

# HOUSE BILL No. 1043

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10.3.

**Synopsis:** Volunteer fire department retirement benefits. Provides that a political subdivision served by a volunteer fire department may make contributions to the public employees' defined contribution plan for the members of the volunteer fire department in an amount determined by the governing body of the political subdivision.

**Effective:** July 1, 2020.

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## Davisson, Bartels

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January 6, 2020, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## HOUSE BILL No. 1043

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 5-10.3-6-1.1 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2020]: **Sec. 1.1. (a) This section applies to a**  
4 **political subdivision that is served by a volunteer fire department.**  
5 **(b) The following definitions apply throughout this section:**  
6 **(1) "Nominal compensation" has the meaning set forth in**  
7 **IC 36-8-12-2.**  
8 **(2) "Volunteer fire department" has the meaning set forth in**  
9 **IC 36-8-12-2.**  
10 **(c) The governing body of a political subdivision may adopt an**  
11 **ordinance or resolution specifying the departmental, occupational,**  
12 **or other definable classifications of members of the volunteer fire**  
13 **department that are required to become members of the plan. A**  
14 **political subdivision may become a participant in the plan if the**  
15 **ordinance or resolution is filed with and approved by the board.**  
16 **(d) The governing body of a political subdivision shall determine**  
17 **the amounts of the contributions that the political subdivision will**



1 make on behalf of the eligible members of the volunteer fire  
 2 department. However, the contributions that are made on behalf  
 3 of each eligible member of the volunteer fire department in any  
 4 specified departmental, occupational, or other definable  
 5 classification must be equal. The governing body of the political  
 6 subdivision shall specify the amounts of the contributions that the  
 7 political subdivision will make for each departmental,  
 8 occupational, or other definable classification of the members of  
 9 the volunteer fire department in an ordinance or resolution  
 10 adopted under subsection (c) and in any subsequent ordinance or  
 11 resolution that changes the contribution amounts. If the governing  
 12 body of the political subdivision changes the contribution amounts,  
 13 the governing body shall file the ordinance or resolution with the  
 14 board. The new contribution amounts become effective on the later  
 15 of the date on which the ordinance or resolution is approved by the  
 16 board or the effective date specified in the resolution.

17 (e) Contributions made under this section on behalf of the  
 18 eligible members of a volunteer fire department may not be  
 19 considered in the computation of nominal compensation for  
 20 purposes of IC 36-8-12.

21 SECTION 2. IC 5-10.3-7-12.5, AS AMENDED BY P.L.241-2015,  
 22 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2020]: Sec. 12.5. (a) An employer or department shall make  
 24 the reports, membership records, or payments required by IC 5-10.3-6  
 25 or by sections 10 through 12 of this chapter:

- 26 (1) not more than thirty (30) days after the end of the calendar
- 27 quarter, if applicable;
- 28 (2) by another due date specified in section 10 of this chapter; or
- 29 (3) by an alternate due date established by the rules of the board.

30 (b) If the employer or department does not make the reports,  
 31 records, or payments within the time specified in subsection (a):

- 32 (1) the board may fine the employer or department one hundred
- 33 dollars (\$100) for each additional day that the reports, records, or
- 34 payments are late, to be withheld under IC 5-10.3-6-7; and
- 35 (2) if the employer or department is habitually late, as determined
- 36 by the board, the board shall report the employer or the
- 37 department to the auditor of state for additional withholding under
- 38 IC 5-10.3-6-7.

39 (c) ~~After December 31, 2009,~~ An employer or department shall  
 40 submit:

- 41 (1) the reports and records described in subsection (a) in a
- 42 uniform format through a secure connection over the Internet or



1 through other electronic means specified by the board in  
 2 accordance with IC 5-10.2-2-12.5; and

3 (2) both:

4 (A) employer contributions determined under IC 5-10.2-2-11,  
 5 IC 5-10.3-12-24, ~~or~~ IC 5-10.3-12-24.5, **or IC 5-10.3-12-24.7;**  
 6 and

7 (B) contributions paid by or on behalf of a member under  
 8 section 9 of this chapter or IC 5-10.3-12-23;

9 by electronic funds transfer in accordance with IC 5-10.2-2-12.5.

10 SECTION 3. IC 5-10.3-12-1, AS AMENDED BY P.L.209-2016,  
 11 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2020]: Sec. 1. (a) Except as otherwise provided in this section,  
 13 this chapter applies to the following:

14 (1) An individual who:

15 (A) on or after the effective date of the plan, becomes for the  
 16 first time a full-time employee of the state:

17 (i) in a position that would otherwise be eligible for  
 18 membership in the fund under IC 5-10.3-7; and

19 (ii) who is paid by the auditor of state by salary warrants;  
 20 and

21 (B) makes the election described in section 20 of this chapter  
 22 to become a member of the plan.

23 (2) An individual:

24 (A) who becomes a full-time employee of a participating  
 25 political subdivision in a covered position after an ordinance  
 26 or resolution described in clause (C) that is adopted by the  
 27 political subdivision has been approved by the board;

28 (B) who would otherwise be eligible for membership in the  
 29 fund under IC 5-10.3-7; and

30 (C) who is employed by a political subdivision that has elected  
 31 in an ordinance or resolution adopted under IC 5-10.3-6-1 and  
 32 approved by the board to require an employee in the covered  
 33 position to become a member of the plan.

34 (3) An individual:

35 (A) who becomes a full-time employee of a political  
 36 subdivision in a covered position after an ordinance or  
 37 resolution described in clause (C) that is adopted by the  
 38 political subdivision has been approved by the board;

39 (B) who would otherwise be eligible for membership in the  
 40 fund under IC 5-10.3-7;

41 (C) who is employed by a political subdivision that has elected  
 42 in an ordinance or resolution adopted under IC 5-10.3-6-1 and



- 1 approved by the board:
- 2 (i) to allow an employee in the covered position to become
- 3 a member of the fund or a member of the plan at the
- 4 discretion of the employee; and
- 5 (ii) to require an employee in a covered position to make an
- 6 election under section 20.5 of this chapter in order to
- 7 become a member of the plan; and
- 8 (D) who makes an election under section 20.5 of this chapter
- 9 to become a member of the plan.
- 10 (4) An individual:
- 11 (A) who becomes a full-time employee of a political
- 12 subdivision in a covered position after an ordinance or
- 13 resolution described in clause (C) that is adopted by the
- 14 political subdivision has been approved by the board;
- 15 (B) who would otherwise be eligible for membership in the
- 16 fund under IC 5-10.3-7;
- 17 (C) who is employed by a political subdivision that has elected
- 18 in an ordinance or resolution adopted under IC 5-10.3-6-1 and
- 19 approved by the board:
- 20 (i) to allow an employee in the covered position to become
- 21 a member of the fund or a member of the plan at the
- 22 discretion of the employee; and
- 23 (ii) to require an employee to make an election under
- 24 IC 5-10.3-7-1.1 in order to become a member of the fund;
- 25 and
- 26 (D) who does not make an election under IC 5-10.3-7-1.1 to
- 27 become a member of the fund.
- 28 (5) An individual who makes an election described in section 20.3
- 29 of this chapter.
- 30 (6) An individual:
- 31 (A) who is a retired member (as defined in IC 5-10.3-1-5) of
- 32 the fund;
- 33 (B) who is prohibited from making contributions to the fund
- 34 under IC 5-10.2-4-8(e) during a period of reemployment that
- 35 begins more than thirty (30) days after the member retired; and
- 36 (C) who, on or after the date:
- 37 (i) the state files a notice; or
- 38 (ii) a participating political subdivision files an adopted
- 39 ordinance or resolution;
- 40 with the board in accordance with section 32 of this chapter,
- 41 begins, or is engaged in, a period of reemployment with the
- 42 state or a participating political subdivision as a full-time



- 1 employee more than thirty (30) days after the individual's  
 2 retirement in a position that would otherwise be covered by the  
 3 fund.
- 4 **(7) An individual who becomes a member of a volunteer fire**  
 5 **department in a covered position after a political subdivision**  
 6 **served by the volunteer fire department has elected in an**  
 7 **ordinance or resolution adopted under IC 5-10.3-6-1.1 and**  
 8 **approved by the board to require an individual in the covered**  
 9 **position to become a member of the plan.**
- 10 (b) Except as provided in subsection (c), this chapter does not apply  
 11 to an individual who, on or after the effective date of the plan:
- 12 (1) becomes for the first time a full-time employee of the state in  
 13 a position that would otherwise be eligible for membership in the  
 14 fund under IC 5-10.3-7; and
- 15 (2) is employed by:
- 16 (A) a body corporate and politic of the state created by state  
 17 statute; or
- 18 (B) a state educational institution (as defined in  
 19 IC 21-7-13-32).
- 20 (c) The chief executive officer of a body or institution described in  
 21 subsection (b) may elect, by submitting a written notice of the election  
 22 to the director, to have this chapter apply to individuals who, as  
 23 employees of the body or institution, become for the first time full-time  
 24 employees of the state in positions that would otherwise be eligible for  
 25 membership in the fund under IC 5-10.3-7. An election under this  
 26 subsection is effective on the later of:
- 27 (1) the date the notice of the election is received by the director;  
 28 or
- 29 (2) March 1, 2013.
- 30 SECTION 4. IC 5-10.3-12-15.5 IS ADDED TO THE INDIANA  
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2020]: **Sec. 15.5. As used in this chapter,**  
 33 **"volunteer fire department" has the meaning set forth in**  
 34 **IC 36-8-12-2.**
- 35 SECTION 5. IC 5-10.3-12-23, AS AMENDED BY P.L.241-2015,  
 36 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2020]: Sec. 23. **(a) This section does not apply to a member**  
 38 **of the plan described in section 1(a)(7) of this chapter with respect**  
 39 **to the member's service with a volunteer fire department.**
- 40 ~~(a)~~ **(b)** Each member's contribution to the plan is equal to three  
 41 percent (3%) of the member's compensation.
- 42 ~~(b)~~ **(c)** For a member who is an employee of the state, the state shall



1 pay the member's contribution on behalf of the member each year.

2 ~~(e)~~ **(d)** For a member who is an employee of a political subdivision,  
3 the political subdivision may pay all or part of the member's  
4 contribution on behalf of the member.

5 ~~(d)~~ **(e)** To the extent permitted by the Internal Revenue Code and  
6 applicable regulations, a member of the plan may make contributions  
7 to the plan in addition to the contribution required under subsection ~~(a)~~:  
8 **(b)**. IC 5-10.2-3-2(c) and IC 5-10.2-3-2(d) govern additional  
9 contributions made under this subsection.

10 ~~(e)~~ **(f)** Member contributions will be credited to the member's  
11 account as specified in IC 5-10.2-3.

12 ~~(f)~~ **(g)** Although designated as employee contributions, the  
13 contributions made under subsection ~~(b)~~ **(c)** are picked up and paid by  
14 the state as the employer in lieu of the contributions being paid by the  
15 employee in accordance with Section 414(h)(2) of the Internal Revenue  
16 Code.

17 ~~(g)~~ **(h)** Although designated as employee contributions, the  
18 contributions made under subsection ~~(e)~~ **(d)** by a political subdivision  
19 may be picked up and paid by the employer instead of the contributions  
20 being paid by the employee in accordance with Section 414(h)(2) of the  
21 Internal Revenue Code.

22 ~~(h)~~ **(i)** A member may not receive any amounts paid by an employer  
23 under this section directly instead of having the amounts paid to the  
24 plan.

25 SECTION 6. IC 5-10.3-12-24.5, AS ADDED BY P.L.241-2015,  
26 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2020]: Sec. 24.5. **(a) This section does not apply to a  
28 participating political subdivision's contributions for an individual  
29 described in section 1(a)(7) of this chapter with respect to the  
30 individual's service with a volunteer fire department.**

31 ~~(a)~~ **(b)** A participating political subdivision shall make employer  
32 contributions to the plan based on the rate determined under this  
33 section.

34 ~~(b)~~ **(c)** A participating political subdivision's contribution rate for  
35 the plan is equal to the sum of:

36 (1) the contribution rate determined by the participating political  
37 subdivision under IC 5-10.3-6-1(c); and

38 (2) the sum, for each member employed by the participating  
39 political subdivision, of:

40 (A) the member's additional contribution to the plan under  
41 section ~~23(d)~~ **23(e)** of this chapter; multiplied by

42 (B) the participating political subdivision's matching rate



1           determined under IC 5-10.3-6-1(d).

2           ~~(e)~~ **(d)** For each employee of a participating political subdivision,  
3 the amount credited to the member's account is the part of the  
4 employer's contribution determined under subsection ~~(b)~~ **(c)** that is  
5 attributable to the member's compensation and the member's additional  
6 contributions.

7           ~~(d)~~ **(e)** A participating political subdivision shall submit the  
8 employer contributions determined under this section as provided in  
9 IC 5-10.2-2-12.5.

10           SECTION 7. IC 5-10.3-12-24.7 IS ADDED TO THE INDIANA  
11 CODE AS A NEW SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2020]: **Sec. 24.7. (a) This section applies to a**  
13 **participating political subdivision's contributions for an individual**  
14 **described in section 1(a)(7) of this chapter with respect to the**  
15 **individual's service with a volunteer fire department.**

16           **(b) The governing body of a participating political subdivision**  
17 **shall determine the participating political subdivision's**  
18 **contribution to the plan for individuals described in section 1(a)(7)**  
19 **of this chapter with respect to the individual's service with the**  
20 **volunteer fire department in accordance with IC 5-10.3-6-1.1.**

21           **(c) For each individual described in section 1(a)(7) of this**  
22 **chapter for whom the participating political subdivision makes a**  
23 **contribution under this section, the amount credited to the**  
24 **member's account is the entire amount of the contribution that is**  
25 **made on behalf of the individual. No part of a contribution made**  
26 **on behalf of the individual under this section may be paid into the**  
27 **fund.**

28           **(d) A participating political subdivision shall submit the**  
29 **employer contributions determined under this section as provided**  
30 **in IC 5-10.2-2-12.5.**

