

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 ENROLLED ACT No. 1043

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AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.3-6-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 1.1. (a) This section applies to a political subdivision that is served by a volunteer fire department.**

**(b) The following definitions apply throughout this section:**

**(1) "Nominal compensation" has the meaning set forth in IC 36-8-12-2.**

**(2) "Volunteer fire department" has the meaning set forth in IC 36-8-12-2.**

**(c) The governing body of a political subdivision may adopt an ordinance or resolution specifying the departmental, occupational, or other definable classifications of members of the volunteer fire department that are required to become members of the plan. A political subdivision may become a participant in the plan if the ordinance or resolution is filed with and approved by the board.**

**(d) The governing body of a political subdivision shall determine the amounts of the contributions that the political subdivision will make on behalf of the eligible members of the volunteer fire department. However, the contributions that are made on behalf of each eligible member of the volunteer fire department in any specified departmental, occupational, or other definable classification must be equal. The governing body of the political**

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**subdivision shall specify the amounts of the contributions that the political subdivision will make for each departmental, occupational, or other definable classification of the members of the volunteer fire department in an ordinance or resolution adopted under subsection (c) and in any subsequent ordinance or resolution that changes the contribution amounts. If the governing body of the political subdivision changes the contribution amounts, the governing body shall file the ordinance or resolution with the board. The new contribution amounts become effective on the later of the date on which the ordinance or resolution is approved by the board or the effective date specified in the resolution.**

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

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

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

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

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

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

- (1) the reports and records described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and
- (2) both:

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

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and

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

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

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

(1) An individual who:

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

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

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

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

(2) An individual:

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

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

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

(3) An individual:

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

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

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

(i) to allow an employee in the covered position to become a member of the fund or a member of the plan at the discretion of the employee; and

(ii) to require an employee in a covered position to make an



election under section 20.5 of this chapter in order to become a member of the plan; and

(D) who makes an election under section 20.5 of this chapter to become a member of the plan.

(4) An individual:

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

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

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

(i) to allow an employee in the covered position to become a member of the fund or a member of the plan at the discretion of the employee; and

(ii) to require an employee to make an election under IC 5-10.3-7-1.1 in order to become a member of the fund; and

(D) who does not make an election under IC 5-10.3-7-1.1 to become a member of the fund.

(5) An individual who makes an election described in section 20.3 of this chapter.

(6) An individual:

(A) who is a retired member (as defined in IC 5-10.3-1-5) of the fund;

(B) who is prohibited from making contributions to the fund under IC 5-10.2-4-8(e) during a period of reemployment that begins more than thirty (30) days after the member retired; and

(C) who, on or after the date:

(i) the state files a notice; or

(ii) a participating political subdivision files an adopted ordinance or resolution;

with the board in accordance with section 32 of this chapter, begins, or is engaged in, a period of reemployment with the state or a participating political subdivision as a full-time employee more than thirty (30) days after the individual's retirement in a position that would otherwise be covered by the fund.

**(7) An individual who becomes a member of a volunteer fire department in a covered position after a political subdivision**



**served by the volunteer fire department has elected in an ordinance or resolution adopted under IC 5-10.3-6-1.1 and approved by the board to require an individual in the covered position to become a member of the plan.**

(b) Except as provided in subsection (c), this chapter does not apply to an individual who, on or after the effective date of the plan:

(1) becomes for the first time a full-time employee of the state in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(2) is employed by:

(A) a body corporate and politic of the state created by state statute; or

(B) a state educational institution (as defined in IC 21-7-13-32).

(c) The chief executive officer of a body or institution described in subsection (b) may elect, by submitting a written notice of the election to the director, to have this chapter apply to individuals who, as employees of the body or institution, become for the first time full-time employees of the state in positions that would otherwise be eligible for membership in the fund under IC 5-10.3-7. An election under this subsection is effective on the later of:

(1) the date the notice of the election is received by the director;

or

(2) March 1, 2013.

SECTION 4. IC 5-10.3-12-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 15.5. As used in this chapter, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.**

SECTION 5. IC 5-10.3-12-23, AS AMENDED BY P.L.241-2015, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 23. **(a) This section does not apply to a member of the plan described in section 1(a)(7) of this chapter with respect to the member's service with a volunteer fire department.**

~~(a)~~ **(b)** Each member's contribution to the plan is equal to three percent (3%) of the member's compensation.

~~(b)~~ **(c)** For a member who is an employee of the state, the state shall pay the member's contribution on behalf of the member each year.

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

~~(d)~~ **(e)** To the extent permitted by the Internal Revenue Code and

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applicable regulations, a member of the plan may make contributions to the plan in addition to the contribution required under subsection ~~(a)~~: **(b)**. IC 5-10.2-3-2(c) and IC 5-10.2-3-2(d) govern additional contributions made under this subsection.

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

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

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

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

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

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

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

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

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

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

(B) the participating political subdivision's matching rate determined under IC 5-10.3-6-1(d).

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



contributions.

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

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

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

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

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

SECTION 8. IC 36-8-8-7, AS AMENDED BY P.L.27-2019, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **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):**

**(1) a police officer who is less than forty (40) years of age; or**

**(2) a firefighter who is less than thirty-six (36) years of age; who is less than thirty-six (36) years of age and 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**

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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

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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:

- (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 less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police

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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

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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.

SECTION 9. IC 36-8-12-6, AS AMENDED BY P.L.174-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) Each unit that has a volunteer fire department shall procure insurance in the name of and for the benefit of each member of the department. However, if a contract or agreement exists between a unit and a volunteer fire department, the contract or agreement must provide for insurance of the volunteer firefighters and emergency medical services personnel in the department in the amounts and with the coverages required by this chapter. Unless the contract or agreement stipulates otherwise, all insurance coverage must be under a group plan, rather than in the name of each individual firefighter and member of the emergency medical services personnel. Either the unit or the volunteer fire department, according to the contractor agreement, may undertake procurement of required insurance, but in either case, the costs of coverage must be borne by the unit. If a volunteer fire department serves more than one (1) unit under a contract or agreement, each unit that the department serves shall pay the amount for the insurance coverage determined under the following formula:

STEP ONE: For each census block or other area in a unit that is served by more than one (1) volunteer fire department, divide the population of the area by the number of volunteer fire departments serving the area, and round the quotient to the nearest one thousandth (.001).

STEP TWO: Add the quotients determined under STEP ONE for the unit.

STEP THREE: Determine the sum of the STEP TWO amounts for all of the units served by the same volunteer fire department.

STEP FOUR: Divide the STEP TWO amount for a unit by the STEP THREE amount and round the quotient to the nearest one thousandth (.001).

STEP FIVE: Multiply the costs of the insurance coverage for the

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volunteer fire department by the quotient determined under STEP FOUR, rounded to the nearest dollar.

(b) A diminution of insurance benefits may not occur under this section because of a change in the insurance carrier or a change as to who actually procures the required insurance.

(c) Each unit that has a volunteer fire department may procure an insurance policy for the benefit of auxiliary groups whose members could be injured while assisting the volunteer firefighters and emergency medical services personnel in the performance of their duties.

(d) Each unit that has a volunteer fire department may procure an insurance policy or any other type of instrument that provides retirement benefits as an incentive to volunteer firefighters and emergency medical services personnel for continued service.

(e) An insurance policy or other instrument containing any of the provisions authorized by subsection (d) may not be considered in the computation of nominal compensation for purposes of this chapter.

(f) A volunteer firefighter or member of the emergency medical services personnel who becomes covered by an insurance policy or other instrument containing any of the provisions authorized by subsection (d) does not thereby become eligible for membership in the public employees' retirement fund under IC 5-10.3.

(g) If a unit fails to provide the insurance for a volunteer firefighter or member of the emergency medical services personnel that this chapter requires it to provide, and a volunteer firefighter or member of the emergency medical services personnel suffers a loss of the type that the insurance would have covered, then the unit shall pay to that volunteer firefighter or member of the emergency medical services personnel the same amount of money that the insurance would have paid to the volunteer firefighter or member of the emergency medical services personnel.

**(h) A unit's obligation under this section supersedes any obligation that another medical insurance carrier has to pay the expenses of the volunteer firefighter or member of the emergency medical services personnel.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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