

SENATE BILL No. 396

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: 1977 pension and disability fund. Amends the definition of "salary of a first class patrolman or first class firefighter" for the purpose of benefits paid from and contributions made to the 1977 police officers' and firefighters' pension and disability fund (fund). Requires an employer that participates in the fund and provides longevity increases to pay an amount greater than or equal to the longevity increase paid in the previous year. Permits the state board of accounts to examine an alleged failure of an employer to contribute to the fund as required.

Effective: July 1, 2021.

Boots

January 14, 2021, read first time and referred to Committee on Pensions and Labor.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 396

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-8-1-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. (a) "Salary of a first
3 class patrolman or first class firefighter" means the ~~base salary of a~~
4 ~~patrolman or firefighter plus all longevity increases;~~ **highest**
5 **nonpromoted salary of a patrolman or firefighter plus up to**
6 **twenty-five (25) years of longevity increases**, if provided by the
7 employer, ~~for service of twenty (20) years or less;~~ but does not include
8 remuneration or allowances for fringe benefits, incentive pay, holiday
9 pay, insurance, clothing, automobiles, firearms, education, overtime,
10 or compensatory time off.

11 (b) With respect to the 1925, 1937, and 1953 funds, "salary of a first
12 class patrolman or firefighter" may include longevity increases for
13 more than twenty (20) years of service at the option of the employer but
14 only if these longevity increases had taken effect before January 1,
15 1983.

16 SECTION 2. IC 36-8-8-3, AS AMENDED BY P.L.130-2015,
17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2021]: Sec. 3. (a) If a town establishes a board of metropolitan police commissioners, or if a town becomes a city, the municipality shall participate in the 1977 fund. However, if a police officer or former marshal is a member of the public employees' retirement fund, the police officer or former marshal may continue as a member of that fund instead of the 1977 fund. Notwithstanding the age requirements under section 7(a) of this chapter, a police officer or former marshal employed by a municipality at the time the municipality enters the 1977 fund under this section shall be a member of the 1977 fund unless the police officer or former marshal elects to continue as a member of the public employees' retirement fund. A person may become a member of the 1977 fund under this subsection without meeting the age limitation under section 7(a) of this chapter only if the person satisfies:

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

Credit for prior service of a person who becomes a member of the 1977 fund under this subsection shall be determined under section 18 or 18.1 of this chapter. No service credit beyond that allowed under section 18 or 18.1 of this chapter may be recognized under the 1977 fund.

(b) If a unit did not establish a 1937 fund for its firefighters, the unit may participate in the public employees' retirement fund or it may participate in the 1977 fund. If a unit established a 1937 fund for its firefighters, the unit is and shall remain a participant in the 1977 fund.

(c) A unit that:

- (1) has not established a pension fund for its firefighters; or
- (2) is participating in the public employees' retirement fund under subsection (b);

may participate in the 1977 fund upon approval by the fiscal body, notwithstanding IC 5-10.3-6-8. A unit that participates in the 1977 fund under this subsection must comply with section 21 of this chapter. However, if a police officer or firefighter is a member of the public employees' retirement fund, the police officer or firefighter may continue as a member of that fund instead of the 1977 fund.

(d) If a unit that participates in the 1977 fund provides longevity increases, the amount of the longevity increase provided in a year must be greater than or equal to the amount of the longevity



1 **increase provided in the previous year.**

2 SECTION 3. IC 36-8-8-6, AS AMENDED BY P.L.35-2012,
3 SECTION 118, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) Each employer shall annually
5 on March 31, June 30, September 30, and December 31, for the
6 calendar quarters ending on those dates, or an alternate date established
7 by the rules of the system board, pay into the 1977 fund an amount
8 determined by the system board:

9 (1) for administration expenses; and

10 (2) sufficient to maintain level cost funding during the period of
11 employment on an actuarial basis for members hired after April
12 30, 1977.

13 (b) After December 31, 2011, each employer shall submit the
14 payments required by subsection (a) by electronic funds transfer.

15 (c) If an employer fails to make the payments required by subsection
16 (a) or fails to send the fund members' contributions required by section
17 8(a) of this chapter, the amount payable, on request of the system
18 board, may be withheld by the auditor of state from money payable to
19 the employer and transferred to the fund. In the alternative, the amount
20 payable may be recovered in the circuit or superior court of the county
21 in which the employer is located, in an action by the state on the
22 relation of the system board, prosecuted by the attorney general.

23 **(d) In addition to the right of recovery in subsection (c), an**
24 **alleged failure of an employer to make the payments required by**
25 **subsection (a) may be examined by the state board of accounts**
26 **under IC 5-11-1.**

