

# SENATE BILL No. 77

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 10-12.

**Synopsis:** State police pension trustee. Provides that, after June 30, 2023, the trustee of the state police pension trust and the state police benefit fund is the board of trustees of the Indiana public retirement system. Makes conforming changes.

**Effective:** July 1, 2022.

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## Boots

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January 4, 2022, read first time and referred to Committee on Pensions and Labor.

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Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

# SENATE BILL No. 77

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 10-12-1-7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. "Pension  
3 consultants" means:

4 **(1) before July 1, 2023**, an individual, a firm, or a corporation of  
5 technical consultants competent and qualified to supervise and  
6 assist in the establishment, maintenance, and operation of a  
7 pension plan on an actuarially sound basis; **and**

8 **(2) after June 30, 2023, the employees, auditors, technical**  
9 **experts, legal counsel, and other service providers as the**  
10 **board of trustees of the Indiana public retirement system**  
11 **considers necessary to maintain and operate the pension trust**  
12 **on an actuarially sound basis.**

13 SECTION 2. IC 10-12-1-9 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 9. **(a) This subsection**  
15 **applies before July 1, 2023.** "Supplementary trust agreement" means  
16 an agreement that has the force and effect of law between the  
17 department and the trustee concerning the police benefit fund (as



1 described in IC 10-12-2-7).

2 **(b) This subsection applies after June 30, 2023. "Supplementary**  
 3 **trust agreement" means an agreement that has the force and effect**  
 4 **of law between the department and the trustee concerning the**  
 5 **police benefit fund (as described in IC 10-12-2-7.5).**

6 SECTION 3. IC 10-12-1-10 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10. **(a) This subsection**  
 8 **applies before July 1, 2023. "Trustee" refers to the trustee of the**  
 9 **pension trust, who may be:**

- 10 (1) one (1) or more corporate trustees; or  
 11 (2) the treasurer of state serving under bond.

12 **(b) This subsection applies after June 30, 2023. "Trustee" refers**  
 13 **to the board of trustees of the Indiana public retirement system**  
 14 **established by IC 5-10.5-3-1.**

15 SECTION 4. IC 10-12-2-2 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) The department  
 17 may:

- 18 (1) establish and operate an actuarially sound pension plan  
 19 governed by a pension trust; and  
 20 (2) make the necessary annual contribution in order to prevent  
 21 any deterioration in the actuarial status of the trust fund.

22 (b) The department shall make contributions to the trust fund. An  
 23 employee beneficiary shall make contributions to the trust fund through  
 24 authorized monthly deductions from wages.

25 **(c) This subsection applies before July 1, 2023. The trust fund:**

- 26 (1) may not be commingled with any other funds; and  
 27 (2) shall be invested only in accordance with state laws for the  
 28 investment of trust funds, together with other investments as are  
 29 specifically designated in the pension trust.

30 Subject to the terms of the pension trust, the trustee, with the approval  
 31 of the department and the pension advisory board, may establish  
 32 investment guidelines and limits on all types of investments, including  
 33 stocks and bonds, and take other action necessary to fulfill its duty as  
 34 a fiduciary for the trust fund.

35 **(d) This subsection applies after June 30, 2023. Subject to the**  
 36 **terms of the pension trust, the trustee may commingle or pool**  
 37 **assets in the trust fund to the same extent and subject to the same**  
 38 **limitations and restrictions as other assets of the public pension**  
 39 **and retirement funds invested and managed by the board of**  
 40 **trustees of the Indiana public retirement system under IC 5-10.2**  
 41 **and IC 5-10.5. The trustee may invest and manage the assets of the**  
 42 **pension trust with the same powers, duties, restrictions, limitations,**



1 **and penalties as the board of trustees of the Indiana public**  
 2 **retirement system invests and manages the assets of the public**  
 3 **pension and retirement funds of the Indiana public retirement**  
 4 **system. The trustee shall consult with the department and the**  
 5 **pension advisory board in connection with the investment and**  
 6 **management of the trust fund.**

7 ~~(d)~~ (e) The trustee shall invest the trust fund assets with the same  
 8 care, skill, prudence, and diligence that a prudent person acting in a  
 9 like capacity and familiar with these matters would use in the conduct  
 10 of an enterprise of a similar character with similar aims.

11 ~~(e)~~ (f) The trustee shall diversify the trust fund's investments in  
 12 accordance with prudent investment standards. The investment of the  
 13 trust fund is subject to section 3 of this chapter.

14 ~~(f)~~ (g) The trustee shall receive and hold as trustee for the uses and  
 15 purposes set forth in the pension trust the funds paid by the department,  
 16 the employee beneficiaries, or any other person or persons.

17 ~~(g)~~ (h) The trustee shall engage pension consultants to supervise and  
 18 assist in the technical operation of the pension plan so that there is no  
 19 deterioration in the actuarial status of the plan.

20 ~~(h)~~ (i) Before October 1 of each year, the trustee, with the aid of the  
 21 pension consultants, shall prepare and file a report with the department  
 22 and the state board of accounts. The report must include the following  
 23 with respect to the fiscal year ending on the preceding June 30:

24 SCHEDULE I. Receipts and disbursements.

25 SCHEDULE II. Assets of the pension trust, listing investments as  
 26 to book value and current market value at the end of the fiscal  
 27 year.

28 SCHEDULE III. List of terminations, showing cause and amount  
 29 of refund.

30 SCHEDULE IV. The application of actuarially computed "reserve  
 31 factors" to the payroll data, properly classified for the purpose of  
 32 computing the reserve liability of the trust fund as of the end of  
 33 the fiscal year.

34 SCHEDULE V. The application of actuarially computed "current  
 35 liability factors" to the payroll data, properly classified for the  
 36 purpose of computing the liability of the trust fund for the end of  
 37 the fiscal year.

38 SCHEDULE VI. An actuarial computation of the pension liability  
 39 for all employees retired before the close of the fiscal year.

40 ~~(i)~~ (j) The minimum annual contribution by the department must be  
 41 of sufficient amount, as determined by the pension consultants, to  
 42 prevent any deterioration in the actuarial status of the pension plan



1 during that year. If the department fails to make the minimum  
 2 contribution for five (5) successive years, the pension trust terminates  
 3 and the trust fund shall be liquidated.

4 (j) (k) Except as provided by applicable federal law, in the event of  
 5 liquidation, the department shall take the following actions:

6 (1) All expenses of the pension trust must be paid.

7 (2) Adequate provision must be made for continuing pension  
 8 payments to retired persons.

9 (3) Each employee beneficiary must receive the net amount paid  
 10 into the trust fund from the employee beneficiary's wages.

11 (4) Any amount remaining in the pension trust after the  
 12 department makes the payments described in subdivisions (1)  
 13 through (3) must be equitably divided among the employee  
 14 beneficiaries in proportion to the net amount paid from each  
 15 employee beneficiary's wages into the trust fund.

16 SECTION 5. IC 10-12-2-3, AS AMENDED BY P.L.42-2011,  
 17 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2022]: Sec. 3. (a) The pension trust shall satisfy the  
 19 qualification requirements in Section 401 of the Internal Revenue  
 20 Code, as applicable to the pension trust. In order to meet those  
 21 requirements, the pension trust is subject to the following provisions,  
 22 notwithstanding any other provision of this chapter, IC 10-12-3, or  
 23 IC 10-12-4:

24 (1) The ~~pension advisory board shall distribute the~~ corpus and  
 25 income of the pension trust **shall be distributed** to participants  
 26 and their beneficiaries in accordance with this chapter,  
 27 IC 10-12-3, and IC 10-12-4.

28 (2) A part of the corpus or income of the pension trust may not be  
 29 used or diverted to any purpose other than the exclusive benefit  
 30 of the participants and their beneficiaries.

31 (3) Forfeitures arising from severance of employment, death, or  
 32 any other reason may not be applied to increase the benefits any  
 33 participant would otherwise receive under this chapter,  
 34 IC 10-12-3, or IC 10-12-4.

35 (4) If the pension trust is terminated or if all contributions to the  
 36 pension trust are completely discontinued, the rights of each  
 37 affected participant to the benefits accrued at the date of the  
 38 termination or discontinuance, to the extent then funded, are  
 39 nonforfeitable.

40 (5) All benefits paid from the pension trust shall be distributed in  
 41 accordance with the requirements of Section 401(a)(9) of the  
 42 Internal Revenue Code and the regulations under that section. To



1 meet those requirements, the pension trust is subject to the  
 2 following provisions:

3 (A) The life expectancy of a participant, the participant's  
 4 spouse, or the participant's beneficiary shall not be  
 5 recalculated after the initial determination for purposes of  
 6 determining benefits.

7 (B) If a participant dies before the distribution of the  
 8 participant's benefits has begun, distributions to beneficiaries  
 9 must begin no later than December 31 of the calendar year  
 10 immediately following the calendar year in which the  
 11 participant died.

12 (C) The amount of an annuity paid to a participant's  
 13 beneficiary may not exceed the maximum determined under  
 14 the incidental death benefit requirement of the Internal  
 15 Revenue Code.

16 (6) The pension advisory board may not:

17 (A) determine eligibility for benefits;

18 (B) compute rates of contribution; or

19 (C) compute benefits of participants or beneficiaries;

20 in a manner that discriminates in favor of participants who are  
 21 considered officers, supervisors, or highly compensated, as  
 22 provided under Section 401(a)(4) of the Internal Revenue Code.

23 (7) Benefits paid under this chapter, IC 10-12-3, or IC 10-12-4  
 24 may not exceed the maximum benefit specified by Section 415 of  
 25 the Internal Revenue Code.

26 (8) The salary taken into account under this chapter, IC 10-12-3,  
 27 or IC 10-12-4 may not exceed the applicable amount under  
 28 Section 401(a)(17) of the Internal Revenue Code.

29 (9) The trustee may not engage in a transaction prohibited by  
 30 Section 503(b) of the Internal Revenue Code.

31 (b) Notwithstanding any other provision of this chapter or  
 32 IC 10-12-3, and solely for the purposes of the benefits provided under  
 33 IC 10-12-3, the benefit limitations of Section 415 of the Internal  
 34 Revenue Code shall be determined by applying the provisions of  
 35 Section 415(b)(10) of the Internal Revenue Code, as amended by the  
 36 Technical and Miscellaneous Revenue Act of 1988. This section  
 37 constitutes an election under Section 415(b)(10)(C) of the Internal  
 38 Revenue Code to have Section 415(b) of the Internal Revenue Code,  
 39 other than Section 415(b)(2)(G) of the Internal Revenue Code, applied  
 40 without regard to Section 415(b)(2)(F) of the Internal Revenue Code  
 41 (before its repeal on June 7, 2001, by P.L.107-16) to anyone who did  
 42 not first become a participant before January 1, 1990.



1 SECTION 6. IC 10-12-2-7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. (a) The:

3 (1) mortality reserve account referred to in section 4 of this  
4 chapter;

5 (2) disability reserve account referred to in section 5 of this  
6 chapter; and

7 (3) dependent pension reserve account referred to in section 6 of  
8 this chapter;

9 may be commingled and operated as one (1) fund, known as the police  
10 benefit fund, under the terms of a supplementary trust agreement  
11 between the department and the trustee for the exclusive benefit of  
12 employee beneficiaries and their dependents.

13 (b) The trustee shall receive and hold as trustee for the uses and  
14 purposes set out in the supplementary trust agreement all funds paid to  
15 it as the trustee by the department or by any other person or persons.

16 (c) The trustee shall hold, invest, and reinvest the police benefit  
17 fund in:

18 (1) investments that trust funds are permitted to invest in under  
19 Indiana law; and

20 (2) other investments as may be specifically designated in the  
21 supplementary trust agreement.

22 (d) The trustee, with the assistance of the pension engineers, shall,  
23 not more than ninety (90) days after the close of the fiscal year, prepare  
24 and file with the department and the department of insurance a detailed  
25 annual report showing receipts, disbursements, case histories, and  
26 recommendations as to the contributions required to keep the program  
27 in operation.

28 (e) Contributions by the department to the police benefit fund shall  
29 be provided in the general appropriations to the department.

30 **(f) This section expires July 1, 2023.**

31 SECTION 7. IC 10-12-2-7.5 IS ADDED TO THE INDIANA CODE  
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
33 1, 2022]: Sec. 7.5. (a) **This section applies after June 30, 2023.**

34 (b) **As used in this section, "board" refers to the board of**  
35 **trustees of the Indiana public retirement system established by**  
36 **IC 5-10.5-3-1.**

37 (c) **The treasurer of state shall transfer to the board the:**

38 (1) **mortality reserve account referred to in section 4 of this**  
39 **chapter;**

40 (2) **disability reserve account referred to in section 5 of this**  
41 **chapter; and**

42 (3) **dependent's pension reserve account referred to in section**



- 1           **6 of this chapter;**  
 2           **(collectively known as the police benefit fund). The board shall**  
 3           **succeed the treasurer of state as the trustee for the police benefit**  
 4           **fund under the supplementary trust agreement and shall operate**  
 5           **the accounts listed in this subsection as one (1) fund for the**  
 6           **exclusive benefit of employee beneficiaries and their dependents.**  
 7           **(d) All powers, duties, liabilities, property, equipment, records,**  
 8           **rights, and contracts of the treasurer of state as trustee of the**  
 9           **police benefit fund are transferred to or assumed by the board on**  
 10           **July 1, 2023.**  
 11           **(e) The board shall provide indemnification of the treasurer of**  
 12           **state as trustee of the police benefit fund as necessary or**  
 13           **appropriate in regard to any liabilities of the police benefit fund**  
 14           **assumed by the board.**  
 15           **(f) Subject to the terms of the pension trust and the**  
 16           **supplementary trust agreement, the board may commingle or pool**  
 17           **assets in the accounts listed in subsection (c) to the same extent and**  
 18           **subject to the same limitations and restrictions as other assets of**  
 19           **the public pension and retirement funds invested and managed by**  
 20           **the board under IC 5-10.2 and IC 5-10.5.**  
 21           **(g) The board shall receive and hold as trustee for the uses and**  
 22           **purposes set out in the pension trust and the supplementary trust**  
 23           **agreement all funds paid to it as the trustee by the department or**  
 24           **by any other person or persons.**  
 25           **(h) The board shall hold, invest, and reinvest the police benefit**  
 26           **fund in:**  
 27               **(1) investments that the board may make in the course of**  
 28               **managing the assets of the public pension and retirement**  
 29               **funds of the Indiana public retirement system; and**  
 30               **(2) other investments as may be specifically designated in the**  
 31               **pension trust or the supplementary trust agreement.**  
 32           **(i) The trustee, with the assistance of the pension consultants,**  
 33           **shall, not more than ninety (90) days after the close of the fiscal**  
 34           **year, prepare and file with the department a detailed annual report**  
 35           **showing receipts, disbursements, case histories, and**  
 36           **recommendations as to the contributions required to keep the**  
 37           **program in operation.**  
 38           **(j) Contributions by the department to the police benefit fund**  
 39           **shall be provided in the general appropriations to the department.**  
 40           **SECTION 8. IC 10-12-2-8 IS AMENDED TO READ AS**  
 41           **FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) The department**  
 42           **of insurance shall approve the actuarial soundness of the pension trust**





1 and the general method of operation of the police benefit fund before  
2 the police benefit fund begins operation.

3 (b) In addition to the annual report required by ~~subsection (d)~~,  
4 **section 7(d) of this chapter**, the department's books, reports, and  
5 accounts shall be open to inspection by the department of insurance at  
6 all times.

7 **(c) This section expires July 1, 2023.**

8 SECTION 9. IC 10-12-5-6 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. **(a) This subsection**  
10 **applies before July 1, 2023.** The treasurer of state:

11 (1) is the trustee for the funds allocated to the supplemental  
12 pension benefits; and

13 (2) shall keep the supplemental pension benefit funds in a  
14 separate account that the treasurer of state may designate as the  
15 state police department supplemental pension benefit fund.

16 **(b) This subsection applies after June 30, 2023. The treasurer of**  
17 **state shall transfer to the board of trustees of the Indiana public**  
18 **retirement system the assets allocated to the supplemental pension**  
19 **benefit fund, and the board shall succeed the treasurer of state as**  
20 **the trustee for the supplemental pension benefit fund.**

21 **(c) As the trustee of the supplemental pension benefit fund, the**  
22 **board of trustees of the Indiana public retirement system shall**  
23 **keep the supplemental pension benefit fund in a separate account**  
24 **designated as the state police department supplemental pension**  
25 **benefit fund, and subject to the supplementary trust agreement,**  
26 **shall invest and manage the account with the same powers, duties,**  
27 **restrictions, limitations, and penalties as the board invests and**  
28 **manages the assets of the public pension and retirement funds of**  
29 **the Indiana public retirement system.**

