

HOUSE BILL No. 1037

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-5.5-11; IC 5-10.2-4-1; IC 5-10.3-6-8.9; IC 33-38-8-13; IC 33-39-7.

Synopsis: Early retirement of public employees. Provides that for new hires of the: (1) state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan; (2) public employees' retirement fund; (3) Indiana state teachers' retirement fund; (4) Indiana judges' retirement fund: 1985 retirement, disability, and death system; and (5) prosecuting attorneys retirement fund; eligibility for early retirement according to the "rule of 85" is incrementally changed to a "rule of 95" over the period beginning July 1, 2018, and ending July 1, 2036.

Effective: July 1, 2018.

Culver

January 3, 2018, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1037

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 5-10-5.5-11, AS AMENDED BY P.L.180-2007,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 11. (a) Any participant who has attained the age
4 of forty-five (45) years and has accrued at least fifteen (15) years of
5 creditable service may retire and become eligible for benefits as
6 provided in section 12(a) of this chapter.
7 (b) If:
8 (1) a participant is at least fifty-five (55) years of age; and
9 (2) the sum of the participant's years of creditable service and age
10 in years equals at least:
11 (A) eighty-five (85), for a participant who first performs
12 creditable service before July 1, 2018;
13 (B) eighty-six (86), for a participant who first performs
14 creditable service after June 30, 2018, and before July 1,
15 2020;
16 (C) eighty-seven (87), for a participant who first performs
17 creditable service after June 30, 2020, and before July 1,



- 1 **2022;**
 2 **(D) eighty-eight (88), for a participant who first performs**
 3 **creditable service after June 30, 2022, and before July 1,**
 4 **2024;**
 5 **(E) eighty-nine (89), for a participant who first performs**
 6 **creditable service after June 30, 2024, and before July 1,**
 7 **2026;**
 8 **(F) ninety (90), for a participant who first performs**
 9 **creditable service after June 30, 2026, and before July 1,**
 10 **2028;**
 11 **(G) ninety-one (91), for a participant who first performs**
 12 **creditable service after June 30, 2028, and before July 1,**
 13 **2030;**
 14 **(H) ninety-two (92), for a participant who first performs**
 15 **creditable service after June 30, 2030, and before July 1,**
 16 **2032;**
 17 **(I) ninety-three (93), for a participant who first performs**
 18 **creditable service after June 30, 2032, and before July 1,**
 19 **2034;**
 20 **(J) ninety-four (94), for a participant who first performs**
 21 **creditable service after June 30, 2034, and before July 1,**
 22 **2036; or**
 23 **(K) ninety-five (95), for a participant who first performs**
 24 **creditable service after June 30, 2036;**
 25 the participant may retire and become eligible for benefits as
 26 provided in section 12(b) of this chapter.
 27 (c) A participant who:
 28 (1) is at least fifty (50) years of age; and
 29 (2) has accrued at least twenty-five (25) years of creditable
 30 service;
 31 may retire and become eligible for benefits under section 12(b) of this
 32 chapter.
 33 SECTION 2. IC 5-10.2-4-1 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) This subsection
 35 applies to:
 36 (1) members of the public employees' retirement fund who retire
 37 before July 1, 1995; and
 38 (2) members of the Indiana state teachers' retirement fund who
 39 retire before May 2, 1989.
 40 A member who has reached age sixty-five (65) and has at least ten (10)
 41 years of creditable service is eligible for normal retirement.
 42 (b) This subsection applies to members of the Indiana state teachers'



1 retirement fund who retire after May 1, 1989, and to members of the
 2 public employees' retirement fund who retire after June 30, 1995,
 3 except as provided in section 1.7 of this chapter. A member is eligible
 4 for normal retirement if:

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

7 (2) the member is at least sixty (60) years of age and has at least
 8 fifteen (15) years of creditable service; or

9 (3) **the member is at least fifty-five (55) years of age and the**
 10 **member's age in years plus the member's years of service is at**
 11 **least:**

12 (A) ~~eighty-five (85), and the member is at least fifty-five (55)~~
 13 ~~years of age; for a member who first performs creditable~~
 14 ~~service before July 1, 2018;~~

15 (B) **eighty-six (86), for a member who first performs**
 16 **creditable service after June 30, 2018, and before July 1,**
 17 **2020;**

18 (C) **eighty-seven (87), for a member who first performs**
 19 **creditable service after June 30, 2020, and before July 1,**
 20 **2022;**

21 (D) **eighty-eight (88), for a member who first performs**
 22 **creditable service after June 30, 2022, and before July 1,**
 23 **2024;**

24 (E) **eighty-nine (89), for a member who first performs**
 25 **creditable service after June 30, 2024, and before July 1,**
 26 **2026;**

27 (F) **ninety (90), for a member who first performs creditable**
 28 **service after June 30, 2026, and before July 1, 2028;**

29 (G) **ninety-one (91), for a member who first performs**
 30 **creditable service after June 30, 2028, and before July 1,**
 31 **2030;**

32 (H) **ninety-two (92), for a member who first performs**
 33 **creditable service after June 30, 2030, and before July 1,**
 34 **2032;**

35 (I) **ninety-three (93), for a member who first performs**
 36 **creditable service after June 30, 2032, and before July 1,**
 37 **2034;**

38 (J) **ninety-four (94), for a member who first performs**
 39 **creditable service after June 30, 2034, and before July 1,**
 40 **2036; or**

41 (K) **ninety-five (95), for a member who first performs**
 42 **creditable service after June 30, 2036.**



1 (c) A member who has reached age fifty (50) and has at least fifteen
 2 (15) years of creditable service is eligible for early retirement with a
 3 reduced pension.

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

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

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

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

17 SECTION 3. IC 5-10.3-6-8.9, AS ADDED BY P.L.158-2006,
 18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2018]: Sec. 8.9. (a) This section applies when certain
 20 employees of the state in particular departmental, occupational, or
 21 other definable classifications are terminated from employment with
 22 the state as a result of:

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

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

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

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

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

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

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

38 **IC 5-10.2-4-1(c).**

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

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



1 (2) the member is at least sixty (60) years of age and has at least
2 fifteen (15) years of creditable service; or

3 (3) the member's age in years plus the member's years of service
4 is at least eighty-five (85) and the member is at least fifty-five
5 (55) years of age.

6 **IC 5-10.2-4-1(a) or IC 5-10.2-4-1(b).**

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

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

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

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

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

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

20 (g) A member who:

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

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

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

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

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



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

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

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

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

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

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

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

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

40 SECTION 4. IC 33-38-8-13, AS AMENDED BY P.L.122-2008,
 41 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2018]: Sec. 13. A participant whose employment as a judge



1 or, after December 31, 2010, as a judge or full-time magistrate, is
 2 terminated is entitled to a retirement benefit computed under section
 3 14 of this chapter, beginning on the date specified by the participant in
 4 a written application, if the following conditions are met:

- 5 (1) The date on which the benefit begins is not:
 6 (A) before the date of final termination of employment of the
 7 participant; or
 8 (B) the date thirty (30) days before the receipt of the
 9 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 (i) **eighty-five (85), for a participant who first performs**
 16 **creditable service before July 1, 2018;**
 17 (ii) **eighty-six (86), for a participant who first performs**
 18 **creditable service after June 30, 2018, and before July 1,**
 19 **2020;**
 20 (iii) **eighty-seven (87), for a participant who first**
 21 **performs creditable service after June 30, 2020, and**
 22 **before July 1, 2022;**
 23 (iv) **eighty-eight (88), for a participant who first**
 24 **performs creditable service after June 30, 2022, and**
 25 **before July 1, 2024;**
 26 (v) **eighty-nine (89), for a participant who first performs**
 27 **creditable service after June 30, 2024, and before July 1,**
 28 **2026;**
 29 (vi) **ninety (90), for a participant who first performs**
 30 **creditable service after June 30, 2026, and before July 1,**
 31 **2028;**
 32 (vii) **ninety-one (91), for a participant who first performs**
 33 **creditable service after June 30, 2028, and before July 1,**
 34 **2030;**
 35 (viii) **ninety-two (92), for a participant who first**
 36 **performs creditable service after June 30, 2030, and**
 37 **before July 1, 2032;**
 38 (ix) **ninety-three (93), for a participant who first**
 39 **performs creditable service after June 30, 2032, and**
 40 **before July 1, 2034;**
 41 (x) **ninety-four (94), for a participant who first performs**
 42 **creditable service after June 30, 2034, and before July 1,**



- 1 **2036; or**
 2 **(xi) ninety-five (95), for a participant who first performs**
 3 **creditable service after June 30, 2036; or**
 4 (C) has become permanently disabled.
 5 (3) The participant is not receiving a salary from the state for
 6 services currently performed as:
 7 (A) a judge (as defined in IC 33-38-6-7); or
 8 (B) a magistrate under IC 33-23-5.
- 9 SECTION 5. IC 33-39-7-15, AS AMENDED BY P.L.57-2014,
 10 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2018]: Sec. 15. A participant whose employment in a position
 12 described in section 8 of this chapter is terminated is entitled to a
 13 retirement benefit computed under section 16 or 18 of this chapter,
 14 beginning on the date specified by the participant in a written
 15 application, if all of the following conditions are met:
- 16 (1) The application for retirement benefits and the choice of the
 17 retirement date is filed on a form provided by the board, and the
 18 retirement date is:
 19 (A) after the cessation of the participant's service;
 20 (B) on the first day of a month; and
 21 (C) not more than six (6) months before the date the
 22 application is received by the board.
- 23 However, if the board determines that a participant is incompetent
 24 to file for benefits and choose a retirement date, the retirement
 25 date may be any date that is the first of the month after the time
 26 the participant became incompetent.
- 27 (2) The participant:
 28 (A) is at least sixty-two (62) years of age and has at least eight
 29 (8) years of service credit;
 30 (B) is at least fifty-five (55) years of age and the participant's
 31 age in years plus the participant's years of service is at least:
 32 (i) **eighty-five (85), for a participant who first performs**
 33 **creditable service before July 1, 2018;**
 34 (ii) **eighty-six (86), for a participant who first performs**
 35 **creditable service after June 30, 2018, and before July 1,**
 36 **2020;**
 37 (iii) **eighty-seven (87), for a participant who first**
 38 **performs creditable service after June 30, 2020, and**
 39 **before July 1, 2022;**
 40 (iv) **eighty-eight (88), for a participant who first**
 41 **performs creditable service after June 30, 2022, and**
 42 **before July 1, 2024;**



- 1 (v) **eighty-nine (89), for a participant who first performs**
 2 **creditable service after June 30, 2024, and before July 1,**
 3 **2026;**
 4 (vi) **ninety (90), for a participant who first performs**
 5 **creditable service after June 30, 2026, and before July 1,**
 6 **2028;**
 7 (vii) **ninety-one (91), for a participant who first performs**
 8 **creditable service after June 30, 2028, and before July 1,**
 9 **2030;**
 10 (viii) **ninety-two (92), for a participant who first**
 11 **performs creditable service after June 30, 2030, and**
 12 **before July 1, 2032;**
 13 (ix) **ninety-three (93), for a participant who first**
 14 **performs creditable service after June 30, 2032, and**
 15 **before July 1, 2034;**
 16 (x) **ninety-four (94), for a participant who first performs**
 17 **creditable service after June 30, 2034, and before July 1,**
 18 **2036; or**
 19 (xi) **ninety-five (95), for a participant who first performs**
 20 **creditable service after June 30, 2036; or**

21 (C) has become permanently disabled.

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

25 SECTION 6. IC 33-39-7-16, AS AMENDED BY P.L.57-2017,
 26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2018]: Sec. 16. (a) This section does not apply to a participant
 28 who becomes permanently disabled, as described in section 17 of this
 29 chapter.

30 (b) A participant who:

31 (1) applies for a retirement benefit; and

32 (2) is at least:

33 (A) **sixty-five (65) years of age; or**

34 (B) **fifty-five (55) years of age and the participant's age in**
 35 **years plus the participant's years of service is at least**
 36 **eighty-five (85);**

37 **eligible to retire as provided under section 15(2) of this**
 38 **chapter;**

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

41 (c) Except as provided in subsections (d), (e), and (f), the amount of
 42 the annual retirement benefit to which a participant described in



1 subsection (b) is entitled equals the product of:
 2 (1) the highest annual salary that was paid to the participant
 3 before separation from service; multiplied by
 4 (2) the percentage prescribed in the following table:

5 Participant's Years	6 Percentage
7 of Service	
8 Less than 8	9 0
10 8	11 24%
12 9	13 27%
14 10	15 30%
16 11	17 33%
18 12	19 50%
20 13	21 51%
22 14	23 52%
24 15	25 53%
26 16	27 54%
28 17	29 55%
30 18	31 56%
32 19	33 57%
34 20	35 58%
36 21	37 59%
38 22 or more	39 60%

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

44 (d) Except as provided in subsections (e) and (f), and section
 45 19(c)(2)(B) of this chapter, a participant who:

- 46 (1) applies for a retirement benefit; and
 - 47 (2) is not described in subsection (b);
- 48 is entitled to receive a reduced annual retirement benefit that equals the
 49 benefit that would be payable if the participant were sixty-five (65)
 50 years of age reduced by one-fourth percent (0.25%) for each month that
 51 the participant's age at retirement precedes the participant's sixty-fifth
 52 birthday.

53 (e) Except as provided in subsection (f), benefits payable to a
 54 participant under this section are reduced by the pension, if any, that:

- 55 (1) the participant is receiving from the public employees'
 56 retirement fund, if the participant is receiving a pension from the
 57 public employees' retirement fund on the date of the participant's
 58 retirement from the prosecuting attorneys retirement fund; or
- 59 (2) would be payable to the participant from the public employees'



1 retirement fund if the participant had retired from the public
 2 employees' retirement fund on the date of the participant's
 3 retirement from the prosecuting attorneys retirement fund, if the
 4 participant is not receiving a pension from the public employees'
 5 retirement fund on the date of the participant's retirement from the
 6 prosecuting attorneys retirement fund.

7 Benefits payable to a participant under this section are not reduced by
 8 annuity payments made to the participant from the public employees'
 9 retirement fund. A participant to whom subdivision (2) applies is
 10 entitled to a recalculation of the benefits payable to the participant
 11 under this section after the participant has begun receiving a pension
 12 from the public employees' retirement fund based on the actual amount
 13 of the pension that the participant is receiving from the public
 14 employees' retirement fund.

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

21 (1) had not made an election under IC 5-10.3-12-20 to become a
 22 member of the public employees' defined contribution (annuity
 23 savings account only) plan; and

24 (2) had retired from the public employees' retirement fund on the
 25 date of the participant's retirement from the prosecuting attorneys
 26 retirement fund.

27 (g) If benefits payable from the public employees' retirement fund
 28 exceed the benefits payable from the prosecuting attorneys retirement
 29 fund, the participant is entitled at retirement to withdraw from the
 30 prosecuting attorneys retirement fund the total sum contributed plus
 31 interest at a rate specified by rule by the board.

32 SECTION 7. IC 33-39-7-17, AS AMENDED BY P.L.160-2013,
 33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2018]: Sec. 17. (a) A participant is considered to have a
 35 permanent disability if the board has received written certifications by
 36 at least two (2) licensed and practicing physicians, appointed by the
 37 board, that:

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

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

41 (b) A participant found to have a permanent disability under
 42 subsection (a) must be reexamined by at least two (2) physicians



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

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

7 (2) ~~at least fifty-five (55) years of age and the participant's age in~~
8 ~~years plus the participant's years of service is at least eighty-five~~
9 ~~(85).~~ **otherwise eligible for retirement under section 15(2)(B)**
10 **of this chapter.**

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

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

16 (2) treated as confidential medical records.

