
HOUSE BILL No. 1537

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8-8-13.4.

Synopsis: 1977 fund disability benefits. Allows a certain member or survivor of a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who applied for disability before 1990 and is receiving a disability benefit to apply to a local board for a recommendation as to whether the member's disability occurred in the line of duty. Provides that the local board shall make a recommendation of its findings to the 1977 fund advisory committee. Provides that the 1977 fund advisory committee shall make an initial determination of whether the member's disability occurred in the line of duty. Provides that if the 1977 fund advisory committee fails to timely provide an initial determination, the default determination will be made by the public employees' retirement fund's (PERF) medical authority. Provides that the PERF board makes a final determination of whether the member's disability occurred in the line of duty. Establishes procedures to appeal: (1) a recommendation by the local board; (2) an initial determination by the 1977 fund advisory committee; or (3) an initial default determination made by the PERF medical authority. Provides that a certain member or survivor of a member may apply to the local board within two years of the PERF board providing notice that it has received a favorable ruling from the Internal Revenue Service. Provides that the PERF board shall provide notice to certain 1977 fund members of the Internal Revenue Service's ruling within 30 days of its receipt.

Effective: July 1, 2011.

Speedy, Frye R, Pryor

January 20, 2011, read first time and referred to Committee on Employment, Labor and Pensions.

C
o
p
y



First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C
O
P
Y

HOUSE BILL No. 1537



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

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

- 1 SECTION 1. IC 36-8-8-13.4 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2011]: **Sec. 13.4. (a) This section applies only to a fund member**
- 4 **or survivor of a fund member who is receiving a disability benefit**
- 5 **under section 13.3(b) of this chapter.**
- 6 **(b) A fund member or survivor of a fund member described in**
- 7 **subsection (a) may file an application, in accordance with this**
- 8 **section, requesting a determination that:**
- 9 **(1) the member's covered impairment, as determined under**
- 10 **section 13.3(b) of this chapter, was:**
- 11 **(A) the direct result of:**
- 12 **(i) a personal injury that occurred while the fund**
- 13 **member was on duty;**
- 14 **(ii) a personal injury that occurred while the fund**
- 15 **member was off duty and was responding to an offense**
- 16 **or a reported offense, in the case of a police officer, or an**
- 17 **emergency or reported emergency for which the fund**



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

member was trained, in the case of a firefighter; or
(iii) an occupational disease (as defined in IC 22-3-7-10),
including a duty related disease that is also included
within clause (B);

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

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

**(C) a disability presumed incurred in the line of duty under
IC 5-10-13 or IC 5-10-15; or**

**(2) the member's covered impairment, as determined under
section 13.3(b) of this chapter, was not a covered impairment
described in subdivision (1).**

**The application must be filed with the local board that made the
determination of a covered impairment resulting in a disability
benefit under section 13.3(b) of this chapter. The application form
shall be prepared by the PERF board or its designee and be made
available to a fund member or survivor of a fund member
described in subsection (a) upon request.**

**(c) A fund member or survivor of a fund member who files an
application under this section has the burden of presenting
sufficient evidence to support a finding that the member's covered
impairment, as determined under section 13.3(b) of this chapter,
satisfies the standard provided in subsection (b)(1). Such evidence
may include any documents, materials, or other evidence provided
in connection with the original hearing and determination of a
covered impairment as determined under section 13.3(b) of this
chapter, including any transcript from that proceeding. A fund
member or a survivor of a fund member may include with an
application any additional probative evidence that is relevant to
the determination under subsection (b)(1). The local board may**

**C
o
p
y**



1 establish reasonable procedures with respect to the application
 2 process and may engage a medical authority to provide opinions
 3 relevant to making its determination. The local board may hold a
 4 hearing with respect to an application filed under this section if the
 5 fund member or survivor of a fund member shows good cause that
 6 documents or other probative evidence sufficient to make the
 7 showing required under this subsection is not reasonably
 8 obtainable and that holding a hearing would be reasonably likely
 9 to provide such probative evidence. If the local board conducts a
 10 hearing, it shall be subject to the provisions of section 12.7 of this
 11 chapter relating to the conduct of hearings on the determinations
 12 of covered impairments under this chapter.

13 (d) The local board shall make its recommendation, including
 14 findings of fact, in writing and shall provide copies of its
 15 recommendation to the fund member or survivor of the fund
 16 member, the 1977 fund advisory committee, and the PERF board
 17 not later than thirty (30) days after the:

- 18 (1) filing of the application, if no hearing is held; or
- 19 (2) hearing, if held.

20 (e) If the local board does not issue its recommendation within
 21 the time required under subsection (d), the member's covered
 22 impairment shall be considered to be a covered impairment
 23 described under subsection (b)(1) for purposes of the local board's
 24 recommendation.

25 (f) The 1977 fund advisory committee shall review the local
 26 board's recommendation, or the considered recommendation
 27 under subsection (e), not later than forty-five (45) days after
 28 receiving the recommendation and shall then issue an initial
 29 determination of whether the covered impairment is one described
 30 under subsection (b)(1). The 1977 fund advisory committee shall
 31 notify the PERF board, the local board, and the fund member or
 32 survivor of the fund member of its initial determination, and the
 33 PERF board or its designee shall issue a final determination to the
 34 local board and the fund member or survivor of the fund member.
 35 If no objection is made to the initial determination under
 36 subsection (g) or (h), the PERF board must issue a final
 37 determination not later than thirty (30) days after receiving an
 38 initial determination.

39 (g) The fund member or survivor of the fund member or the
 40 local board may object in writing to the 1977 fund advisory
 41 committee's initial determination under subsection (f) not later
 42 than fifteen (15) days after the initial determination is issued by

**C
O
P
Y**



1 filing an objection with the PERF board. If a written objection is
 2 not filed, the 1977 advisory committee's initial determination
 3 becomes final. If a timely written objection is filed, the PERF
 4 board shall issue a final determination after a hearing. Unless an
 5 administrative law judge orders a waiver or an extension of the
 6 period for cause shown, the final determination must be issued not
 7 later than one hundred eighty (180) days after the date of receipt
 8 of the local board's recommendation.

9 (h) If the 1977 fund advisory committee fails to issue an initial
 10 determination within forty-five (45) days after receiving the local
 11 board's recommendation, the default determination on whether the
 12 covered impairment is one described under subsection (b)(1) is the
 13 determination made by PERF's medical authority. An objection to
 14 this determination may be filed in accordance with subsection (g).

15 (i) A determination that a member's covered impairment is one
 16 described under subsection (b)(1) applies only on a prospective
 17 basis beginning on January 1 of the calendar year in which the
 18 determination is made. The amount of the benefit may not be
 19 changed as a result of this determination.

20 (j) A fund member or survivor of a fund member described in
 21 subsection (a) must file an application under this section not later
 22 than two (2) years after the date the PERF board notifies the fund
 23 members and survivors described in subsection (a) that the board
 24 has received a favorable ruling from the Internal Revenue Service.
 25 The PERF board shall provide notice of receipt of a favorable
 26 ruling not later than thirty (30) days after its receipt.

27 (k) This section expires July 1, 2021.

C
O
P
Y

