

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1048, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:**

- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 5-10-5.5-1, AS AMENDED BY P.L.227-2007,  
4 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2011]: Sec. 1. As used in this chapter and unless the context  
6 clearly denotes otherwise:  
7           (a) "Department" means the Indiana department of natural  
8 resources.  
9           (b) "Commission" means the alcohol and tobacco commission.  
10           (c) "Officer" means any Indiana state excise police officer, any  
11 Indiana state conservation enforcement officer, any gaming agent, or  
12 any gaming control officer.  
13           (d) "Participant" means any officer who has elected to participate in  
14 the retirement plan created by this chapter.  
15           (e) "Salary" means the total compensation, exclusive of expense  
16 allowances, paid to any officer by the department or the commission,  
17 determined without regard to any salary reduction agreement  
18 established under Section 125 of the Internal Revenue Code.  
19           (f) "Average annual salary" means the average annual salary of an

1 officer during the five (5) years of highest annual salary in the ten (10)  
 2 years immediately preceding an officer's retirement date, determined  
 3 without regard to any salary reduction agreement established under  
 4 Section 125 of the Internal Revenue Code.

5 (g) "Public employees' retirement act" means IC 5-10.3.

6 (h) "Public employees' retirement fund" means the public  
 7 employees' retirement fund created by IC 5-10.3-2.

8 (i) "Interest" means the ~~same~~ rate of interest ~~as is specified under by~~  
 9 **rule by the board of trustees of the public employees' retirement law-**  
 10 **fund.**

11 (j) "Americans with Disabilities Act" refers to the Americans with  
 12 Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and  
 13 regulations related to the Act.

14 (k) Other words and phrases when used in this chapter shall, for the  
 15 purposes of this chapter, have the meanings respectively ascribed to  
 16 them as set forth in IC 5-10.3-1.

17 SECTION 2. IC 5-10.2-2-6 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The retirement  
 19 allowance account of the public employees' retirement fund consists of  
 20 the retirement fund, exclusive of the annuity savings account. **The**  
 21 **retirement allowance account also includes any amounts received**  
 22 **under IC 5-10.3-12-24(b).** For the public employees' retirement fund,  
 23 separate accounts within the retirement allowance account shall be  
 24 maintained for contributions made by the state and by each political  
 25 subdivision.

26 (b) The retirement allowance account of the pre-1996 account  
 27 consists of the pre-1996 account, exclusive of the annuity savings  
 28 account.

29 (c) The retirement allowance account of the 1996 account consists  
 30 of the 1996 account, exclusive of the annuity savings account. For the  
 31 1996 account, separate accounts within the retirement allowance  
 32 account shall be maintained for contributions made by the state, by  
 33 each school corporation, and by each institution.

34 SECTION 3. IC 5-10.3-12 IS ADDED TO THE INDIANA CODE  
 35 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2011]:

37 **Chapter 12. Public Employees' Defined Contribution Plan**

38 **Sec. 1. (a) This chapter applies to an individual who, on or after**

1       **the effective date of the plan:**

2               **(1) becomes for the first time a full-time employee of the state**  
 3               **(as defined in IC 5-10.3-7-1(d)) in a position that would**  
 4               **otherwise be eligible for membership in the fund under**  
 5               **IC 5-10.3-7; and**

6               **(2) makes the election described in section 20 of this chapter**  
 7               **to become a member of the plan.**

8       **(b) This chapter does not apply to an individual who:**

9               **(1) before the effective date of the plan, is or was a member**  
 10              **(as defined in IC 5-10.3-1-5) of the fund; or**

11              **(2) on or after the effective date of the plan, does not elect to**  
 12              **participate in the plan.**

13       **Sec. 2. As used in this chapter, "account" means the plan**  
 14       **account established for a member under section 21(b) of this**  
 15       **chapter.**

16       **Sec. 3. As used in this chapter, "annuity savings account" means**  
 17       **the annuity savings account maintained under IC 5-10.2-2-2(a)(1).**

18       **Sec. 4. As used in this chapter, "board" has the meaning set**  
 19       **forth in IC 5-10.3-1-1.**

20       **Sec. 5. As used in this chapter, "compensation" has the meaning**  
 21       **set forth in IC 5-10.2-3-2(a).**

22       **Sec. 6. As used in this chapter, "dies in the line of duty" has the**  
 23       **meaning set forth in IC 5-10-11-2.**

24       **Sec. 7. As used in this chapter, "effective date" means the first**  
 25       **day of the month that is six (6) months after the month in which the**  
 26       **Internal Revenue Service issues an approval of the plan.**

27       **Sec. 8. As used in this chapter, "employer" means the state.**

28       **Sec. 9. As used in this chapter, "employer contribution**  
 29       **subaccount" means the subaccount in a member's plan account**  
 30       **established under section 21(b)(2) of this chapter.**

31       **Sec. 10. As used in this chapter, "fund" has the meaning set**  
 32       **forth in IC 5-10.3-1-3.**

33       **Sec. 11. As used in this chapter, "Internal Revenue Code" has**  
 34       **the meaning set forth in IC 5-10.2-1-3.5.**

35       **Sec. 12. As used in this chapter, "member" means an individual**  
 36       **who has elected to participate in the plan.**

37       **Sec. 13. As used in this chapter, "member contribution**  
 38       **subaccount" means the subaccount in a member's plan account**

1 established under section 21(b)(1) of this chapter.

2 **Sec. 14.** As used in this chapter, "normal retirement age" for a  
3 member means the member is at least sixty-two (62) years of age  
4 with at least ten (10) years of participation in the plan.

5 **Sec. 15.** As used in this chapter, "plan" refers to the public  
6 employees' defined contribution plan established by section 18 of  
7 this chapter.

8 **Sec. 16.** As used in this chapter, "years of participation" means  
9 all periods of participation in the plan in a covered position, plus  
10 any additional service for which this chapter provides years of  
11 participation credit.

12 **Sec. 17.** Except as otherwise provided in this chapter or by  
13 federal law, and subject to the board obtaining the approval of the  
14 Internal Revenue Service as described in section 18(b) of this  
15 chapter, the provisions of this article that apply to the annuity  
16 savings account apply to an account established under this chapter.

17 **Sec. 18. (a)** The public employees' defined contribution plan is  
18 established for the purpose of providing amounts funded by an  
19 employer and a member for the use of the member or the  
20 member's beneficiaries or survivors after the member's  
21 retirement.

22 **(b)** The board shall adopt provisions to implement the plan  
23 established under subsection (a) as follows:

24 **(1)** The board shall initially offer the plan using the annuity  
25 savings account, subject to obtaining the approval of the  
26 Internal Revenue Service in a manner satisfactory to the  
27 board to preserve the qualified status of the plan and the  
28 fund. The plan as provided under this subdivision is a  
29 component within the fund.

30 **(2)** If the approval of the Internal Revenue Service to offer the  
31 plan using the annuity savings account cannot be obtained in  
32 a manner satisfactory to the board, the board shall offer the  
33 plan as a separate fund under Section 401(a) or another  
34 applicable section of the Internal Revenue Code.

35 **(c)** The board shall administer the plan.

36 **(d)** The board may adopt a plan document that it considers  
37 appropriate or necessary to administer the plan.

38 **Sec. 19.** The board may request from the Internal Revenue

1 Service any rulings or determination letters that the board  
2 considers necessary or appropriate in order to implement or  
3 administer the plan.

4 Sec. 20. (a) An individual who, on or after the effective date of  
5 the plan, becomes for the first time a full-time employee of the state  
6 (as defined in IC 5-10.3-7-1(d)) in a position that would otherwise  
7 be eligible for membership in the fund under IC 5-10.3-7 may elect  
8 to become a member of the plan. An election under this section:

9 (1) must be made in writing;

10 (2) must be filed with the board, on a form prescribed by the  
11 board; and

12 (3) is irrevocable.

13 (b) An individual who does not elect to become a member of the  
14 plan becomes a member (as defined in IC 5-10.3-1-5) of the fund.

15 Sec. 21. (a) The plan consists of the following:

16 (1) Each member's contributions to the plan under section 23  
17 of this chapter.

18 (2) Contributions made by an employer to the plan on behalf  
19 of each member under section 24 of this chapter.

20 (3) Rollovers to the plan by a member under section 29 of this  
21 chapter.

22 (4) All earnings on investments or deposits of the plan.

23 (5) All contributions or payments to the plan made in the  
24 manner provided by the general assembly.

25 (b) The plan shall establish an account for each member. A  
26 member's account consists of two (2) subaccounts credited  
27 individually as follows:

28 (1) The member contribution subaccount consists of:

29 (A) the member's contributions to the plan under section  
30 23 of this chapter; and

31 (B) the net earnings on the contributions described in  
32 clause (A) as determined under section 22 of this chapter.

33 (2) The employer contribution subaccount consists of:

34 (A) the employer's contributions made on behalf of the  
35 member to the plan under section 24 of this chapter; and

36 (B) the earnings on the contributions described in clause  
37 (A) as determined under section 22 of this chapter.

38 The board may combine the two (2) subaccounts established under

1 this subsection into a single account, if the board determines that  
2 a single account is administratively appropriate and permissible  
3 under applicable law.

4 (c) If a member makes rollover contributions under section 30  
5 of this chapter, the plan shall establish a rollover account as a  
6 separate subaccount within the member's account.

7 Sec. 22. (a) Subject to the board obtaining the approval of the  
8 Internal Revenue Service as described in section 18(b) of this  
9 chapter, the board shall establish the alternative investment  
10 programs (as described by IC 5-10.2-2-3 and IC 5-10.2-2-4) within  
11 the annuity savings account as the initial alternative investment  
12 programs for the plan, except that the board shall maintain at least  
13 one (1) alternative investment program that is a stable value fund.  
14 If the board considers it necessary or appropriate, the board may  
15 establish different or additional alternative investment programs  
16 for the plan. However, the guaranteed fund (as defined in  
17 IC 5-10.2-2-3) shall not be offered as an investment option under  
18 the plan.

19 (b) The requirements and rules that apply to the alternative  
20 investment programs within the annuity savings account are the  
21 initial requirements and rules that apply to the alternative  
22 investment programs within the plan, including the following:

23 (1) The board's investment guidelines and limits for the  
24 alternative investment programs.

25 (2) A member's selection of and changes to the member's  
26 investment options.

27 (3) The valuation of a member's account.

28 (4) The allocation and payment of administrative expenses for  
29 the alternative investment programs.

30 (c) If the board considers it necessary or appropriate, the board  
31 may establish different or additional requirements and rules that  
32 apply to the alternative investment programs within the plan.

33 (d) The board shall determine the appropriate administrative  
34 fees to be charged to the member accounts.

35 Sec. 23. (a) Each member's contribution to the plan is equal to  
36 three percent (3%) of the member's compensation. The state shall  
37 pay the member's contribution on behalf of each member of the  
38 plan each year.

1           **(b) Member contributions shall be credited to the member's**  
 2 **account as specified in IC 5-10.2-3.**

3           **(c) Although designated as employee contributions, the**  
 4 **contributions made under subsection (a) are picked up and paid by**  
 5 **the state as the employer instead of the contributions being paid by**  
 6 **the employee in accordance with Section 414(h)(2) of the Internal**  
 7 **Revenue Code. A member may not receive any amounts paid by**  
 8 **the state under this section directly instead of having the amounts**  
 9 **paid to the plan.**

10           **Sec. 24. (a) The state shall make employer contributions to the**  
 11 **plan based on the rate determined under this section.**

12           **(b) The employer's contribution rate for the plan must be equal**  
 13 **to the employer's contribution rate for the fund as determined by**  
 14 **the board under IC 5-10.2-2-11(b). The amount credited from the**  
 15 **employer's contribution rate to the member's account may not be**  
 16 **greater than the normal cost of the fund. Any amount not credited**  
 17 **to the member's account shall be applied to the unfunded accrued**  
 18 **liability of the fund as determined under IC 5-10.2-2-11(a)(3) and**  
 19 **IC 5-10.2-2-11(a)(4).**

20           **(c) The state's minimum contribution under this section is equal**  
 21 **to three percent (3%) of the compensation of all members of the**  
 22 **plan.**

23           **(d) The state shall submit the employer contributions**  
 24 **determined under this section as provided in IC 5-10.2-2-12.5.**

25           **Sec. 25. (a) Member contributions and net earnings on the**  
 26 **member contributions in the member contribution subaccount**  
 27 **belong to the member at all times and do not belong to the state.**

28           **(b) A member is vested in the employer contribution subaccount**  
 29 **in accordance with the following schedule:**

Years of participation in the plan	Vested percentage of employer contributions and earnings
1	20%
2	40%
3	60%
4	80%
5	100%

38           **For purposes of vesting in the employer contribution subaccount,**

1       **only a member's full years of participation in the plan may be**  
2       **counted.**

3       **(c) The amount that a member may withdraw from the**  
4       **member's account is limited to the vested portion of the account.**

5       **(d) A member who attains normal retirement age is fully vested**  
6       **in all amounts in the member's account.**

7       **(e) If a member separates from service with the state before the**  
8       **member is fully vested in the employer contribution subaccount,**  
9       **the amount in the employer contribution subaccount that is not**  
10       **vested is forfeited as of the date the member separates from**  
11       **service.**

12       **(f) Amounts forfeited under subsection (e) must be used to**  
13       **reduce the state's unfunded accrued liability of the fund as**  
14       **determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).**

15       **(g) A member may not earn creditable service (as defined in**  
16       **IC 5-10.2-3-1(a)) under the plan.**

17       **Sec. 26. (a) Subject to the provisions of the Internal Revenue**  
18       **Code applicable to qualified plan distributions, a member who**  
19       **terminates service in a covered position is entitled to withdraw**  
20       **amounts in the member's account to the extent the member is**  
21       **vested in the account. A member must make a required withdrawal**  
22       **from the member's account not later than the required beginning**  
23       **date under the Internal Revenue Code.**

24       **(b) A member may elect to have withdrawals paid as:**

25               **(1) a lump sum;**

26               **(2) a direct rollover to another eligible retirement plan; or**

27               **(3) if the member has attained normal retirement age, a**  
28               **monthly annuity in accordance with the rules of the board.**

29       **(c) The board may establish a minimum account balance or a**  
30       **minimum monthly payment amount in order for a member to**  
31       **select the monthly annuity option. The board shall establish the**  
32       **forms of annuity by rule, in consultation with the board's actuary.**  
33       **The board shall give members information about these forms of**  
34       **payment and any information required by federal law to**  
35       **accompany such distributions.**

36       **(d) Unless otherwise required by federal or state law, the**  
37       **requirements and rules that apply to the distribution of the annuity**  
38       **savings account apply to distributions from a member's account.**

- 1           **Sec. 27. (a) If a member dies:**
- 2                 **(1) while in service in a position covered by the plan but not**
- 3                 **in the line of duty; or**
- 4                 **(2) after terminating service in a position covered by the plan**
- 5                 **but before withdrawing the member's account;**
- 6           **to the extent that the member is vested, the member's account shall**
- 7           **be paid to the beneficiary or beneficiaries designated by the**
- 8           **member on a form prescribed by the board. The amount paid must**
- 9           **be valued as provided in IC 5-10.2-2-3 and IC 5-10.2-2-4. The**
- 10           **board shall invest the total amount in the member's account in the**
- 11           **stable value fund not later than thirty (30) days after receiving**
- 12           **notification of a member's death.**
- 13           **(b) If there is no properly designated beneficiary, or if no**
- 14           **beneficiary survives the member, the member's account shall be**
- 15           **paid to:**
- 16                 **(1) the surviving spouse of the member;**
- 17                 **(2) if there is not a surviving spouse, the surviving dependent**
- 18                 **or dependents of the member in equal shares; or**
- 19                 **(3) if there is not a surviving spouse or dependent, the**
- 20                 **member's estate.**
- 21           **(c) The beneficiary or beneficiaries designated under subsection**
- 22           **(a) or a survivor determined under subsection (b) may elect to have**
- 23           **the member's account paid as:**
- 24                 **(1) a lump sum;**
- 25                 **(2) a direct rollover to another eligible retirement plan; or**
- 26                 **(3) a monthly annuity in accordance with rules of the board.**
- 27           **A monthly annuity is an option only on or after the beneficiary or**
- 28           **survivor attains sixty-two (62) years of age. The board shall**
- 29           **establish the forms of annuity by rule, in consultation with the**
- 30           **board's actuary. Further, the board may establish a minimum**
- 31           **account balance or a minimum monthly payment amount that is**
- 32           **required in order for a beneficiary or survivor to select the**
- 33           **monthly annuity option.**
- 34           **(d) If a member dies in the line of duty while in service in a**
- 35           **covered position, the designated beneficiary or beneficiaries or the**
- 36           **surviving spouse or dependents, as applicable, are entitled to**
- 37           **payment of the member's account as provided in this section. In**
- 38           **addition, if the member was not fully vested in the employer**

1 contribution subaccount, the account is considered to be fully  
2 vested for purposes of withdrawal under this section.

3 Sec. 28. (a) All assets in the plan are exempt from levy, sale,  
4 garnishment, attachment, or other legal process.

5 (b) A member, beneficiary, or survivor may not assign any  
6 payment under this chapter except for the following:

7 (1) Premiums on a life, hospitalization, surgical, or medical  
8 group insurance plan maintained in part by a state agency.

9 (2) Dues to an association that proves to the board's  
10 satisfaction that the association has as members at least  
11 twenty percent (20%) of the retired members in the plan.

12 Sec. 29. (a) To the extent permitted by the Internal Revenue  
13 Code and the applicable regulations and guidance, the plan may  
14 accept, on behalf of any member who is employed in a covered  
15 position, a rollover distribution from any of the following:

16 (1) A qualified plan described in Section 401(a) or Section  
17 403(a) of the Internal Revenue Code.

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

20 (3) An eligible plan maintained by a state, a political  
21 subdivision of a state, or an agency or instrumentality of a  
22 state or political subdivision of a state under Section 457(b) of  
23 the Internal Revenue Code.

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

27 (b) Any amounts rolled over under subsection (a) must be  
28 accounted for in a "rollover account" that is separate from the  
29 member's account in the plan. The member shall be fully vested in  
30 the member's rollover account.

31 (c) A member may direct the investment of the member's  
32 rollover account into any alternative investment option that the  
33 board may make available to the member's rollover account under  
34 section 22 of this chapter.

35 (d) A member may withdraw the member's rollover account  
36 from the plan in a lump sum or direct a rollover to an eligible  
37 retirement plan at any time. Upon attainment of normal retirement  
38 age, in addition to these payment options, the member may

1       **withdraw the member's rollover account as a monthly annuity as**  
2       **established by the board in accordance with the annuity options**  
3       **that are available for the member's account in the plan. A member**  
4       **must make a required withdrawal from the member's account in**  
5       **the plan not later than the required beginning date under the**  
6       **Internal Revenue Code.**

7       **Sec. 30. (a) If a member becomes disabled while in a covered**  
8       **position, subject to any federal law limitations concerning qualified**  
9       **plan distributions and the member's furnishing proof of the**  
10       **member's qualification for Social Security disability benefits to the**  
11       **board, to the extent that the member is vested, the member may**  
12       **make a withdrawal from the member's account.**

13       **(b) The member may elect to have the withdrawal paid as:**

14           **(1) a lump sum;**

15           **(2) a direct rollover to another eligible retirement plan; or**

16           **(3) a monthly annuity in accordance with the rules of the**  
17       **board.**

18       **(c) The board may establish a minimum account balance or a**  
19       **minimum monthly payment amount in order for a member to**  
20       **select the monthly annuity option.**

21       **Sec. 31. (a) If a member of the plan separates from employment**  
22       **with the state and later returns to state employment in a position**  
23       **covered by the plan, the member is entitled to receive credit for the**  
24       **member's years of participation in the plan before the member's**  
25       **separation. However, any amounts forfeited by the member under**  
26       **section 25(e) of this chapter may not be restored to the member's**  
27       **account.**

28       **(b) An individual who elected under section 20 of this chapter to**  
29       **become a member of the plan resumes membership in the plan**  
30       **upon the individual's return to state employment.**

31       **(c) An individual who did not elect to become a member of the**  
32       **plan resumes membership in the fund.**

33       **(d) An individual who returns to state employment having had**  
34       **an opportunity to make an election under section 20 of this chapter**  
35       **during an earlier period of state employment is not entitled to a**  
36       **second opportunity to make an election under section 20 of this**  
37       **chapter.**

38       **SECTION 4. IC 33-38-7-13 IS AMENDED TO READ AS**

1 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Except as  
2 otherwise provided in this chapter, a participant:

3 (1) whose employment as a judge is terminated regardless of  
4 cause; and

5 (2) who has less than twelve (12) years service;  
6 is entitled to withdraw from the fund, beginning on the date specified  
7 by the participant in a written application. However, the date on which  
8 the withdrawal begins may not be before the date of final termination  
9 of employment of the participant, or the date thirty (30) days before the  
10 receipt of the application by the board.

11 (b) Upon the withdrawal, a participant is entitled to receive out of  
12 the fund an amount equal to the total sum contributed to the fund on  
13 behalf of the participant **plus interest at a rate specified by rule by**  
14 **the board**, payable within sixty (60) days after date of the withdrawal  
15 application or in monthly installments as the participant may elect.

16 SECTION 5. IC 33-38-7-14 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Benefits  
18 provided under this section are subject to IC 33-38-6-13 and section 16  
19 of this chapter.

20 (b) If annuities are not payable to the survivors of a participant who  
21 dies after July 1, 1983, the surviving spouse or child or children of the  
22 participant, if any, as determined by the participant, and if none  
23 survive, then any dependent or dependents surviving shall draw from  
24 the fund the amount that the participant paid into the fund plus interest  
25 ~~as determined at a rate specified by rule~~ by the board. If no spouse,  
26 child or children, or other dependents survive, then the amount, plus  
27 interest **at a rate specified by rule by the board and** minus any  
28 payments made to the participant, shall be paid to the executor or  
29 administrator of the participant's estate.

30 (c) The amount owed a spouse, child or children, or other  
31 dependent, or estate under this section is payable within sixty (60) days  
32 after date of the withdrawal application or in the monthly installments  
33 as the recipient may elect.

34 SECTION 6. IC 33-38-7-19, AS AMENDED BY P.L.122-2008,  
35 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2011]: Sec. 19. (a) This section applies only to a person who:

37 (1) is a judge participating under this chapter;

38 (2) before becoming a judge was a member of an Indiana public

- 1 employees' retirement fund;  
 2 (3) received credited service under an Indiana public employees'  
 3 retirement fund for the employment described in subdivision (2),  
 4 and the credited service is not eligible for service credit under  
 5 section 18 of this chapter;  
 6 (4) has not attained vested status under a public employees'  
 7 retirement fund for the employment described in subdivision (2);  
 8 and  
 9 (5) has at least eight (8) years of service credit in the judges'  
 10 retirement system.
- 11 (b) If a person becomes a participant in the judges' 1977 benefit  
 12 system under this chapter, credit for service described in subsection (a)  
 13 shall be granted under this chapter by the board if:
- 14 (1) the prior service was credited under an Indiana public  
 15 employees' retirement fund; and  
 16 (2) the judge pays in a lump sum or in a series of payments  
 17 determined by the board, not exceeding five (5) annual payments,  
 18 the amount determined by the actuary for the 1977 benefit system  
 19 as the total actual cost of the service.
- 20 (c) If the requirements of subsection (b) are not satisfied, a  
 21 participant is entitled to credit only for years of service after the date of  
 22 participation in the 1977 benefit system.
- 23 (d) An amortization schedule for contributions paid under this  
 24 section must include interest at a rate determined by the board.
- 25 (e) If the requirements of subsection (b) are satisfied, the  
 26 appropriate board shall transfer from the retirement fund described in  
 27 subsection (a)(2) to the judges' 1977 benefit system the amount  
 28 credited to the judge's annuity savings account and the present value of  
 29 the retirement benefit payable at sixty-five (65) years of age that is  
 30 attributable to the transferring participant.
- 31 (f) The amount a participant must contribute to the judges' 1977  
 32 benefit system under subsection (b) shall be reduced by the amount  
 33 transferred to the judges' 1977 benefit system by the appropriate board  
 34 under subsection (e).
- 35 (g) If the requirements of subsection (b) are satisfied, credit for prior  
 36 service in a public employees' retirement fund **that is purchased**  
 37 **under this section** is waived.
- 38 (h) To the extent permitted by the Internal Revenue Code and the

1 applicable regulations, the judges' 1977 benefit system may accept, on  
 2 behalf of a participant who is purchasing permissive service credit  
 3 under subsection (b), a rollover of a distribution from any of the  
 4 following:

- 5 (1) A qualified plan described in Section 401(a) or Section 403(a)  
 6 of the Internal Revenue Code.
- 7 (2) An annuity contract or account described in Section 403(b) of  
 8 the Internal Revenue Code.
- 9 (3) An eligible plan that is maintained by a state, a political  
 10 subdivision of a state, or an agency or instrumentality of a state or  
 11 political subdivision of a state under Section 457(b) of the  
 12 Internal Revenue Code.
- 13 (4) An individual retirement account or annuity described in  
 14 Section 408(a) or Section 408(b) of the Internal Revenue Code.

15 (i) To the extent permitted by the Internal Revenue Code and the  
 16 applicable regulations, the judges' 1977 benefit system may accept, on  
 17 behalf of a participant who is purchasing permissive service credit  
 18 under subsection (b), a trustee to trustee transfer from any of the  
 19 following:

- 20 (1) An annuity contract or account described in Section 403(b) of  
 21 the Internal Revenue Code.
- 22 (2) An eligible deferred compensation plan under Section 457(b)  
 23 of the Internal Revenue Code.

24 SECTION 7. IC 33-38-8-12, AS AMENDED BY P.L.122-2008,  
 25 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2011]: Sec. 12. (a) A participant who:

- 27 (1) ceases service:  
 28 (A) as a judge; or  
 29 (B) after December 31, 2010, as a judge or full-time  
 30 magistrate;  
 31 other than by death or disability; and

32 (2) is not eligible for a retirement benefit under this chapter;  
 33 is entitled to withdraw from the fund, beginning on the date specified  
 34 by the participant in a written application. The date on which the  
 35 withdrawal begins may not be before the date of final termination of  
 36 employment or the date thirty (30) days before the receipt of the  
 37 application by the board.

38 (b) Upon the withdrawal, the participant is entitled to receive the

1 total sum contributed **plus interest at a rate specified by rule by the**  
 2 **board**, payable within sixty (60) days from the date of the withdrawal  
 3 application or in monthly installments as the participant may elect.

4 SECTION 8. IC 33-38-8-19 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. (a) Benefits  
 6 provided under this section are subject to IC 33-38-6-13.

7 (b) If benefits are not payable to the survivors of a participant who  
 8 dies, and if a withdrawal application is filed with the board, the total of  
 9 the participant's contributions, plus interest ~~as determined at a rate~~  
 10 **specified by rule** by the board **and** minus any payments made to the  
 11 participant, shall be paid to:

12 (1) the surviving spouse of the participant or a child or children  
 13 of the participant, as designated by the participant;

14 (2) any other dependent or dependents of the participant, if a  
 15 spouse or designated child or children does or do not survive; or

16 (3) the participant's estate, if a spouse, designated child or  
 17 children, or other dependent does or do not survive.

18 (c) The amount owed a spouse, designated child or children, or  
 19 other dependent or dependents, or estate under subsection (b) is  
 20 payable within sixty (60) days from the date of receipt of the  
 21 withdrawal application or in the monthly installments as the recipient  
 22 elects.

23 SECTION 9. IC 33-38-8-22.5, AS ADDED BY P.L.122-2008,  
 24 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2011]: Sec. 22.5. (a) This section applies after December 31,  
 26 2010, only to a person who:

27 (1) is a full-time magistrate participating under this chapter;

28 (2) was appointed by a court to serve as:

29 (A) a full-time referee or full-time commissioner; or

30 (B) before January 1, 2011, a full-time magistrate;

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

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

35 (b) If a person becomes a participant as a full-time magistrate in the  
 36 judges' 1985 benefit system under section 1 of this chapter, credit for  
 37 service by the magistrate as a full-time referee, full-time commissioner,  
 38 or, before January 1, 2011, full-time magistrate shall be granted under

- 1 this chapter by the board if:
- 2 (1) the service was credited under the public employees'
- 3 retirement fund; and
- 4 (2) the magistrate pays in a lump sum or in a series of payments
- 5 determined by the board, not exceeding five (5) annual payments,
- 6 the amount determined by the actuary for the judges' 1985 benefit
- 7 system as the total cost of the service.
- 8 (c) If the requirements of subsection (b) are not satisfied, a
- 9 participant is entitled to credit only for years of service earned as a
- 10 participant in the judges' 1985 benefit system.
- 11 (d) An amortization schedule for contributions paid under this
- 12 section must include interest at a rate determined by the board.
- 13 (e) The following provisions apply to a person described in
- 14 subsection (a):
- 15 (1) A minimum benefit applies to participants receiving credit in
- 16 the judges' 1985 benefit system from service covered by the
- 17 public employees' retirement fund. The minimum benefit is
- 18 payable at sixty-five (65) years of age or when the participant is
- 19 at least fifty-five (55) years of age and meets the requirements
- 20 under section 13(2)(B) of this chapter and equals the actuarial
- 21 equivalent of the vested retirement benefit that is:
- 22 (A) payable to the member at normal retirement under
- 23 IC 5-10.2-4-1 as of the day before the transfer; and
- 24 (B) based solely on:
- 25 (i) creditable service;
- 26 (ii) the average of the annual compensation; and
- 27 (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to
- 28 the annuity savings account of the transferring member as of
- 29 the day before the transfer.
- 30 (2) If the requirements of subsection (b) are satisfied, the board
- 31 shall transfer from the public employees' retirement fund to the
- 32 judges' 1985 benefit system the amount credited to the annuity
- 33 savings account and the present value of the retirement benefit
- 34 payable at sixty-five (65) years of age or at least fifty-five (55)
- 35 years of age under section 13(2)(B) of this chapter that is
- 36 attributable to the transferring participant.
- 37 (3) The amount the participant must contribute to the judges' 1985
- 38 benefit system under subsection (b) shall be reduced by the

1 amount transferred to the judges' 1985 benefit system by the  
2 board under subdivision (2).

3 (4) If the requirements of subsection (b) are satisfied, credit for  
4 service in the public employees' retirement fund as a full-time  
5 referee, full-time commissioner, or before July 1, 2010, full-time  
6 magistrate **that is purchased under this section** is waived. Any  
7 credit for the service under the judges' 1985 benefit system may  
8 be granted only under subsection (b).

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

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

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

18 (3) An eligible plan that is maintained by a state, a political  
19 subdivision of a state, or an agency or instrumentality of a state or  
20 political subdivision of a state under Section 457(b) of the  
21 Internal Revenue Code.

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

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

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

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

33 SECTION 10. IC 33-38-8-23, AS AMENDED BY P.L.122-2008,  
34 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2011]: Sec. 23. (a) This section applies only to a person who:

36 (1) is:

37 (A) a judge; or

38 (B) after December 31, 2010, a judge or full-time magistrate;

- 1 participating under this chapter;
- 2 (2) before becoming:
- 3 (A) a judge; or
- 4 (B) after December 31, 2010, a judge or full-time magistrate;
- 5 was a member of a public employees' retirement fund;
- 6 (3) received credited service under a public employees' retirement
- 7 fund for the employment described in subdivision (2), and the
- 8 credited service is not eligible for service credit under section 22
- 9 or 22.5 of this chapter;
- 10 (4) has not attained vested status under a public employees'
- 11 retirement fund for the employment described in subdivision (2);
- 12 and
- 13 (5) has at least eight (8) years of service credit in the judges'
- 14 retirement system.
- 15 (b) If a person becomes a participant in the judges' 1985 benefit
- 16 system under this chapter, credit for service described in subsection (a)
- 17 shall be granted under this chapter by the board if:
- 18 (1) the prior service was credited under a public employees'
- 19 retirement fund; and
- 20 (2) the judge or full-time magistrate pays in a lump sum or in a
- 21 series of payments determined by the board, not exceeding five
- 22 (5) annual payments, the amount determined by the actuary for
- 23 the judges' 1985 benefit system as the total cost of the service.
- 24 (c) If the requirements of subsection (b) are not satisfied, a
- 25 participant is entitled to credit only for years of service after the date of
- 26 participation in the judges' 1985 benefit system.
- 27 (d) An amortization schedule for contributions paid under this
- 28 section must include interest at a rate determined by the board.
- 29 (e) If the requirements of subsection (b) are satisfied, the
- 30 appropriate board shall transfer from the retirement fund described in
- 31 subsection (a)(2) to the judges' 1985 benefit system the amount
- 32 credited to the judge's or full-time magistrate's annuity savings account
- 33 and the present value of the retirement benefit payable at sixty-five (65)
- 34 years of age that is attributable to the transferring participant.
- 35 (f) The amount a participant must contribute to the judges' 1985
- 36 benefit system under subsection (b) shall be reduced by the amount
- 37 transferred to the judges' 1985 benefit system by the appropriate board
- 38 under subsection (e).

1 (g) If the requirements of subsection (b) are satisfied, credit for prior  
 2 service in a public employees' retirement fund **that is purchased**  
 3 **under this section** is waived.

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

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

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

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

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

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

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

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

28 SECTION 11. IC 33-39-7-13 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) A participant  
 30 who:

31 (1) ceases service in a position described in section 8 of this  
 32 chapter, other than by death or disability; and

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

34 is entitled to withdraw from the fund, beginning on the date specified  
 35 by the participant in a written application. The date upon which the  
 36 withdrawal begins may not be before the date of final termination of  
 37 employment or the date thirty (30) days before the receipt of the  
 38 application by the board. Upon withdrawal the participant is entitled to

1 receive the total sum contributed plus interest at ~~the a rate of five and~~  
 2 ~~one-half percent (5.5%) compounded annually specified by rule by~~  
 3 ~~the board~~, payable not later than sixty (60) days from the date of the  
 4 withdrawal application.

5 (b) Notwithstanding section 8 of this chapter, a participant who  
 6 withdraws from the fund under subsection (a) and becomes a  
 7 participant again at a later date is not entitled to service credit for years  
 8 of service before the withdrawal.

9 SECTION 12. IC 33-39-7-14 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Interest shall be  
 11 credited annually on June 30 at ~~the a rate of five and one-half percent~~  
 12 ~~(5.5%) specified by rule by the board~~ on all amounts credited to the  
 13 member as of June 30 of the preceding year.

14 (b) Contributions begin to accumulate interest at the beginning of  
 15 the fiscal year after the year in which the contributions are due.

16 (c) When a member retires or withdraws, a proportional interest  
 17 credit determined under this chapter shall be paid for the period  
 18 elapsed since the last date on which interest was credited.

19 SECTION 13. IC 33-39-7-16, AS AMENDED BY P.L.33-2006,  
 20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2011]: Sec. 16. (a) This section does not apply to a participant  
 22 who meets the requirements for disability benefits under section 17 of  
 23 this chapter.

24 (b) Except as provided in subsections (c) and (d), the amount of the  
 25 annual retirement benefit to which a participant who applies for a  
 26 retirement benefit and who is at least sixty-five (65) years of age is  
 27 entitled equals the product of:

28 (1) the highest annual salary that was paid to the participant  
 29 before separation from service; multiplied by

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

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%
11	33%
12	50%

1	13	51%
2	14	52%
3	15	53%
4	16	54%
5	17	55%
6	18	56%
7	19	57%
8	20	58%
9	21	59%
10	22 or more	60%

11 (c) If a participant who applies for a retirement benefit is not at least  
 12 sixty-five (65) years of age, the participant is entitled to receive a  
 13 reduced annual retirement benefit that equals the benefit that would be  
 14 payable if the participant were sixty-five (65) years of age reduced by  
 15 one-fourth percent (0.25%) for each month that the participant's age at  
 16 retirement precedes the participant's sixty-fifth birthday.

17 (d) Benefits payable to a participant under this section are reduced  
 18 by the pension, if any, that would be payable to the participant from the  
 19 public employees' retirement fund if the participant had retired from the  
 20 public employees' retirement fund on the date of the participant's  
 21 retirement from the prosecuting attorneys retirement fund. Benefits  
 22 payable to a participant under this section are not reduced by annuity  
 23 payments made to the participant from the public employees' retirement  
 24 fund.

25 (e) If benefits payable from the public employees' retirement fund  
 26 exceed the benefits payable from the prosecuting attorneys retirement  
 27 fund, the participant is entitled at retirement to withdraw from the  
 28 prosecuting attorneys retirement fund the total sum contributed plus  
 29 interest at ~~the a rate of five and one-half percent (5.5%) compounded~~  
 30 **annually; specified by rule by the board.**

31 SECTION 14. IC 33-39-7-21 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 21. (a) If benefits are  
 33 not payable to the survivors of a participant who dies, and if a  
 34 withdrawal application is filed with the board by the survivors or the  
 35 participant's estate, the total of the participant's contributions, plus  
 36 interest at ~~the a rate of five and one-half percent (5.5%) compounded~~  
 37 **annually; specified by rule by the board and** minus any payments  
 38 made to the participant, shall be paid to:

- 1 (1) the surviving spouse of the participant;  
 2 (2) any dependent or dependents of the participant, if a spouse  
 3 does not survive; or  
 4 (3) the participant's estate, if a spouse or dependent does not  
 5 survive.

6 (b) The amount owed a spouse, dependent or dependents, or estate  
 7 under subsection (a) is payable not later than sixty (60) days after the  
 8 date of receipt of the withdrawal application.

9 SECTION 15. IC 36-8-8-8, AS AMENDED BY P.L.180-2007,  
 10 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2011]: Sec. 8. (a) Each fund member shall contribute during  
 12 the period of the fund member's employment or for thirty-two (32)  
 13 years, whichever is shorter, an amount equal to six percent (6%) of the  
 14 salary of a first class patrolman or firefighter. However, the employer  
 15 may pay all or a part of the contribution for the member. The amount  
 16 of the contribution, other than contributions paid on behalf of a  
 17 member, shall be deducted each pay period from each fund member's  
 18 salary by the disbursing officer of the employer. The employer shall  
 19 send to the PERF board each year on March 31, June 30, September  
 20 30, and December 31, for the calendar quarters ending on those dates,  
 21 a certified list of fund members and a warrant issued by the employer  
 22 for the total amount deducted for fund members' contributions.

23 (b) Except as provided in section 7.2 of this chapter, if a fund  
 24 member ends the fund member's employment other than by death or  
 25 disability before the fund member completes twenty (20) years of  
 26 active service, the PERF board shall return to the fund member in a  
 27 lump sum the fund member's contributions plus interest ~~as determined~~  
 28 **at a rate specified by rule** by the PERF board. If the fund member  
 29 returns to service, the fund member is entitled to credit for the years of  
 30 service for which the fund member's contributions were refunded if the  
 31 fund member repays the amount refunded to the fund member in either  
 32 a lump sum or a series of payments determined by the PERF board."

33 Page 2, line 7, delete "disease (for" and insert "**disease, which for**".

34 Page 2, line 7, after "section," delete "a".

35 Page 2, line 8, delete "'duty related disease'".

36 Page 2, line 21, delete "cause);" and insert "**cause;**".

37 Page 6, between lines 29 and 30, begin a new paragraph and insert:

38 "SECTION 19. [EFFECTIVE UPON PASSAGE] (a) **As used in**

1 this SECTION, "participant" has the meaning set forth in  
2 IC 5-10-5.5-1.

3 (b) As used in this SECTION, "plan" refers to the state excise  
4 police, gaming agent, gaming control officer, and conservation  
5 enforcement officers' retirement plan established by IC 5-10-5.5-2.

6 (c) Not later than July 1, 2011, the board of trustees of the  
7 public employees' retirement fund shall pay the amount  
8 determined under subsection (d) to a plan participant (or to a  
9 survivor or beneficiary of a plan participant) who retired or was  
10 disabled on or before December 1, 2009, and who was entitled to  
11 receive a monthly benefit on July 1, 2010. The amount is not an  
12 increase in the annual retirement allowance.

13 (d) The amount paid under this SECTION to a plan participant  
14 (or to a survivor or beneficiary of a plan participant) who meets  
15 the requirements of subsection (c) is determined as follows:

16 If a Plan Participant's Creditable 17 Service Is:	The Amount Is
18 Less than ten (10) years 19 (only in the case of a plan participant 20 receiving disability retirement benefits)	\$125
21 At least ten (10) years, 22 but less than twenty (20) years	\$235
23 At least twenty (20) years, 24 but less than thirty (30) years	\$325
25 At least thirty (30) years	\$400

26 (e) The creditable service used to determine the amount paid to  
27 a plan participant (or a survivor or beneficiary of a plan  
28 participant) under this SECTION is the creditable service that was  
29 used to compute the plan participant's retirement allowance under  
30 IC 5-10-5.5-10 and IC 5-10-5.5-12 except that partial years of  
31 creditable service may not be used to determine the amount paid  
32 under this SECTION.

33 (f) This SECTION expires January 1, 2012.

34 SECTION 20. [EFFECTIVE JULY 1, 2011] (a) As used in this  
35 SECTION, "commission" refers to the pension management  
36 oversight commission established by IC 2-5-12-1.

37 (b) The general assembly urges the legislative council to assign  
38 the commission the task of studying the issue of whether to

