

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 185

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 36-8-1-11, AS AMENDED BY P.L.103-2021, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) "Salary of a first class patrolman or first class firefighter" means the highest nonpromoted salary of a patrolman or firefighter plus all longevity increases, if provided by the employer, for:

- (1) service of not more than twenty (20) years; or
- (2) service of more than twenty (20) years but ~~less than~~ **not more than** twenty-five (25) years if provided as a result of the meet and confer process under IC 36-8-22;

but does not include remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off.

(b) This subsection applies if a salary certified under IC 36-8-8-6.5 is greater than the salary of a first class patrolman or first class firefighter under subsection (a). An employer may not increase the salary certified under IC 36-8-8-6.5 unless the salary of a first class patrolman or first class firefighter under subsection (a) exceeds the employer's most recent salary certified. If an employer certifies a new salary under IC 36-8-8-6.5, the new certified salary must be equal to the salary of a first class patrolman or first class firefighter under subsection (a). Subsection (a) does not require an employer to decrease

SEA 185 — Concur



the certified salary of a first class patrolman or first class firefighter in effect on May 14, 2021.

(c) With respect to the 1925, 1937, and 1953 funds, "salary of a first class patrolman or firefighter" may include longevity increases for more than twenty (20) years of service at the option of the employer but only if these longevity increases had taken effect before January 1, 1983.

SECTION 2. IC 36-8-3.5-12, AS AMENDED BY P.L.103-2021, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 12. (a) Subject to IC 36-8-4.7, to be appointed to the department, an applicant must be:

- (1) a citizen of the United States;
- (2) a high school graduate or equivalent; and
- (3) at least
 - (A) ~~twenty-one (21) years of age, but under thirty-six (36) years of age, if the person is an applicant to the fire department; or~~
 - (B) ~~twenty-one (21) years of age, but under forty (40) years of age, if the person is an applicant to the police department.~~

However, the age requirements do not apply to a person who has been previously employed as a member of the department.

(b) A person may not be appointed, reappointed, or reinstated if the person has a felony conviction on the person's record.

(c) Applications for appointment or reappointment to the department must be filed with the commission. The applicant must produce satisfactory proof of the date and place of the applicant's birth.

(d) Applicants for appointment or reappointment to the department must pass the general aptitude test required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5. The general aptitude test shall:

- (1) reflect the essential functions of the job;
- (2) be conducted according to procedures adopted by the commission; and
- (3) be administered in a manner that reasonably accommodates the needs of applicants with a disability.

The results of the general aptitude test shall be filed with the commission. If the commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(e) The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading the applicants, including the establishment of a passing score. The commission shall place the names of applicants with



passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

(f) This subsection is subject to IC 36-8-4.7. ~~If an applicant for original appointment to the fire department reaches the applicant's thirty-sixth birthday, the applicant's name shall be removed from the eligibility list. If an applicant for original appointment to the police department reaches the applicant's fortieth birthday, the applicant's name shall be removed from the eligibility list. Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.~~

(g) When a vacancy occurs in the department, the commission, upon a written request of the chief of the department, shall administer the physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes the physical agility test, the applicant shall then be enrolled as a member of the department to fill the vacancy if:

- (1) the applicant is still of good character; and
- (2) the applicant passes the required examinations identified in IC 36-8-3.2-6 and IC 36-8-8-19.

(h) All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the commission shall notify the member in writing that the member:

- (1) is being reprimanded;
- (2) is being suspended; or
- (3) will not receive a permanent appointment.

If a member is notified that the member will not receive a permanent appointment, the member's employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.

SECTION 3. IC 36-8-4-7, AS AMENDED BY P.L.85-2022, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Subject to IC 36-8-4.7, a person may not be appointed as a member of the

- ~~(1) fire department after the person has reached thirty-six (36) years of age; or~~
- ~~(2) police or fire department after the person has reached forty (40) years of age.~~

A person may be reappointed as a member of any department only if the person is a former member or a retired member not yet receiving



retirement benefits of the 1925, 1937, 1953, or 1977 fund and can complete twenty (20) years of service before reaching sixty (60) years of age.

(b) This section does not apply to a fire chief appointed under a waiver under section 6(c) of this chapter or a police chief appointed under a waiver under section 6.5(c) of this chapter.

(c) A person must pass the aptitude, physical agility, and physical examination required by the local board of the fund and by IC 36-8-8-19 to be appointed or reappointed as a member of the department.

(d) A fire chief appointed under a waiver under section 6(c) of this chapter or police chief appointed under a waiver under section 6.5(c) of this chapter who is receiving, or is entitled to receive, benefits from the 1925, 1937, 1953, or 1977 fund may receive those benefits while serving as chief, subject to all normal requirements for receipt of a benefit, including a separation from service.

SECTION 4. IC 36-8-8-1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2023 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

Sec. 1. This chapter applies to:

- (1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);
- (2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);
- (3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996;
- (4) a park ranger who:
 - (A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;
 - (B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and
 - (C) is employed by the parks department of a city having a population of more than one hundred ten thousand (110,000) ~~but~~ **and** less than one hundred fifty thousand (150,000);
- (5) a full-time fully paid firefighter who is covered by this chapter before the effective date of consolidation and becomes a member



of the fire department of a consolidated city under IC 36-3-1-6.1, provided that the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter;

(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after the effective date of the consolidation by a consolidated fire department established under IC 36-3-1-6.1;

(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter;

(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1; ~~and~~

(9) a veteran described in IC 36-8-4.7; **and**

(10) a full-time police officer or full-time fully paid firefighter who is employed by an airport authority;

except as provided by section 7 of this chapter.

SECTION 5. IC 36-8-8-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2023]: **Sec. 1.2. As used in this chapter, "airport authority" refers to an airport authority established under IC 8-22-3.**

SECTION 6. IC 36-8-8-2, AS AMENDED BY P.L.227-2005, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 2. As used in this chapter, "employer" means:**

(1) a municipality that established a 1925 or 1953 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;

(2) a unit that established a 1937 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;

(3) a consolidated city that consolidated the fire departments of units that:

(A) established a 1937 fund; or

(B) participated in the 1977 fund;

before the units' consolidation into the fire department of a consolidated city established by IC 36-3-1-6.1; ~~or~~

(4) a consolidated city that establishes a consolidated law enforcement department under IC 36-3-1-5.1; ~~or~~

(5) an airport authority that participates in the 1977 fund



under section 3 of this chapter.

SECTION 7. IC 36-8-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2.1. (a) As used in this chapter, "local board" means the following:

- (1) For a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.
- (2) For a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.
- (3) For a consolidated city that established a 1953 fund for its police officers, the local board described in IC 36-8-7.5-2.
- (4) For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).
- (5) For an airport authority, the board of an airport authority.**

(b) If a unit did not establish a 1925 fund for its police officers, a local board shall be composed in the same manner described in IC 36-8-6-2(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(c) If a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

SECTION 8. IC 36-8-8-3, AS AMENDED BY P.L.85-2022, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) If a town establishes a board of metropolitan police commissioners, or if a town becomes a city, the municipality shall participate in the 1977 fund and shall enroll all full-time police officers and firefighters in the 1977 fund. However, if a police officer or former marshal is a member of the public employees' retirement fund, the police officer or former marshal may continue as a member of that fund instead of the 1977 fund. Notwithstanding the age requirements under section 7(a) of this chapter, a police officer or former marshal employed by a municipality at the time the municipality enters the 1977 fund under this section shall be a member of the 1977 fund unless the police officer or former marshal elects to continue as a member of the public employees' retirement fund. A person may become a member of the 1977 fund under this subsection without meeting the age limitation under section 7(a) of this chapter only if the person satisfies:

SEA 185 — Concur



- (1) any aptitude, physical agility, or physical and mental standards established by a local board under IC 36-8-3.2; and
- (2) the minimum standards that are:
 - (A) adopted by the system board under section 19 of this chapter; and
 - (B) in effect on the date the person becomes a member of the 1977 fund.

Credit for prior service of a person who becomes a member of the 1977 fund under this subsection shall be determined under section 18 or 18.1 of this chapter. No service credit beyond that allowed under section 18 or 18.1 of this chapter may be recognized under the 1977 fund.

(b) If a unit did not establish a 1937 fund for its firefighters, the unit may participate in the public employees' retirement fund or it may participate in the 1977 fund. If a unit established a 1937 fund for its firefighters, the unit is and shall remain a participant in the 1977 fund.

(c) A unit that:

- (1) has not established a pension fund for its firefighters; or
- (2) is participating in the public employees' retirement fund under subsection (b);

may participate in the 1977 fund upon approval by the fiscal body, notwithstanding IC 5-10.3-6-8. A unit that participates in the 1977 fund under this subsection must comply with section 21 of this chapter. However, if a police officer or firefighter is a member of the public employees' retirement fund, the police officer or firefighter may continue as a member of that fund instead of the 1977 fund.

(d) If a unit that participates in the 1977 fund provides longevity increases, the amount of the longevity increase provided in a year must be greater than or equal to the amount of the longevity increase provided in the previous year.

(e) An airport authority may participate in the 1977 fund. An airport authority that participates in the 1977 fund under this subsection must comply with section 21 of this chapter. However, if a police officer or firefighter is a member of the public employees' retirement fund, the police officer or firefighter may continue as a member of that fund instead of the 1977 fund.

SECTION 9. IC 36-8-8-7, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2023 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:
 Sec. 7. (a) Subject to IC 36-8-4.7 and except as provided in subsections (d), (e), (f), (g), (h), (k), (l), and (m), ~~(†)~~ a police officer **or a firefighter** who:

- (1) is less than forty (40) years of age; ~~or~~ **and**



(2) a firefighter who is less than thirty-six (36) years of age; who passes the baseline statewide physical and mental examinations required under section 19 of this chapter; shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires the police officer or firefighter chooses to contribute to the 1977 fund the amount necessary to amortize the police officer's or firefighter's prior service liability over a period of not more than thirty (30) years, the amount and the period to be determined by the system board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for the police officer's or firefighter's prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the



1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired by the police or fire department of a unit before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) is rehired by the police or fire department of another unit after December 31, 1981; and
- (4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

- (1) is employed by a unit that is participating in the 1977 fund;
- (2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

- (1) a fire chief under a waiver under IC 36-8-4-6(c); or
- (2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

SEA 185 — Concur



- (1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;
- (2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and
- (3) is employed by the parks department of a city having a population of more than one hundred ten thousand (110,000) ~~but~~ **and** less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

- (1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1;
- (2) whose employer is consolidated into the consolidated law enforcement department or the fire department of a consolidated city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and
- (3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, if:

- (1) before a consolidation under IC 8-22-3-11.6, a police officer or firefighter provides law enforcement services or fire protection services for an entity in a consolidated city;
- (2) the provision of those services is consolidated into the law enforcement department or fire department of a consolidated city; and
- (3) after the consolidation, the police officer or firefighter becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 8-22-3-11.6;

the police officer or firefighter is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l) may not be:

- (1) retired for purposes of section 10 of this chapter; or
- (2) disabled for purposes of section 12 of this chapter;

solely because of a change in employer under the consolidation.

(n) Notwithstanding any other provision of this chapter and subject



to subsection (o), a police officer or firefighter who:

- (1) is an active member of the 1977 fund with an employer that participates in the 1977 fund;
- (2) separates from that employer; and
- (3) not later than one hundred eighty (180) days after the date of the separation described in subdivision (2), becomes employed as a full-time police officer or firefighter with the same or a second employer that participates in the 1977 fund;

is a member of the 1977 fund without meeting for a second time the age limitation under subsection (a) and the requirements under sections 19 and 21 of this chapter. A police officer or firefighter to whom this subsection applies is entitled to receive credit for all years of 1977 fund covered service as a police officer or firefighter with all employers that participate in the 1977 fund.

(o) The one hundred eighty (180) day limitation described in subsection (n)(3) does not apply to a member of the 1977 fund who is eligible for reinstatement under IC 36-8-4-11.

(p) Notwithstanding any other provision of this chapter, a veteran who is:

- (1) described in IC 36-8-4.7; and
- (2) employed as a firefighter or police officer;

is a member of the 1977 fund.

(q) Notwithstanding any other provision of this chapter and except as provided in subsection (o), a police officer or firefighter who:

- (1) is an active member of the 1977 fund with an employer that participates in the 1977 fund;
- (2) separates from that employer; and
- (3) more than one hundred eighty (180) days after the date of the separation described in subdivision (2), becomes employed as a full-time police officer or firefighter with the same or a second employer that participates in the 1977 fund;

is a member of the 1977 fund without meeting the age limitation under subsection (a) provided the member can accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes sixty (60) years of age. A police officer or firefighter who participates in the 1977 fund under this subsection must pass the baseline statewide physical and mental examination under section 19 of this chapter. A police officer or firefighter to whom this subsection applies is entitled to receive credit for all years of 1977 fund covered service as a police officer or firefighter with all employers that participate in the 1977 fund.

SECTION 10. IC 36-8-8-18, AS AMENDED BY P.L.43-2018,

SEA 185 — Concur



SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 18. (a) Except as provided in subsection (b), if a unit **or an airport authority** becomes a participant in the 1977 fund, credit for prior service by police officers (including prior service as a full-time, fully paid town marshal or full-time, fully paid deputy town marshal by a police officer employed by a metropolitan board of police commissioners) or by firefighters before the date of participation may be given by the system board only if:

- (1) the amount necessary to fund the police officer's or firefighter's prior service liability is contributed to the 1977 fund under an agreement that specifies how much the unit **or the airport authority** is to contribute, if any, and how much the police officer or firefighter is to contribute, if any; and
- (2) the amount that the police officers or firefighters would have contributed if they had been members of the 1977 fund during their prior service is paid to the 1977 fund under an agreement that specifies how much the unit **or the airport authority** is to contribute, if any, and how much the police officer or firefighter is to contribute, if any.

If the requirements of subdivisions (1) and (2) are not met, a fund member is entitled to credit only for years of service after the date of participation. Contributions under subdivisions (1) and (2) must be paid in a lump sum or in installments over a period of not more than thirty (30) years, the amount and period to be determined by the system board. The periods determined by the system board under subdivisions (1) and (2) for any installment payments may differ between the unit **or the airport authority** and the police officers or firefighters and between subdivisions (1) and (2).

(b) If a unit becomes a participant in the 1977 fund under section 3(c) of this chapter, **if an airport authority becomes a participant in the 1977 fund under section 3(e) of this chapter**, or if a firefighter becomes a member of the 1977 fund under section 7(g) of this chapter, credit for prior service before the date of participation or membership shall be given by the system board as follows:

- (1) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund and who participated in PERF as a police officer, a firefighter, or an emergency medical technician, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.



(2) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund and who did not participate in a pension plan as a police officer, a firefighter, or an emergency medical technician, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of prior service with the unit as a police officer, a firefighter, or an emergency medical technician only if:

(A) The amount necessary to fund the member's prior service liability is contributed to the 1977 fund under an agreement that specifies how much the unit **or the airport authority** is to contribute, if any, and how much the member is to contribute, if any. Contributions must be paid in a lump sum or in installments as provided in clause (C). The amount of contributions must be based on the actual salary earned by a first class patrolman or a first class firefighter at the time the unit **or the airport authority** becomes a participant in the 1977 fund, or the police officer or firefighter becomes a member of the 1977 fund, or if no such salary designation exists, the actual salary earned by the police officer or firefighter.

(B) The amount the police officer or firefighter would have contributed if the police officer or firefighter had been a member of the 1977 fund during the police officer's or firefighter's prior service must be fully paid under an agreement that specifies how much the unit **or the airport authority** is to pay, if any, and how much the member is to pay, if any. Contributions must be paid in a lump sum or in installments as provided in clause (C). The amount of contributions must be based on the police officer's or firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the system board. The board shall determine the term of any amortization schedule authorized under clauses (A) and (B), not to exceed ten (10) years. The terms of the various amortization schedules authorized under clauses (A) and (B) may differ.

(3) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the



earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, credit for such prior service shall be given only if:

(A) The amount necessary to fund the member's prior service liability is contributed to the 1977 fund under an agreement that specifies how much the unit **or the airport authority** is to contribute, if any, and how much the member is to contribute, if any. Contributions must be paid in a lump sum or in installments as provided in clause (C). The amount of contributions must be based on the actual salary earned by a first class patrolman or a first class firefighter at the time the unit **or the airport authority** becomes a participant in the 1977 fund, or the police officer or firefighter becomes a member of the 1977 fund, or if no such salary designation exists, the actual salary earned by the police officer or firefighter. The limit on credit for prior service does not apply to a firefighter if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid police officer, firefighter, or emergency medical technician under section 7(g) of this chapter.

(B) The amount the police officer or firefighter would have contributed if the police officer or firefighter had been a member of the 1977 fund during the police officer's or firefighter's prior service must be fully paid under an agreement that specifies how much the unit **or the airport authority** is to pay and how much the member is to pay. Contributions must be paid in a lump sum or in installments as provided in clause (C). The amount of contributions must be based on the police officer's or firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must



include interest at a rate determined by the system board. The board shall determine the term of any amortization schedule authorized under clauses (A) and (B), not to exceed ten (10) years. The terms of the various amortization schedules authorized under clauses (A) and (B) may differ.

(4) If, at the time a unit **or an airport authority** entered the 1977 fund, a fund member received the maximum prior service credit allowed by subdivision (3) and, at a later date, the earliest retirement age was lowered, the unit **or the airport authority** or the fund member, or both **the unit or airport authority and the fund member**, may contribute to the 1977 fund on the fund member's behalf an additional amount that is determined in the same manner as under subdivision (3) with respect to the additional prior service, if any, available as a result of the lower retirement age. If the additional amount described in this subdivision is paid in accordance with the requirements of subdivision (3), the fund member shall receive the additional service credit necessary for the fund member to retire at the lower earliest retirement age.

(c) This subsection applies to a unit that:

- (1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and
- (2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes fifty-two (52) years of age, whichever is less.

(d) A unit to which subsection (c) applies shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection (c), amortized over a period not to exceed ten (10) years with interest at a rate determined by the system board.

(e) If the township or municipality has accumulated money in its 1937 fund, any amount accumulated that exceeds the present value of all projected future benefits from the 1937 plan shall be paid by the township or municipality to the unit for the sole purpose of making the contributions determined in subsection (d).

SEA 185 — Concur



(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

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

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

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

SECTION 11. IC 36-8-8-18.1, AS AMENDED BY P.L.27-2019, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 18.1. (a) As used in this section, "police officer" includes a former full-time, fully paid town marshal or full-time, fully paid deputy town marshal who is employed as a police officer by a metropolitan board of police commissioners.

(b) If a unit **or an airport authority** becomes a participant in the 1977 fund and the unit **or the airport authority** previously covered police officers, firefighters, or emergency medical technicians in PERF, or if the employees of the unit become members of the 1977 fund under section 7(g) of this chapter, the following provisions apply:

- (1) A minimum benefit applies to members electing to transfer or being transferred to the 1977 fund from PERF. The minimum benefit, payable at age fifty-two (52), for such a member equals the actuarial equivalent of the vested retirement benefit payable to the member upon normal retirement under IC 5-10.2-4-1 as of the day before the transfer, based solely on:
 - (A) creditable service;
 - (B) the average of the annual compensation; and
 - (C) the amount credited to the annuity savings account;



of the transferring member as of the day before the transfer under IC 5-10.2 and IC 5-10.3.

(2) The system board shall transfer from PERF to the 1977 fund the amount credited to the annuity savings accounts that is necessary for the purchase of service credit and the present value of benefits attributable to the transferring members.

(3) The amount the unit **or the airport authority** and the member must contribute to the 1977 fund under section 18 of this chapter, if any service credit is to be given under that section, will be reduced by the amounts transferred to the 1977 fund by the system board under subdivision (2).

(4) Credit for prior service in PERF of a member as a police officer, a firefighter, or an emergency medical technician is waived in PERF. Any credit for that service under the 1977 fund shall only be given in accordance with section 18 of this chapter.

(5) Credit for prior service in PERF of a member, other than as a police officer, a firefighter, or an emergency medical technician, remains in PERF and may not be credited under the 1977 fund.

SECTION 12. IC 36-8-8-21, AS AMENDED BY P.L.130-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 21. (a) This section applies to:

(1) police officers and firefighters who are employed by units that become participants in the 1977 fund under section 3(c) of this chapter; ~~or~~

(2) police officers and firefighters who are employed by an airport authority that becomes a participant in the 1977 fund under section 3(e) of this chapter; or

~~(2)~~ **(3) firefighters who become members of the 1977 fund under section 7(g) of this chapter.**

(b) A police officer or firefighter may become a member of the 1977 fund without meeting the age limitation under section 7(a) of this chapter if the police officer or firefighter satisfies:

(1) any aptitude, physical agility, or physical and mental standards established by a local board under IC 36-8-3.2; and

(2) the minimum standards that are:

(A) adopted by the system board under section 19 of this chapter; and

(B) in effect on the date the police officer or firefighter becomes a member of the 1977 fund.

(c) Credit for prior service of a police officer or firefighter who becomes a member of the 1977 fund under this section shall be determined under section 18 or 18.1 of this chapter. No service credit

SEA 185 — Concur



beyond that allowed under section 18 or 18.1 of this chapter may be recognized under the 1977 fund.

SECTION 13. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 185 — Concur

