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FISCAL IMPACT STATEMENT

LS 6673 | **NOTE PREPARED:** Jan 12, 2008
BILL NUMBER: SB 329 | **BILL AMENDED:**

SUBJECT: Judges' Pensions.

FIRST AUTHOR: Sen. Kruse | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State
DEDICATED
FEDERAL

Summary of Legislation: This bill:

(1) Allows a person serving as a full-time magistrate on July 1, 2010, and requires a person who begins serving as a full-time magistrate after that date, to become a participant in the Judges' 1985 Benefit System (1985 System);
(2) Allows under certain conditions a judge who is a participant in the 1985 System to transfer to the 1985 system service credit earned as a full-time referee, commissioner, or magistrate after leaving a position covered by the 1985 System;
(3) Allows under certain conditions a magistrate who is a participant in the 1985 System to purchase, at full actuarial cost, service credit for service earned in the Public Employees' Retirement Fund (PERF) as a full-time magistrate, referee, or commissioner;
(4) For certain participants in the 1985 System who apply for a retirement benefit after December 31, 2009, bases the computation of the annual retirement benefit on the salary being paid for the office that the participant held at the time of the participant's separation from service. (Currently, the computation is based on the salary being paid to the participant at the time of the participant's separation from service.);
(5) Provides that benefit increases paid after December 31, 2009, to a participant in the 1985 System who applies for a retirement benefit before January 1, 2010, or to certain terminated vested participants, are equal to the percentage by which the salary being paid for the office that the participant held at the time of the participant's separation from service increases; and
(6) Increases the court administration fee from $3 to $5, and directs that the additional amount be paid into the Judges' Retirement Fund, except for the additional amount collected by the Marion County small claims courts, which must be used to fund the small claims courts' operations.

(The introduced version of this bill was prepared by the Pension Management Oversight Commission.)

Effective Date: July 1, 2008.

Explanation of State Expenditures: The bill provides that full-time magistrates may become members of the Judges 1985 Benefit System as of January 1, 2011. Prior service shall be granted provided the magistrate contributes the actuarial cost of the prior service. The estimate assumes all magistrates would purchase their prior service.

The proposal also aligns the 1977 Benefit System and the 1985 Benefit System as of January 1, 2010, by providing that the monthly benefits payable to participants, survivors, and beneficiaries under the 1985 Judges Benefit System would be increased under the same conditions as monthly benefits are increased for members of the Judges 1977 Benefit System. [NOTE: The estimate only considers these benefit increases on a prospective basis.]

Members of the 1985 Benefit System who terminate service prior to January 1, 2010, with a vested benefit but commence benefits after December 31, 2009, will have their benefits calculated based on their salary at employment termination (to which would be added a percentage increase each year beginning January 1, 2010, to reflect the future percentage increase in the applicable position's current salary).

Although the Judges' 1985 Benefit System is funded as a pay-as-you-go plan, the impact is shown in the following table as if it were a prefunded plan.

Fiscal Impact on Actuarial Prefunding Basis			
	Add Magistrates to 1985 System	**Add 1977 System Salary Definition to 1985 System***	**Both Additions**
Increase in Unfunded Accrued Liability	$1,350,000	$32,880,000	$34,790,000
Increase in Annual Funding (in dollars)	$980,000	$5,110,000	$6,680,000
Increase in Annual Funding (as % of payroll)	(3.5%)	17.1%	12.2%
Change in Funded Status from 74.6% to	75.0%	66.9%	67.6%

The above amounts do not add exactly across because of the compounding effect that takes place. In other words, the left hand column presents the fiscal impact of adding magistrates, but without any post-retirement increases. The middle column presents post-retirement increases, not including magistrate post-retirement increases. The right-hand column shows the fiscal impact of adding magistrates to the 1985 System and providing post-retirement increases to magistrates.

The Judges' Retirement System, however, is funded on a pay-as-you-go basis. Projected benefit payments are shown in the table below. Benefits will continue after 2015-2016.

Fiscal Impact on Pay-As-You-Go-Basis Increase in Benefit Payments			
Plan Year	**Add Magistrates to 1985 System**	**Add 1977 System Salary Definition to 1985 System***	**Both Additions**
2007-08	-	-	-
2008-09	-	-	-
2009-10	-	$54,000	$54,000
2010-11	$57,000	$257,000	$314,000
2011-12	$245,000	$425,000	$674,000
2012-13	$382,000	$617,000	$1,013,000
2013–14	$512,000	$873,000	$1,413,000
2014-15	$622,000	$1,107,000	$1,777,000
2015-16	$842,000	$1,436,000	$2,352,000

* For members of the 1985 Benefit System who retire prior to January 1,2010, benefits will increase in future years after 2009 in the same ratio as future salaries increase in years after 2009.

This pension provisions of this bill only affect those participants under the 1985 Benefit System and approximately 80 full-time magistrates.

There would also be a fiscal impact with respect to PERF that will partially offset the cost of the transfer of magistrates from PERF to the Judges Retirement System. This impact is shown in the table below.

Transfer Magistrates to Judges	
Decrease in PERF Unfunded Actuarial Liability	$1,190,000
Decrease in PERF Annual Funding	$416,000
Change in PERF Funded Status	Negligible

[NOTE: PERF is actuarially prefunded while the Judges' Retirement System is pay-as-you-go. Therefore, the $1,190,000 decrease in unfunded actuarial liability given above should be considered in conjunction with the actuarially prefunded fiscal impact for the Judges' Retirement System (rather than the estimated increase in the annual benefit payout).]

Explanation of State Revenues: *Summary-* This bill makes three changes to the court fee structure. It increases the court administration fee from the current $3 to $5. Second, it transfers $1 M semiannually from the state General Fund to a series of court-related funds and programs (99% of which is for the Judges' Retirement Fund). And finally, it reduces the share of the revenue that the General Fund receives from the

Marion County Small Claims Courts from 100% of all court administration fees collected to 60% of all court administration fees collected. The following table illustrates how these provisions will affect the revenue that the state General Fund receives from the court administration fee.

Impact of Court Administration Fee Revenue Changes (in $ Millions)					
	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Increase in Court Administration Fee	$1.60	$1.90	$2.06	$2.06	$2.06
Less: Annual Transfer of $2 M to Court-Related Funds (over 99% of new revenue would be deposited in Judges Retirement Fund)	$2.00	$2.00	$2.00	$2.00	$2.00
Less: State Share of Revenue from Court Administration Fee collected by Marion County Township Small Claims Courts Reduced to 60%	$0.00	$0.00	$0.00	$0.00	$0.00
Effect on State General Fund	($0.40)	($0.10)	$0.06	$0.06	$0.06

Background and Additional Details-

(1) Court Administration Fee Changes – The court administration fee is currently $3. Proceeds from the fee are deposited in the state General Fund. The following table shows that an estimated $2 M would be generated if the court administration fee is increased from $3 to $5. This estimate is based on the filings and dispositions between 2001 and 2005 and adjusted for one of the following reasons:

- Defendants in criminal cases or cases involving infractions or ordinance violations did not pay a fee because a case was dismissed;
- Defendants in cases involving infractions or ordinance violations either failed to pay or appear in court;
- Defendants in criminal cases had their fee waived because they were represented by pauper counsel;
- Plaintiffs in civil and small claims filings have their filing fee waived because of indigency.

New Revenue from Increasing Court Fees by $2 in Trial Courts, City and Town Courts, and Marion County Small Claims Courts					
Type of Case	**Trial Courts**	**City and Town Courts**	**Marion County Small Claims Courts***	**Totals**	**Percent**
Felonies and Misdemeanors	$100,887	$44,130		$145,017	7%
Infractions	$737,989	$262,135		$1,000,124	49%
Ordinance Violations	$97,653	$28,801		$126,454	6%
Civil and Probate	$349,538	$17,716		$367,254	18%
Juvenile	$28,965			$28,965	1%
Small Claims	$393,134		$0	$393,134	19%
Totals	**$1,708,166**	**$352,782**	**$0**	**$2,060,948**	**100%**
* Marion County Township Small Claims Courts would generate no new court administration fee revenue.					

These added revenues from a court fee increase may take 12 to 18 months before they generate the forecast revenue due to implementation and because of timing and reporting differences. The timing difference occurs

when plaintiffs in civil cases pay the fee at the time of filing while defendants in criminal, juvenile, and infractions and ordinance violations cases pay the fee after a court decides that a person is guilty and that the person is not indigent. The reporting difference is because the state and local governments recognize revenue on a cash rather than an accrual basis. As a result, revenue received after a certain cutoff date for the end of a fiscal year is reported in the next fiscal year.

Consequently, in the first year or two after enactment, the amount that is generated would likely be 10 to 20% less than the amount shown in this table.

(2) Semiannual Transfer of Money from the State General Fund to the Judges Retirement Fund – Under current law, $8,277,023 is transferred to the Judges Retirement Fund and to eight other court-related funds every six months. Under this proposal, an additional $1,000,000 would be transferred from the state General Fund twice each year as shown in the following table. While the Judges Retirement Fund would receive an additional $995,517 each six months, the other funds would also receive small increases of less than $1,000.

Semi Annual Transfer of $1 M from State General Fund to Court Related Funds and Programs

	Current Law		Proposed		Added
		$8,277,023		$9,277,023	$1,000,000
Family Violence and Victim Assistance Fund	8.99%	$744,104	8.03%	$744,945	$841
IN Judges' Retirement Fund	31.18%	$2,580,776	38.55%	$3,576,292	$995,517
Law Enf. Academy Building Fund	2.86%	$236,723	2.56%	$237,492	$769
Law Enforcement Training Fund	11.51%	$952,685	10.27%	$952,750	$65
Violent Crime Victims Comp. Fund	13.37%	$1,106,638	11.93%	$1,106,749	$111
Motor Vehicle Highway Account	21.84%	$1,807,702	19.49%	$1,808,092	$390
Fish and Wildlife Fund	0.27%	$22,348	0.25%	$23,193	$845
IN Jud. Center Drug & Alcohol Fund	1.82%	$150,642	1.63%	$151,215	$574
DNA Sample Processing Fund	8.16%	$675,405	7.29%	$676,295	$890
	100.00%	$8,277,023	100.00%	$9,277,023	$1,000,000

(3) Reducing the State Share of Court Administration Fee from Marion County Township Small Claims Courts- Currently, the state General Fund receives 100% of all revenue generated by court administration fee in the Marion County Township Small Claims Courts. This bill would reduce the revenue that the state General Fund would receive to 60% and allow the balance to be retained by the township trustee in the township in which the court is located. By increasing the fee by 40%, but reducing the state share by 40%, no new revenue would be created for the state General Fund.

Reducing the State Share of Court Administration Fee from Marion County Township Small Claims Courts from 100% to 60%

	Filings Per Year		Court Administration Fee		Percent Paying		State Share		Estimated Revenue
Current Law	66,550	x	$3	x	90%	x	100%	=	$179,685
Proposed	66,550	x	$5	x	90%	x	60%	=	$179,685

Explanation of Local Expenditures:

Explanation of Local Revenues: *Increasing the Township Share of Court Administration Fee*– Currently, county township small claims courts receive no revenue from the court administration fee. As proposed, increasing the court fee from $3 to $5 and increasing the share that the townships receive from nothing to 40% could generate approximately $120,000 in new money for the townships.

Filings Per Year		Court Administration Fee		Percent Paying		Township Share		Estimated Revenue
66,550	x	$5	x	90%	x	40%	=	$119,790

State Agencies Affected: Public Employees' Retirement Fund as administrators of the Judges' Retirement Fund.

Local Agencies Affected: Marion County Township Small Claims Courts.

Information Sources: Doug Todd of McCready & Keane, Inc., actuaries for PERF and the Judges' Retirement Fund, 317- 576-1508; *Indiana Judicial Report*.

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DEFINITIONS

Actuarial Prefunded Basis- An employer sets aside funds on a systematic basis to provide pension benefits; involves periodic contributions on behalf of the active employee group.

Funding–Funding is a systematic program under which assets are set aside in amounts and at times approximately coincident with the accruing of benefit rights under a retirement system.

Pay-As-You-Go Method– Sometimes called current disbursement cost method, is a method of recognizing the costs of a retirement system only as benefits are paid.

Unfunded Actuarial Liability - Sometimes called the unfunded liability, of a retirement system at any time is the excess of its actuarial liability at that time over the value of its cash and investments.