  
38 Internal 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 (b) Any amounts rolled over under subsection (a) must be  
42 accounted for in a rollover account that is separate from the

C  
O  
P  
Y



1 participant's account in the defined contribution fund.

2 (c) A participant may direct the investment of the participant's  
3 rollover account into any investment option that the PERF board  
4 makes available to the participant's rollover account.

5 (d) A participant may withdraw the participant's rollover  
6 account from the defined contribution fund in a lump sum at any  
7 time before retirement. At retirement, the participant may  
8 withdraw the participant's rollover account in accordance with the  
9 retirement options that are available for the participant's account.

10 **Sec. 22. Notwithstanding any provision of this chapter, the**  
11 **defined contribution fund shall be administered in a manner**  
12 **consistent with the following:**

13 (1) The Family and Medical Leave Act of 1993 (29 U.S.C. 2601  
14 et seq.).

15 (2) The Uniformed Services Employment and Reemployment  
16 Rights Act (38 U.S.C. 4301 et seq.).

17 (3) The Americans with Disabilities Act (42 U.S.C. 12101 et  
18 seq.).

19 **SECTION 20. [EFFECTIVE JULY 1, 2007] (a) IC 33-38-7-10 and**  
20 **IC 33-38-7-11, both as amended by this act, apply only to:**

21 (1) participants in the judges' 1977 retirement, disability, and  
22 death benefit system who retire, become disabled, or die after  
23 June 30, 2007; and

24 (2) surviving spouses and dependent children of participants  
25 described in subdivision (1).

26 (b) IC 33-38-8-11, IC 33-38-8-14, and IC 33-38-8-16, all as  
27 amended by this act, apply only to:

28 (1) participants in the judges' 1985 retirement, disability, and  
29 death benefit system who retire, become disabled, or die after  
30 June 30, 2007; and

31 (2) surviving spouses and dependent children of participants  
32 described in subdivision (1).

33 **SECTION 21. [EFFECTIVE JULY 1, 2007] IC 33-38-7-20, as**  
34 **added by this act, applies to a participant in the judges' 1977**  
35 **retirement, disability, and death benefit system who retires after**  
36 **June 30, 2007.**

37 **SECTION 22. [EFFECTIVE JULY 1, 2007] IC 33-38-8-24, as**  
38 **added by this act, applies to a participant in the judges' 1985**  
39 **retirement, disability, and death benefit system who retires after**  
40 **June 30, 2007.**

**C**  
**O**  
**P**  
**Y**

