

# HOUSE BILL No. 1150

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8-8.

**Synopsis:** 1977 police officers' and firefighters' fund. Makes changes to the 1977 police officers' and firefighters' pension and disability fund to include police officers in several sections of the statute that may logically apply to police officers as well as firefighters. (The introduced version of this bill was prepared by the interim study committee on pension management oversight.)

**Effective:** Upon passage.

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## Macer, Burton

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January 8, 2015, read first time and referred to Committee on Employment, Labor and Pensions.

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First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1150

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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 36-8-8-3, AS AMENDED BY P.L.35-2012,  
2 SECTION 115, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) If a town establishes a  
4 board of metropolitan police commissioners, or if a town becomes a  
5 city, the municipality shall participate in the 1977 fund. However, if a  
6 police officer or former marshal is a member of the public employees'  
7 retirement fund, the police officer or former marshal may continue as  
8 a member of that fund instead of the 1977 fund. Notwithstanding the  
9 age requirements under section 7(a) of this chapter, a police officer or  
10 former marshal employed by a municipality at the time the  
11 municipality enters the 1977 fund under this section shall be a member  
12 of the 1977 fund unless the police officer or former marshal elects to  
13 continue as a member of the public employees' retirement fund. A  
14 person may become a member of the 1977 fund under this subsection  
15 without meeting the age limitation under section 7(a) of this chapter



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

9 Credit for prior service of a person who becomes a member of the 1977

10 fund under this subsection shall be determined under section 18 or 18.1

11 of this chapter. No service credit beyond that allowed under section 18

12 or 18.1 of this chapter may be recognized under the 1977 fund.

13 (b) If a unit did not establish a 1937 fund for its firefighters, the unit

14 may participate in the public employees' retirement fund or it may

15 participate in the 1977 fund. If a unit established a 1937 fund for its

16 firefighters, the unit is and shall remain a participant in the 1977 fund.

17 (c) A unit that:

18 (1) has not established a pension fund for its firefighters; or

19 (2) is participating in the public employees' retirement fund under

20 subsection (b);

21 may participate in the 1977 fund upon approval by the fiscal body,

22 notwithstanding IC 5-10.3-6-8. A unit that participates in the 1977 fund

23 under this subsection must comply with section 21 of this chapter.

24 However, if a **police officer or** firefighter is a member of the public

25 employees' retirement fund, the **police officer or** firefighter may

26 continue as a member of that fund instead of the 1977 fund.

27 SECTION 2. IC 36-8-8-18, AS AMENDED BY P.L.35-2012,

28 SECTION 136, IS AMENDED TO READ AS FOLLOWS

29 [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) Except as provided in

30 subsection (b), if a unit becomes a participant in the 1977 fund, credit

31 for prior service by police officers (including prior service as a

32 full-time, fully paid town marshal or full-time, fully paid deputy town

33 marshal by a police officer employed by a metropolitan board of police

34 commissioners) or by firefighters before the date of participation may

35 be given by the system board only if:

- 36 (1) the unit contributes to the 1977 fund the amount necessary to
- 37 amortize prior service liability over a period of not more than
- 38 forty (40) years, the amount and period to be determined by the
- 39 system board; and
- 40 (2) the police officers or firefighters pay, either in a lump sum or
- 41 in a series of payments determined by the system board, the
- 42 amount that they would have contributed if they had been



1 members of the 1977 fund during their prior service.  
 2 If the requirements of subdivisions (1) and (2) are not met, a fund  
 3 member is entitled to credit only for years of service after the date of  
 4 participation.

5 (b) If a unit becomes a participant in the 1977 fund under section  
 6 3(c) of this chapter, or if a firefighter becomes a member of the 1977  
 7 fund under section 7(g) of this chapter, credit for prior service before  
 8 the date of participation or membership shall be given by the system  
 9 board as follows:

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

17 (2) For a member who will not accrue twenty (20) years of service  
 18 credit in the 1977 fund by the time the member reaches the  
 19 earliest retirement age under the fund at the time of the member's  
 20 date of participation in the 1977 fund, **credit for** such prior  
 21 service shall be given only if:

22 (A) The unit contributes to the 1977 fund the amount  
 23 necessary to fund prior service liability amortized over a  
 24 period of not more than ten (10) years. The amount of  
 25 contributions must be based on the actual salary earned by a  
 26 **first class patrolman or** a first class firefighter at the time the  
 27 unit becomes a participant in the 1977 fund, or the **police**  
 28 **officer or** firefighter becomes a member of the 1977 fund, or  
 29 if no such salary designation exists, the actual salary earned by  
 30 the **police officer or** firefighter. The limit on credit for prior  
 31 service does not apply **to a firefighter** if the firefighter was a  
 32 member of the 1937 fund or 1977 fund whose participation  
 33 was terminated due to the creation of a new fire protection  
 34 district under IC 36-8-11-5 and who subsequently became a  
 35 member of the 1977 fund. A firefighter who was a member of  
 36 or reentered the 1937 fund or 1977 fund whose participation  
 37 was terminated due to the creation of a new fire protection  
 38 district under IC 36-8-11-5 is entitled to full credit for prior  
 39 service in an amount equal to the firefighter's years of service  
 40 before becoming a member of or reentering the 1977 fund.  
 41 Service may only be credited for time as a full-time, fully paid  
 42 **police officer, firefighter, or as an** emergency medical



- 1 technician under section 7(g) of this chapter.
- 2 (B) The amount the **police officer or** firefighter would have  
 3 contributed if the **police officer or** firefighter had been a  
 4 member of the 1977 fund during the **police officer's or**  
 5 firefighter's prior service must be fully paid and must be based  
 6 on the **police officer's or** firefighter's actual salary earned  
 7 during that period before service can be credited under this  
 8 section.
- 9 (C) Any amortization schedule for contributions paid under  
 10 clause (A) and contributions to be paid under clause (B) must  
 11 include interest at a rate determined by the system board.
- 12 (3) If, at the time a unit entered the 1977 fund, the unit  
 13 contributed the amount required by subdivision (2) so that a fund  
 14 member received the maximum prior service credit allowed by  
 15 subdivision (2) and, at a later date, the earliest retirement age was  
 16 lowered, the unit may contribute to the 1977 fund on the fund  
 17 member's behalf an additional amount that is determined in the  
 18 same manner as under subdivision (2) with respect to the  
 19 additional prior service, if any, available as a result of the lower  
 20 retirement age. If the unit pays the additional amount described in  
 21 this subdivision in accordance with the requirements of  
 22 subdivision (2), the fund member shall receive the additional  
 23 service credit necessary for the fund member to retire at the lower  
 24 earliest retirement age.
- 25 (c) This subsection applies to a unit that:
- 26 (1) becomes a participant in the 1977 fund under section 3(c) of  
 27 this chapter; and
- 28 (2) is a fire protection district created under IC 36-8-11 that  
 29 includes a township or a municipality that had a 1937 fund.
- 30 A firefighter who continues uninterrupted service with a unit covered  
 31 by this subsection and who participated in the township or municipality  
 32 1937 fund is entitled to receive service credit for such service in the  
 33 1977 fund. However, credit for such service is limited to the amount  
 34 accrued by the firefighter in the 1937 fund or the amount necessary to  
 35 allow the firefighter to accrue twenty (20) years of service credit in the  
 36 1977 fund by the time the firefighter becomes fifty-two (52) years of  
 37 age, whichever is less.
- 38 (d) The unit shall contribute into the 1977 fund the amount  
 39 necessary to fund the amount of past service determined in accordance  
 40 with subsection (c), amortized over a period not to exceed ten (10)  
 41 years with interest at a rate determined by the system board.
- 42 (e) If the township or municipality has accumulated money in its



1 1937 fund, any amount accumulated that exceeds the present value of  
 2 all projected future benefits from the 1937 plan shall be paid by the  
 3 township or municipality to the unit for the sole purpose of making the  
 4 contributions determined in subsection (d).

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

9 (1) A qualified plan described in Section 401(a) or Section 403(a)  
 10 of the Internal Revenue Code.

11 (2) An annuity contract or account described in Section 403(b) of  
 12 the Internal Revenue Code.

13 (3) An eligible plan that is maintained by a state, a political  
 14 subdivision of a state, or an agency or instrumentality of a state or  
 15 political subdivision of a state under Section 457(b) of the  
 16 Internal Revenue Code.

17 (4) An individual retirement account or annuity described in  
 18 Section 408(a) or Section 408(b) of the Internal Revenue Code.

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

23 (1) An annuity contract or account described in Section 403(b) of  
 24 the Internal Revenue Code.

25 (2) An eligible deferred compensation plan under Section 457(b)  
 26 of the Internal Revenue Code.

27 SECTION 3. IC 36-8-8-21, AS AMENDED BY P.L.35-2012,  
 28 SECTION 139, IS AMENDED TO READ AS FOLLOWS  
 29 [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) This section applies to:  
 30 ~~firefighters who:~~

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

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

36 (b) A **police officer or** firefighter may become a member of the  
 37 1977 fund without meeting the age limitation under section 7(a) of this  
 38 chapter if the **police officer or** firefighter satisfies:

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

41 (2) the minimum standards that are:

42 (A) adopted by the system board under section 19 of this



1 chapter; and  
2 (B) in effect on the date the **police officer or** firefighter  
3 becomes a member of the 1977 fund.  
4 (c) Credit for prior service of a **police officer or** firefighter who  
5 becomes a member of the 1977 fund under this section shall be  
6 determined under section 18 or 18.1 of this chapter. No service credit  
7 beyond that allowed under section 18 or 18.1 of this chapter may be  
8 recognized under the 1977 fund.  
9 **SECTION 4. An emergency is declared for this act.**

