

# HOUSE BILL No. 1325

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 2-3.5-4-4.1; IC 5-10-5.5; IC 5-10.2-4-1; IC 5-10.3-6-8.9; IC 33-38; IC 33-39-7.

**Synopsis:** Early retirement. Replaces the "rule of 85" with a "rule of 95" for determining a member's eligibility to retire from the following public retirement plans after June 30, 2016: (1) The legislators' defined benefit plan. (2) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan. (3) The public employees' retirement fund. (4) The Indiana state teachers' retirement fund. (5) The Indiana judges' retirement fund. (6) The prosecuting attorneys retirement fund.

**Effective:** July 1, 2016.

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January 12, 2016, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

# HOUSE BILL No. 1325

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 2-3.5-4-4.1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4.1. (a) This section  
3 applies to a ~~participant who~~ **the following**:  
4 (1) **A participant who elects to retire before July 1, 2016, who**  
5 **is at least fifty-five (55) years of age, and whose years of service**  
6 **as a member of the general assembly plus years of age are equal**  
7 **to at least eighty-five (85). or**  
8 **(2) A participant who elects to retire after June 30, 2016, who**  
9 **is at least fifty-five (55) years of age, and whose years of**  
10 **service as a member of the general assembly plus years of age**  
11 **are equal to at least ninety-five (95).**  
12 ~~(2)~~ **(3) A participant who** is at least sixty (60) years of age and  
13 has at least fifteen (15) years of service as a member of the  
14 general assembly.  
15 (b) A participant who is described in subsection (a) is entitled, for  
16 the remainder of the participant's life, to a monthly retirement benefit  
17 calculated under section 3 of this chapter, if all of the following



1 conditions are met on the date on which the benefit begins:

2 (1) The participant's service as a member of the general assembly  
3 is terminated.

4 (2) The participant has at least ten (10) years of service as a  
5 member of the general assembly.

6 (3) The participant is not receiving and is not entitled to receive  
7 a salary from the state.

8 (c) A participant who receives a benefit under this section is not  
9 entitled to a benefit under section 4 of this chapter.

10 SECTION 2. IC 5-10-5.5-11, AS AMENDED BY P.L.180-2007,  
11 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2016]: Sec. 11. (a) Any participant who has attained the age  
13 of forty-five (45) years and has accrued at least fifteen (15) years of  
14 creditable service may retire and become eligible for benefits as  
15 provided in section 12(a) of this chapter.

16 (b) **This subsection applies before July 1, 2016. If:**

17 (1) a participant is at least fifty-five (55) years of age; and

18 (2) the sum of the participant's years of creditable service and age  
19 in years equals at least eighty-five (85);

20 the participant may retire and become eligible for benefits as provided  
21 in section 12(b) of this chapter.

22 (c) **This subsection applies after June 30, 2016. If:**

23 (1) **a participant is at least fifty-five (55) years of age; and**

24 (2) **the sum of the participant's years of creditable service and**  
25 **age in years equals at least ninety-five (95);**

26 **the participant may retire and become eligible for benefits as**  
27 **provided in section 12(b) of this chapter.**

28 (d) A participant who:

29 (1) is at least fifty (50) years of age; and

30 (2) has accrued at least twenty-five (25) years of creditable  
31 service;

32 may retire and become eligible for benefits under section 12(b) of this  
33 chapter.

34 SECTION 3. IC 5-10-5.5-12, AS AMENDED BY P.L.3-2008,  
35 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2016]: Sec. 12. (a) The amount of annual retirement  
37 allowance payable in equal monthly installments to a participant who  
38 retires under section 11(a) of this chapter (relating to early retirement)  
39 shall be determined in accordance with section 10 of this chapter  
40 (relating to normal retirement). However, the amount of annual  
41 retirement allowance otherwise payable upon early retirement shall be  
42 reduced by one-quarter percent (1/4%) for each full month that the date



1 of early retirement precedes the attainment of the participant's sixtieth  
2 birthday.

3 (b) The amount of annual retirement allowance payable in equal  
4 monthly installments to a participant who retires under section 11(b)  
5 ~~or H(c)~~ **through 11(d)** of this chapter (relating to early retirement)  
6 shall be determined in accordance with section 10 of this chapter  
7 (relating to normal retirement).

8 SECTION 4. IC 5-10.2-4-1 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) This subsection  
10 applies to:

- 11 (1) members of the public employees' retirement fund who retire  
12 before July 1, 1995; and  
13 (2) members of the Indiana state teachers' retirement fund who  
14 retire before May 2, 1989.

15 A member who has reached age sixty-five (65) and has at least ten (10)  
16 years of creditable service is eligible for normal retirement.

17 (b) This subsection applies to members of the Indiana state teachers'  
18 retirement fund who retire after May 1, 1989, **and before July 1, 2016**,  
19 and to members of the public employees' retirement fund who retire  
20 after June 30, 1995, **and before July 1, 2016**, except as provided in  
21 section 1.7 of this chapter. A member is eligible for normal retirement  
22 if:

- 23 (1) the member is at least sixty-five (65) years of age and has at  
24 least ten (10) years of creditable service;  
25 (2) the member is at least sixty (60) years of age and has at least  
26 fifteen (15) years of creditable service; or  
27 (3) the member's age in years plus the member's years of service  
28 is at least eighty-five (85) and the member is at least fifty-five  
29 (55) years of age.

30 **(c) This subsection applies to members of the Indiana state**  
31 **teachers' retirement fund and members of the public employees'**  
32 **retirement fund who retire after June 30, 2016, except as provided**  
33 **in section 1.7 of this chapter. A member is eligible for normal**  
34 **retirement if:**

- 35 **(1) the member is at least sixty-five (65) years of age and has**  
36 **at least ten (10) years of creditable service;**  
37 **(2) the member is at least sixty (60) years of age and has at**  
38 **least fifteen (15) years of creditable service; or**  
39 **(3) the member's age in years plus the member's years of**  
40 **service is at least ninety-five (95) and the member is at least**  
41 **fifty-five (55) years of age.**

42 ~~(c)~~ **(d)** A member who has reached age fifty (50) and has at least



1 fifteen (15) years of creditable service is eligible for early retirement  
2 with a reduced pension.

3 ~~(d)~~ (e) A member who is eligible for normal or early retirement is  
4 entitled to choose a retirement date on which the member's benefit  
5 begins if the following conditions are met:

6 (1) The application for retirement benefits and the choice of the  
7 date is filed on a form provided by the board.

8 (2) The date must be after the cessation of the member's service  
9 and be the first day of a month.

10 (3) The retirement date is not more than six (6) months before the  
11 date the application is received by the board. However, if the  
12 board determines that a member is incompetent to file for benefits  
13 and choose a retirement date, the retirement date may be any date  
14 that is the first of the month after the time the member became  
15 incompetent.

16 SECTION 5. IC 5-10.3-6-8.9, AS ADDED BY P.L.158-2006,  
17 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2016]: Sec. 8.9. (a) This section applies when certain  
19 employees of the state in particular departmental, occupational, or  
20 other definable classifications are terminated from employment with  
21 the state as a result of:

22 (1) a lease or other transfer of state property to a nongovernmental  
23 entity; or

24 (2) a contractual arrangement with a nongovernmental entity to  
25 perform certain state functions.

26 (b) The governor shall request coverage under this section from the  
27 board whenever an employee of the state is terminated as described in  
28 subsection (a).

29 (c) The board must approve a request from the governor under  
30 subsection (b) unless approval violates subsection (k), federal or state  
31 law, or the terms of the fund.

32 (d) As used in this section, "early retirement" means a member is  
33 eligible to retire with a reduced pension under ~~IC 5-10.2-4-1~~, because  
34 the member:

35 ~~(1) is at least fifty (50) years of age; and~~

36 ~~(2) has at least fifteen (15) years of creditable service.~~

37 **IC 5-10.2-4-1(d).**

38 (e) As used in this section, "normal retirement" means a member is  
39 eligible to retire under ~~IC 5-10.2-4-1~~, because:

40 ~~(1) the member is at least sixty-five (65) years of age and has at~~  
41 ~~least ten (10) years of creditable service;~~

42 ~~(2) the member is at least sixty (60) years of age and has at least~~



1           fifteen (15) years of creditable service; or  
 2           (3) the member's age in years plus the member's years of service  
 3           is at least eighty-five (85) and the member is at least fifty-five  
 4           (55) years of age.

5           **IC 5-10.2-4-1(a) through IC 5-10.2-4-1(c).**

6           (f) The withdrawal of the employees described in subsection (a)  
 7           from the fund is effective on a termination date established by the  
 8           board. The board may not establish a termination date that occurs  
 9           before all of the following have occurred:

10           (1) The governor has requested coverage under this section and  
 11           provided written notice of the following to the board:

12           (A) The intent of the state to terminate the employees from  
 13           employment.

14           (B) The names of the terminated employees as of the date that  
 15           the termination is to occur.

16           (2) The expiration of a thirty (30) day period following the filing  
 17           of the notice with the board.

18           (3) The state complies with subsections (g) and (i).

19           (g) A member who:

20           (1) is an employee of the state described in subsection (a) with at  
 21           least twenty-four (24) months of creditable service as of the date  
 22           of the notice under subsection (f); and

23           (2) is listed in the notice under subsection (f);

24           is vested in the pension portion of the member's retirement benefit. The  
 25           state must contribute to the fund the amount the board determines is  
 26           necessary to completely fund the vested benefit. The contribution by  
 27           the state must be made in a lump sum or in a series of payments  
 28           determined by the board. The benefit for the member shall be  
 29           computed under IC 5-10.2-4-4 using the member's actual years of  
 30           creditable service.

31           (h) A member who is covered by subsection (g) and who is at least  
 32           sixty-five (65) years of age as of the date of the notice under subsection  
 33           (f) may elect to retire under IC 5-10.2-4-1 even if the member has less  
 34           than ten (10) years of service. The benefit for the member shall be  
 35           computed under IC 5-10.2-4-4 using the member's actual years of  
 36           creditable service.

37           (i) A member who is covered by subsection (f) and who, as of the  
 38           date of the notice under subsection (f), is less than twenty-four (24)  
 39           months from being eligible for normal or early retirement under  
 40           IC 5-10.2-4-1 may elect to retire by purchasing the service credit  
 41           needed for retirement under the following conditions:

42           (1) The state shall contribute to the fund an amount determined



1 under IC 5-10.2-3-1.2 and payable from the sources described in  
 2 subsection (j) sufficient to pay the member's contributions  
 3 required for the member's purchase of the service credit the  
 4 member needs to retire.

5 (2) The maximum amount of creditable service that the state may  
 6 purchase for a member under this subsection is twenty-four (24)  
 7 months.

8 (3) The benefit for the member shall be computed under  
 9 IC 5-10.2-4-4 using the member's actual years of creditable  
 10 service plus all other service for which the fund gives credit,  
 11 including the creditable service purchased under this subsection.

12 (j) The amounts that the state is required to contribute to the fund  
 13 under subsection (i) must come from the following sources:

14 (1) If the state receives monetary payments under the lease or  
 15 contractual arrangement described in subsection (a), the proceeds  
 16 of the monetary payments received by the state. The state may not  
 17 require, as a condition of the transaction to transfer state property  
 18 or have certain state functions performed by a nongovernmental  
 19 entity, that the nongovernmental entity directly or indirectly pay  
 20 the amounts that the state is required to contribute under  
 21 subsection (i).

22 (2) If the state does not receive any monetary payments under the  
 23 lease or contractual arrangement described in subsection (a), any  
 24 remaining appropriations made to the state department, agency,  
 25 or other entity terminating the employees described in subsection  
 26 (a).

27 (3) If the sources described in subdivisions (1) and (2) do not  
 28 fully fund the amounts that the state is required to contribute to  
 29 the fund under subsection (i), the board shall request that the  
 30 general assembly appropriate the amount necessary to fully fund  
 31 the state's required contribution under subsection (i) in the next  
 32 biennial state budget.

33 (k) The board shall evaluate each withdrawal under this section to  
 34 determine if the withdrawal affects the fund's compliance with Section  
 35 401(a) of the Internal Revenue Code of 1954, as in effect on September  
 36 1, 1974. The board may deny an employee permission to withdraw if  
 37 the denial is necessary to achieve compliance with Section 401(a) of  
 38 the Internal Revenue Code of 1954, as in effect on September 1, 1974.

39 SECTION 6. IC 33-38-7-11, AS AMENDED BY P.L.28-2005,  
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2016]: Sec. 11. (a) Benefits provided under this section are  
 42 subject to IC 33-38-6-13 and section 16 of this chapter.



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

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

6 (A) before the date of final termination of employment by the  
 7 participant; or

8 (B) the date thirty (30) days before the receipt of the  
 9 participant's written application by the board.

10 (2) The participant:

11 (A) is at least sixty-two (62) years of age and has at least eight  
 12 (8) years of service credit;

13 (B) is at least fifty-five (55) years of age and the participant's  
 14 age in years plus the participant's years of service is at least  
 15 eighty-five (85), **or if the participant elects to accept**  
 16 **retirement before July 1, 2016;**

17 **(C) is at least fifty-five (55) years of age and the**  
 18 **participant's age in years plus the participant's years of**  
 19 **service is at least ninety-five (95), if the participant elects**  
 20 **to accept retirement after June 30, 2016; or**

21 ~~(D)~~ (D) has become permanently disabled.

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

24 (A) a judge (as defined in IC 33-38-6-7); or

25 (B) a magistrate under IC 33-23-5.

26 (c) A participant:

27 (1) who:

28 (A) elects to accept retirement after June 30, 1977; and

29 (B) is at least sixty-five (65) years of age; **or**

30 (2) who:

31 (A) elects to accept retirement after June 30, 1999, **and before**  
 32 **July 1, 2016;**

33 (B) is at least fifty-five (55) years of age; and

34 (C) meets the requirements under subsection (b)(2)(B); **or**

35 **(3) who:**

36 **(A) elects to accept retirement after June 30, 2016;**

37 **(B) is at least fifty-five (55) years of age; and**

38 **(C) meets the requirements under subsection (b)(2)(C);**

39 is entitled to an annual retirement benefit as calculated in subsection  
 40 (d).

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





1 (1) the salary being paid for the office that the participant held at  
 2 the time of the participant's separation from service; multiplied by  
 3 (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%

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

30 (e) If the annual retirement benefit of a participant who began  
 31 service as a judge before July 1, 1977, as computed under subsection  
 32 (d), is less than the amount the participant would have received under  
 33 IC 33-38-6 as in effect on June 30, 1977, the participant is entitled to  
 34 receive the greater amount as the participant's annual retirement benefit  
 35 instead of the benefit computed under subsection (d).

36 (f) Except as provided in subsections (b)(2)(B), **(b)(2)(C)**, and (d),  
 37 if a participant who elects to accept retirement after June 30, 1977, has  
 38 not attained sixty-five (65) years of age, the participant is entitled to  
 39 receive a reduced annual retirement benefit that equals the benefit that  
 40 would be payable if the participant were sixty-five (65) years of age  
 41 reduced by one-tenth percent (0.1%) for each month that the  
 42 participant's age at retirement precedes the participant's sixty-fifth



1 birthday. This reduction does not apply to:

- 2 (1) participants who are separated from service because of  
 3 permanent disability;  
 4 (2) survivors of participants who die while in service after August  
 5 1, 1992; or  
 6 (3) survivors of participants who die while not in service but  
 7 while entitled to a future benefit.

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

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

13 TABLE B

14 Participant's Years 15 of Service	Percentage
16 0-12	50%
17 13	51%
18 14	52%
19 15	53%
20 16	54%
21 17	55%
22 18	56%
23 19	57%
24 20	58%
25 21	59%
26 22 or more	60%

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

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

- 37 (1) the sum of:  
 38 (A) two thousand dollars (\$2,000); plus  
 39 (B) fifty percent (50%) of the amount of retirement annuity the  
 40 participant was drawing at the time of the participant's death,  
 41 or to that which the participant would have been entitled had  
 42 the participant retired and begun receiving retirement annuity



1 benefits prior to the participant's death; or  
 2 (2) the amount determined under the following table:

3 TABLE C

4 Year	5 Amount
6 July 1, 1995, to 7 June 30, 1996	\$10,000
8 July 1, 1996, to 9 June 30, 1997	\$11,000
10 July 1, 1997, and 11 thereafter	\$12,000

12 (i) If a participant who qualifies after June 30, 1977, and before July  
 13 1, 1983, to receive a retirement annuity under the provisions of this  
 14 chapter, either by length of service or by being permanently disabled,  
 15 dies, the participant's surviving spouse or surviving child or children,  
 16 as designated by the participant, is or are entitled to an annuity in an  
 amount equal to the greater of:

- 17 (1) fifty percent (50%) of the amount of retirement annuity the  
 18 participant was drawing at the time of death, or to that which the  
 19 participant would have been entitled had the participant retired  
 20 and begun receiving retirement annuity benefits before death; or
- 21 (2) the amount determined under TABLE C in subsection (h)(2).

22 (j) If a participant:

- 23 (1) dies after June 30, 1983; and
  - 24 (2) on the date of the participant's death:
    - 25 (A) was receiving benefits under this chapter;
    - 26 (B) had completed at least eight (8) years of service and was
    - 27 in service as a judge;
    - 28 (C) was permanently disabled; or
    - 29 (D) had completed at least eight (8) years of service, was not
    - 30 still in service as a judge, and was entitled to a future benefit;
- 31 the participant's surviving spouse or surviving child or children, as  
 32 designated by the participant, is or are entitled, regardless of the  
 33 participant's age, to an annuity in an amount equal to the greater of the  
 34 amount determined under TABLE C in subsection (h)(2) or fifty  
 35 percent (50%) of the amount of retirement annuity the participant was  
 36 drawing at the time of death, or to that which the participant would  
 37 have been entitled had the participant retired and begun receiving  
 38 retirement annuity benefits on the participant's date of death, with  
 39 reductions as necessary under subsection (f).

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

- 41 (1) died after June 30, 1983, and before July 1, 1985; and
- 42 (2) was serving as a judge at the time of death;



1 the surviving spouse is entitled to the same retirement annuity as the  
 2 surviving spouse of a permanently disabled participant entitled to  
 3 benefits under subsection (i).

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

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

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

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

16 (4) Upon the cessation of payments to one (1) designated child,  
 17 if there is at least one (1) other child then surviving and still  
 18 entitled to payments, the remaining child or children shall share  
 19 equally the annuity. If the surviving spouse of the participant is  
 20 surviving upon the cessation of payments to all designated  
 21 children, the surviving spouse will then receive the annuity for the  
 22 remainder of the surviving spouse's life.

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

25 (A) No child named as a beneficiary by a participant survives  
 26 the participant.

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

29 (C) A designation is not made.

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

34 SECTION 7. IC 33-38-7-12 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) Benefits  
 36 provided under this section are subject to IC 33-38-6-13.

37 (b) A participant is considered permanently disabled if the board has  
 38 received a written certificate by at least two (2) licensed and practicing  
 39 physicians, appointed by the board, indicating that:

40 (1) the participant is totally incapacitated, by reason of physical  
 41 or mental infirmities, from earning a livelihood; and

42 (2) the condition is likely to be permanent.



1 (c) The participant shall be reexamined by at least two (2)  
 2 physicians appointed by the board at the times as the board designates  
 3 but at intervals not to exceed one (1) year. If, in the opinion of these  
 4 physicians, the participant has recovered from the participant's  
 5 disability, then benefits cease to be payable as of the date of the  
 6 examination unless, on that date, the participant is:

- 7 (1) at least sixty-five (65) years of age; or  
 8 (2) at least fifty-five (55) years of age and meets the requirements  
 9 under section 11(b)(2)(B) **or 11(b)(2)(C)** of this chapter.

10 (d) To the extent required by the Americans with Disabilities Act,  
 11 the transcripts, reports, records, and other material generated by the  
 12 initial and periodic examinations and reviews to determine eligibility  
 13 for disability benefits under this section shall be:

- 14 (1) kept in separate medical files for each member; and  
 15 (2) treated as confidential medical records.

16 SECTION 8. IC 33-38-8-13, AS AMENDED BY P.L.122-2008,  
 17 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2016]: Sec. 13. A participant whose employment as a judge  
 19 or, after December 31, 2010, as a judge or full-time magistrate, is  
 20 terminated is entitled to a retirement benefit computed under section  
 21 14 of this chapter, beginning on the date specified by the participant in  
 22 a written application, if the following conditions are met:

- 23 (1) The date on which the benefit begins is not:  
 24 (A) before the date of final termination of employment of the  
 25 participant; or  
 26 (B) the date thirty (30) days before the receipt of the  
 27 application by the board.  
 28 (2) The participant:  
 29 (A) is at least sixty-two (62) years of age and has at least eight  
 30 (8) years of service credit;  
 31 (B) is at least fifty-five (55) years of age and the participant's  
 32 age in years plus the participant's years of service is at least  
 33 eighty-five (85), **or if the participant applies for a**  
 34 **retirement benefit before July 1, 2016;**  
 35 **(C) is at least fifty-five (55) years of age and the**  
 36 **participant's age in years plus the participant's years of**  
 37 **service is at least ninety-five (95), if the participant applies**  
 38 **for a retirement benefit after June 30, 2016; or**  
 39 ~~(D)~~ (D) has become permanently disabled.  
 40 (3) The participant is not receiving a salary from the state for  
 41 services currently performed as:  
 42 (A) a judge (as defined in IC 33-38-6-7); or



1 (B) a magistrate under IC 33-23-5.  
 2 SECTION 9. IC 33-38-8-14, AS AMENDED BY P.L.122-2008,  
 3 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2016]: Sec. 14. (a) Benefits provided under this section are  
 5 subject to IC 33-38-6-13 and section 20 of this chapter.  
 6 (b) A participant who:  
 7 (1) applies for a retirement benefit; and  
 8 (2) is at least:  
 9 (A) sixty-five (65) years of age; or  
 10 (B) fifty-five (55) years of age and meets the requirements  
 11 under section 13(2)(B) **or 13(2)(C)** of this chapter;  
 12 is entitled to an annual retirement benefit as calculated in subsection  
 13 (c).  
 14 (c) The annual retirement benefit for a participant who meets the  
 15 requirements of subsection (b) equals the product of:  
 16 (1) the applicable salary determined under subsection (e);  
 17 multiplied by  
 18 (2) the percentage prescribed in the following table:  
 19 

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%

  
 20 If a participant has a partial year of service in addition to at least eight  
 21 (8) full years of service, an additional percentage shall be calculated by  
 22 prorating between the applicable percentages, based on the number of  
 23 months in the partial year of service.  
 24 (d) Except as provided in section 13(2)(B) of this chapter, **section**  
 25 **13(2)(C) of this chapter**, and subsection (b)(2)(B), if a participant who  
 26 applies for a retirement benefit has not attained sixty-five (65) years of  
 27  
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 42



1 age, the participant is entitled to receive a reduced annual retirement  
 2 benefit that equals the benefit that would be payable if the participant  
 3 were sixty-five (65) years of age reduced by one-tenth percent (0.1%)  
 4 for each month that the participant's age at retirement precedes the  
 5 participant's sixty-fifth birthday. This reduction does not apply to:

6 (1) participants who are separated from service because of  
 7 permanent disability;

8 (2) survivors of participants who die while in service after August  
 9 1, 1992; or

10 (3) survivors of participants who die while not in service but  
 11 while entitled to a future benefit.

12 (e) The applicable salary is one (1) of the following:

13 (1) The salary that was being paid to the participant at the time of  
 14 the participant's separation from service for:

15 (A) a participant who applies to receive a retirement benefit  
 16 from the fund before January 1, 2010; or

17 (B) a participant who:

18 (i) before January 1, 2010, separates from service;

19 (ii) is entitled to receive a retirement benefit from the fund,  
 20 but does not apply before January 1, 2010, to receive a  
 21 retirement benefit; and

22 (iii) does not earn any service credit in the fund after  
 23 December 31, 2009.

24 (2) The salary being paid for the office that the participant held at  
 25 the time of the participant's separation from service for a  
 26 participant who:

27 (A) applies to receive a benefit after December 31, 2009; and

28 (B) is not a participant described in subdivision (1)(B).

29 SECTION 10. IC 33-38-8-15, AS AMENDED BY P.L.99-2007,  
 30 SECTION 198, IS AMENDED TO READ AS FOLLOWS  
 31 [EFFECTIVE JULY 1, 2016]: Sec. 15. (a) A participant is considered  
 32 to have a permanent disability if the board has received a written  
 33 certification by at least two (2) licensed and practicing physicians,  
 34 appointed by the board, that:

35 (1) the participant is totally incapacitated, by reason of physical  
 36 or mental infirmities, from earning a livelihood; and

37 (2) the condition is likely to be permanent.

38 (b) The participant shall be reexamined by at least two (2)  
 39 physicians appointed by the board, at the times the board designates but  
 40 at intervals not to exceed one (1) year. If, in the opinion of these  
 41 physicians, the participant has recovered from the participant's  
 42 disability, then benefits shall cease to be payable as of the date of the



1 examination unless, on that date, the participant is at least:

- 2 (1) sixty-five (65) years of age; or  
 3 (2) fifty-five (55) years of age and meets the requirements under  
 4 section 13(2)(B) **or 13(2)(C)** of this chapter.

5 (c) To the extent required by the Americans with Disabilities Act,  
 6 the transcripts, reports, records, and other material generated by the  
 7 initial and periodic examinations and reviews to determine eligibility  
 8 for disability benefits under this section shall be:

- 9 (1) kept in separate medical files for each member; and  
 10 (2) treated as confidential medical records.

11 SECTION 11. IC 33-38-8-22, AS AMENDED BY P.L.122-2008,  
 12 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2016]: Sec. 22. (a) This section applies to a person who:

- 14 (1) is a judge participating under this chapter;  
 15 (2) was appointed by a court to serve as a full-time referee,  
 16 full-time commissioner, or, before January 1, 2011, full-time  
 17 magistrate, either:

- 18 (A) before becoming a judge; or  
 19 (B) after leaving an elected term on the bench;

- 20 (3) was a member of the public employees' retirement fund during  
 21 the employment described in subdivision (2); and  
 22 (4) received credited service under the public employees'  
 23 retirement fund for the employment described in subdivision (2).

24 (b) If a person becomes a participant as a judge in the judges' 1985  
 25 benefit system under section 1 of this chapter, credit for service by the  
 26 judge as a full-time referee, full-time commissioner, or, before January  
 27 1, 2011, full-time magistrate shall be granted under this chapter by the  
 28 board if:

- 29 (1) the service was credited under the public employees'  
 30 retirement fund;  
 31 (2) the state contributes to the judges' 1985 benefit system the  
 32 amount the board determines necessary to amortize the service  
 33 liability over a period determined by the board, but not more than  
 34 ten (10) years; and  
 35 (3) the judge pays in a lump sum or in a series of payments  
 36 determined by the board, not exceeding five (5) annual payments,  
 37 the amount the judge would have contributed if the judge had  
 38 been a member of the judges' 1985 benefit system during the  
 39 service.

40 (c) If the requirements of subsection (b)(2) and (b)(3) are not  
 41 satisfied, a participant is entitled to credit only for years of service  
 42 earned as a participant in the judges' 1985 benefit system.





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

4 (e) The following provisions apply to a person described in  
 5 subsection (a):

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

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

15 (B) based solely on:

16 (i) creditable service;

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

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

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

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

33 (4) If the requirements of subsection (b)(2) and (b)(3) are  
 34 satisfied, credit for service in the public employees' retirement  
 35 fund as a full-time referee, full-time commissioner, or, before  
 36 January 1, 2011, full-time magistrate is waived. Any credit for the  
 37 service under the judges' 1985 benefit system may be granted only  
 38 under subsection (b).

39 (f) To the extent permitted by the Internal Revenue Code and the  
 40 applicable regulations, the judges' 1985 benefit system may accept, on  
 41 behalf of a participant who is purchasing permissive service credit  
 42 under subsection (b), a rollover of a distribution from any of the



- 1 following:
- 2 (1) A qualified plan described in Section 401(a) or Section 403(a)
- 3 of the Internal Revenue Code.
- 4 (2) An annuity contract or account described in Section 403(b) of
- 5 the Internal Revenue Code.
- 6 (3) An eligible plan that is maintained by a state, a political
- 7 subdivision of a state, or an agency or instrumentality of a state or
- 8 political subdivision of a state under Section 457(b) of the
- 9 Internal Revenue Code.
- 10 (4) An individual retirement account or annuity described in
- 11 Section 408(a) or Section 408(b) of the Internal Revenue Code.
- 12 (g) To the extent permitted by the Internal Revenue Code and the
- 13 applicable regulations, the judges' 1985 benefit system may accept, on
- 14 behalf of a participant who is purchasing permissive service credit
- 15 under subsection (b), a trustee to trustee transfer from any of the
- 16 following:
- 17 (1) An annuity contract or account described in Section 403(b) of
- 18 the Internal Revenue Code.
- 19 (2) An eligible deferred compensation plan under Section 457(b)
- 20 of the Internal Revenue Code.
- 21 SECTION 12. IC 33-38-8-22.5, AS AMENDED BY P.L.16-2011,
- 22 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2016]: Sec. 22.5. (a) This section applies after December 31,
- 24 2010, only to a person who:
- 25 (1) is a full-time magistrate participating under this chapter;
- 26 (2) was appointed by a court to serve as:
- 27 (A) a full-time referee or full-time commissioner; or
- 28 (B) before January 1, 2011, a full-time magistrate;
- 29 (3) was a member of the public employees' retirement fund during
- 30 the employment described in subdivision (2); and
- 31 (4) received credited service under the public employees'
- 32 retirement fund for the employment described in subdivision (2).
- 33 (b) If a person becomes a participant as a full-time magistrate in the
- 34 judges' 1985 benefit system under section 1 of this chapter, credit for
- 35 service by the magistrate as a full-time referee, full-time commissioner,
- 36 or, before January 1, 2011, full-time magistrate shall be granted under
- 37 this chapter by the board if:
- 38 (1) the service was credited under the public employees'
- 39 retirement fund; and
- 40 (2) the magistrate pays in a lump sum or in a series of payments
- 41 determined by the board, not exceeding five (5) annual payments,
- 42 the amount determined by the actuary for the judges' 1985 benefit



- 1 system as the total cost of the service.
- 2 (c) If the requirements of subsection (b) are not satisfied, a  
3 participant is entitled to credit only for years of service earned as a  
4 participant in the judges' 1985 benefit system.
- 5 (d) An amortization schedule for contributions paid under this  
6 section must include interest at a rate determined by the board.
- 7 (e) The following provisions apply to a person described in  
8 subsection (a):
- 9 (1) A minimum benefit applies to participants receiving credit in  
10 the judges' 1985 benefit system from service covered by the  
11 public employees' retirement fund. The minimum benefit is  
12 payable at sixty-five (65) years of age or when the participant is  
13 at least fifty-five (55) years of age and meets the requirements  
14 under section 13(2)(B) or 13(2)(C) of this chapter and equals the  
15 actuarial equivalent of the vested retirement benefit that is:
- 16 (A) payable to the member at normal retirement under  
17 IC 5-10.2-4-1 as of the day before the transfer; and
- 18 (B) based solely on:
- 19 (i) creditable service;
- 20 (ii) the average of the annual compensation; and
- 21 (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to  
22 the annuity savings account of the transferring member as of  
23 the day before the transfer.
- 24 (2) If the requirements of subsection (b) are satisfied, the board  
25 shall transfer from the public employees' retirement fund to the  
26 judges' 1985 benefit system the amount credited to the annuity  
27 savings account and the present value of the retirement benefit  
28 payable at sixty-five (65) years of age or at least fifty-five (55)  
29 years of age under section 13(2)(B) or 13(2)(C) of this chapter  
30 that is attributable to the transferring participant.
- 31 (3) The amount the participant must contribute to the judges' 1985  
32 benefit system under subsection (b) shall be reduced by the  
33 amount transferred to the judges' 1985 benefit system by the  
34 board under subdivision (2).
- 35 (4) If the requirements of subsection (b) are satisfied, credit for  
36 service in the public employees' retirement fund as a full-time  
37 referee, full-time commissioner, or before July 1, 2010, full-time  
38 magistrate that is purchased under this section is waived. Any  
39 credit for the service under the judges' 1985 benefit system may  
40 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



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  
 11 Internal 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 13. IC 33-39-7-15, AS AMENDED BY P.L.57-2014,  
 24 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2016]: Sec. 15. A participant whose employment in a position  
 26 described in section 8 of this chapter is terminated is entitled to a  
 27 retirement benefit computed under section 16 or 18 of this chapter,  
 28 beginning on the date specified by the participant in a written  
 29 application, if all of the following conditions are met:

30 (1) The application for retirement benefits and the choice of the  
 31 retirement date is filed on a form provided by the board, and the  
 32 retirement date is:

33 (A) after the cessation of the participant's service;

34 (B) on the first day of a month; and

35 (C) not more than six (6) months before the date the  
 36 application is received by the board.

37 However, if the board determines that a participant is incompetent  
 38 to file for benefits and choose a retirement date, the retirement  
 39 date may be any date that is the first of the month after the time  
 40 the participant became incompetent.

41 (2) The participant:

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



- 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~~ **if the participant applies for retirement**
- 5 **benefits before July 1, 2016;**
- 6 **(C) is at least fifty-five (55) years of age and the**
- 7 **participant's age in years plus the participant's years of**
- 8 **service is at least ninety-five (95), if the participant applies**
- 9 **for retirement benefits after June 30, 2016; or**
- 10 ~~(D)~~ **(D) has become permanently disabled.**

11 (3) The participant is not receiving and is not entitled to receive  
 12 any salary for services currently performed, except for services  
 13 rendered as a senior prosecuting attorney under IC 33-39-10-1.

14 SECTION 14. IC 33-39-7-16, AS AMENDED BY P.L.160-2013,  
 15 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2016]: Sec. 16. (a) This section does not apply to a participant  
 17 who becomes permanently disabled, as described in section 17 of this  
 18 chapter.

- 19 (b) A participant who:
- 20 (1) applies for a retirement benefit; and
- 21 (2) is at least:
  - 22 (A) sixty-five (65) years of age; ~~or~~
  - 23 (B) fifty-five (55) years of age and the participant's age in
  - 24 years plus the participant's years of service is at least
  - 25 eighty-five (85), **if the participant applies for a retirement**
  - 26 **benefit before July 1, 2016; or**
  - 27 **(C) fifty-five (55) years of age and the participant's age in**
  - 28 **years plus the participant's years of service is at least**
  - 29 **ninety-five (95), if the participant applies for a retirement**
  - 30 **benefit after June 30, 2016;**

31 is entitled to an annual retirement benefit as calculated in subsection  
 32 (c).

33 (c) Except as provided in subsections (d), (e), and (f), the amount of  
 34 the annual retirement benefit to which a participant described in  
 35 subsection (b) is entitled equals the product of:

- 36 (1) the highest annual salary that was paid to the participant
- 37 before separation from service; multiplied by
- 38 (2) the percentage prescribed in the following table:

39 Participant's Years	Percentage
40 of Service	
41 Less than 8	0
42 8	24%



1	9	27%
2	10	30%
3	11	33%
4	12	50%
5	13	51%
6	14	52%
7	15	53%
8	16	54%
9	17	55%
10	18	56%
11	19	57%
12	20	58%
13	21	59%
14	22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in subsections (e) and (f), and section 19(c)(2)(B) of this chapter, a participant who:

- (1) applies for a retirement benefit; and
- (2) is not described in subsection (b);

is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

(e) Except as provided in subsection (f), benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

(f) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant:

- (1) had not made an election under IC 5-10.3-12-20 to become a



1 member of the public employees' defined contribution (annuity  
2 savings account only) plan; and

3 (2) had retired from the public employees' retirement fund on the  
4 date of the participant's retirement from the prosecuting attorneys  
5 retirement fund.

6 (g) If benefits payable from the public employees' retirement fund  
7 exceed the benefits payable from the prosecuting attorneys retirement  
8 fund, the participant is entitled at retirement to withdraw from the  
9 prosecuting attorneys retirement fund the total sum contributed plus  
10 interest at a rate specified by rule by the board.

11 SECTION 15. IC 33-39-7-17, AS AMENDED BY P.L.160-2013,  
12 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2016]: Sec. 17. (a) A participant is considered to have a  
14 permanent disability if the board has received written certifications by  
15 at least two (2) licensed and practicing physicians, appointed by the  
16 board, that:

17 (1) the participant is totally incapacitated, by reason of physical  
18 or mental infirmities, from earning a livelihood; and

19 (2) the condition is likely to be permanent.

20 (b) A participant found to have a permanent disability under  
21 subsection (a) must be reexamined by at least two (2) physicians  
22 appointed by the board, at the times the board designates but at  
23 intervals not to exceed one (1) year. If, in the opinion of these  
24 physicians, the participant has recovered from the participant's  
25 disability, benefits cease to be payable as of the date of the  
26 examination, unless on that date the participant is:

27 (1) at least sixty-five (65) years of age; ~~or~~

28 (2) at least fifty-five (55) years of age and the participant's age in  
29 years plus the participant's years of service is at least eighty-five

30 (85), **if the date of the examination is before July 1, 2016; or**

31 **(3) at least fifty-five (55) years of age and the participant's age**  
32 **in years plus the participant's years of service is at least**  
33 **ninety-five (95), if the date of the examination is after June 30,**  
34 **2016.**

35 (c) To the extent required by the Americans with Disabilities Act,  
36 the transcripts, reports, records, and other material generated to prove  
37 that an individual is qualified for disability benefits under this section  
38 must be:

39 (1) kept in separate medical files for each member; and

40 (2) treated as confidential medical records.

