

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7135**

**BILL NUMBER:** HB 1486

**NOTE PREPARED:** Jan 10, 2021

**BILL AMENDED:**

**SUBJECT:** Public Defender Retirement Fund.

**FIRST AUTHOR:** Rep. Heaton

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill establishes the Public Defender Retirement Fund. It makes conforming amendments.

**Effective Date:** July 1, 2021.

**Explanation of State Expenditures:** *Summary* - The bill establishes a new retirement fund for eligible public defenders. It appropriates sufficient amounts from the state General Fund each biennium to actuarially fund the participants' retirement benefits. The costs for the fund are currently indeterminate, yet could be significant. They are estimated to be less than the required appropriations for the Prosecuting Attorney's Retirement Fund (PARF), a fund that is structured similarly to the Public Defender Retirement Fund and which provides comparable benefits to more participants. PARF was appropriated \$4.4 M in FY 2021. Additional funding will be required to pay the actuarial cost of past eligible service (the fund provides retirement benefits for service performed back to 1990) as well as for expenses incurred to start up the fund. *[A more precise estimate can be determined by performing an actuarially cost study. This note will updated as more information from INPRS becomes available.]*

The bill's requirements to administer the Public Defender Retirement Fund represents a significant increase in workload and administrative costs for INPRS, including significant costs associated with starting the new fund. The bill requires INPRS to determine eligibility, make benefit payments, administer investments, provide rules for implementing the retirement fund, and authorize deposits. It allows INPRS to hire additional personnel to assist with implementing the Public Defender Retirement Fund. The administrative costs of the fund will be paid from the fund, however, the source of funds and resources required to start up the fund will depend on legislative and administrative actions.

The Public Defender Council of Indiana would experience increased costs if it elects to pay member contributions for fund participants.

*Additional Information* - The bill provides retirement, disability, and survivor benefits to chief public defenders and deputy chief public defenders based on service on or after January 1, 1990. It also provides benefits to the executive director and assistant executive director of the Public Defender Council of Indiana for service after June 30, 2018. Based on data provided by the Public Defender Commission, approximately 40 active individuals would be eligible to become members of the fund. Under the bill, it is possible for individuals who had prior eligible service, but who are no longer working as a chief or chief deputy public defender to be eligible for retirement benefits. At this time it is unknown how many additional people would be eligible to participate in the fund based on past service alone. For comparison, in FY 2020, PARF had 205 active members, 169 benefit recipients, 101 inactive vested members, and 142 inactive non-vested members with a balance.

The schedule for total retirement, disability, and survivor benefits due to members under the Public Defender Retirement Fund is shown in the following table. Minimum salary for chief public defenders in FY 2021 is \$156,125 or \$93,675 depending on whether they work full time or part time. Minimum salary for chief deputy public defenders is \$117,094 for full-time employees and \$70,256 for part-time employees.

<b>Public Defender Retirement Fund—Retirement, Disability, and Survivor Benefit Amounts</b>			
<b>Years of Service</b>	<b>Retirement Benefit (% of highest salary)</b>	<b>Disability Benefit (% of salary at time of separation)</b>	<b>Survivor Benefit</b>
Less than 8		50%	Higher of \$12,000 or 50% of Retirement Benefit
8	24%	50%	
9	27%	50%	
10	30%	50%	
11	33%	50%	
12	50%	50%	
13	51%	51%	
14	52%	52%	
15	53%	53%	
16	54%	54%	
17	55%	55%	
18	56%	56%	
19	57%	57%	
20	58%	58%	
21	59%	59%	
22 or more	60%	60%	

Note: Actual payments from the Public Defender Retirement Fund would be reduced by benefits received by members under PERF.

Members of the new Public Defender Retirement Fund are also members of Public Employees’ Retirement Fund (PERF). A member’s calculated benefit under the Public Defender Retirement Fund equals the total amount that an individual is eligible for under the Public Defender Retirement Fund and PERF combined.

When benefits are paid, a member would receive a payment from the Public Defender Retirement Fund reduced by the amount of benefit an individual is eligible for under PERF. The member would also receive a separate payment from PERF. If the PERF benefit exceeds the benefit under the Public Defender Retirement Fund, the amount of member contributions plus interest from the Public Defender Retirement Fund would be returned to the member.

Individuals in the Public Defender Retirement Fund who are unvested members of PARF may also receive service credit for those years of service. It is possible, however, that an individual who is vested in PARF or in the Judges' Retirement System is also vested in the Public Defender Retirement Fund. In such a case an individual would be eligible to receive a pension from each of the funds in which they are vested.

Members of the Public Defender Retirement Fund who leave a covered position before reaching eight years of service may withdraw their member contributions and earned interest.

**Explanation of State Revenues:** *Public Defender Retirement Fund:* Members of the fund would be required to pay member contributions of 6% of salary into the fund for service up to 22 years. For prior service earned, members are required to pay 6% of past covered salary; or if the member made PERF contributions for prior eligible service, the difference between 6% and past PERF contributions.

**Explanation of Local Expenditures:** *Counties:* Counties would have increased expenditures if they elect to make member contributions for fund members.

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Public Retirement System; Public Defender Council of Indiana.

**Local Agencies Affected:** Counties.

**Information Sources:** Derrick Mason, Public Defender Commission, [Derrick.Mason@pdcom.in.gov](mailto:Derrick.Mason@pdcom.in.gov); "2020 Comprehensive Annual Financial Report," INPRS, <https://www.in.gov/inprs/annualreports.htm>.

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