Citations Affected: IC 21-14; IC 36-8.

Synopsis: 1977 fund disability benefits. Provides that a fund member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who has a permanent and total disability that is the direct result of a catastrophic physical personal injury that occurs in the line of duty after July 1, 2008, and that permanently prevents the fund member or employee beneficiary from performing any gainful work receives, after July 1, 2017, for the remainder of the individual's life a disability benefit equal to the monthly salary of a first class patrolman or firefighter at the commencement of the disability. Provides that the 1977 fund member's disability benefit increases at a rate equal to the increases in the monthly salary of a first class patrolman or firefighter. (Continued next page)

Effective: July 1, 2017.

Speedy, Karickhoff, Pryor, VanNatter, Ober, Carbaugh, Bartlett, Moed, Arnold L, Moseley, Mahan, Olthoff, Zent, Judy, Engleman, Macer, Mayfield, Morris
(SENATE SPONSORS — SANDLIN, FREEMAN, NIEZGODSKI, TALLIAN, DORIOT)

January 23, 2017, read first time and referred to Committee on Employment, Labor and Pensions.
February 23, 2017, read second time, amended, ordered engrossed.
February 24, 2017, engrossed.
February 27, 2017, read third time, passed. Yews 91, nays 0.

SENATE ACTION
March 1, 2017, read first time and referred to Committee on Pensions and Labor.
Digest Continued

Provides that a qualifying child or spouse of a member of the 1977 fund who has a permanent and total disability that is the direct result of a catastrophic physical personal injury that occurs in the line of duty after July 1, 2008, and that permanently prevents the fund member from performing any gainful work may not be required to pay tuition or mandatory fees at a state supported college, university, or technical school.
ENGROSSED

HOUSE BILL No. 1617

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

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

SECTION 1. IC 21-14-3-2, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. Provisions outside this article that provide for educational costs exemptions and reductions include the following:

(1) IC 10-12-2-6 (free tuition for children of an employee of the state police department who is killed in the line of duty).

(2) IC 10-12-2-11 (child or spouse of an employee of the state police department who sustains catastrophic personal injury in the line of duty).

(3) IC 36-8-8-25 (child or spouse of a police officer or firefighter who sustains catastrophic physical personal injury in the line of duty).

SECTION 2. IC 36-8-8-13.3, AS AMENDED BY P.L.99-2007, SECTION 220, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13.3. (a) This section applies only to a fund member who:

(1) is hired for the first time before January 1, 1990; and

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(2) does not choose coverage by sections 12.5 and 13.5 of this chapter under section 12.4 of this chapter.

This section does not apply to a fund member described in section 12.3(c)(2) of this chapter.

(b) A fund member:

(1) who became disabled before July 1, 2000;
(2) is determined to have a covered impairment; and
(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the fund member with a disability does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(c) Except as otherwise provided in this subsection, a fund member:

(1) who becomes disabled after July 1, 2000;
(2) who is determined to have a covered impairment that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;
(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer, or an emergency or reported emergency for which the fund member is trained, in the case of a firefighter; or
(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment. A disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;
(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and
(iii) the disease can be traced to the fund member's employment as the proximate cause; or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the fund member with a disability does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(d) Except as otherwise provided in this subsection, a fund member:

(1) who becomes disabled after July 1, 2000;

(2) who is determined to have a covered impairment that is not a covered impairment described in subsection (c)(2); and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the federal Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the fund member with a disability does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(e) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that except for section 12.3 of this chapter would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been
applicable during the member's period of reemployment.

(f) As used in this subsection, "catastrophic physical personal injury" means a physical personal injury that results in a degree of impairment to the fund member of at least sixty-seven percent (67%). Notwithstanding any other provision of this section, a fund member who has a permanent and total covered impairment that is the direct result of a catastrophic physical personal injury that:

(1) occurs in the line of duty after July 1, 2008; and

(2) permanently prevents the fund member from performing any gainful work;

shall receive, after July 1, 2017, a disability benefit equal to the monthly salary of a first class patrolman or firefighter at the commencement of the disability. The disability benefit provided under this subsection is paid instead of the disability benefit otherwise determined under this section. The disability benefit determined under this subsection is payable for the remainder of the fund member's life. The disability benefit provided under this subsection must be increased at a rate equal to the increases in the monthly salary of a first class patrolman or firefighter.

SECTION 3. IC 36-8-8-13.5, AS AMENDED BY P.L.35-2012, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13.5. (a) This section applies only to a fund member who:

(1) is hired for the first time after December 31, 1989;

(2) chooses coverage by this section and section 12.5 of this chapter under section 12.4 of this chapter; or

(3) is described in section 12.3(c)(2) of this chapter.

(b) A fund member who is determined to have a Class 1 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(c) A fund member who is determined to have a Class 2 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to twenty-two percent (22%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year.
of service, up to a maximum of thirty (30) years of service.

(d) For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(e) For applicants hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to the following benefits instead of benefits provided under subsection (d):

1. If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

2. Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:
   (A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;
   (B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and
   (C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

3. Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:
   (A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and
(B) the Class 3 impairment occurs before the fund member has
completed four (4) years of service with the employer after the
date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a
Class 3 impairment if:
(A) the fund member had a Class 3 excludable condition under
section 13.6 of this chapter at the time the fund member
entered or reentered the fund; and
(B) the Class 3 impairment is related in any manner to the
Class 3 excludable condition.

(5) If, during the first four (4) years of service with the employer:
(A) a fund member with a Class 3 excludable condition is
determined to have a Class 3 impairment; and
(B) the Class 3 impairment is attributable to an accidental
injury that is not related in any manner to the fund member's
Class 3 excludable condition;
the member is entitled to receive the benefits provided in
subdivision (1) with respect to the accidental injury. For purposes
of this subdivision, the local board shall make the initial
determination of whether an impairment is attributable to an
accidental injury. The local board shall forward the initial
determination to the director of the system board for a final
determination by the system board or the system board's designee.

(f) If a fund member is entitled to a monthly base benefit under
subsection (b), (c), (d), or (e), the fund member is also entitled to a
monthly amount that is no less than ten percent (10%) and no greater
than forty-five percent (45%) of the monthly salary of a first class
patrolman or firefighter in the year of the local board's determination
of impairment. The additional monthly amount shall be determined by
the Indiana public retirement system medical authority based on the
degree of impairment.

(g) Benefits for a Class 1 impairment as determined under this
section are payable for the remainder of the fund member's life.

(h) Benefits for a Class 2 impairment are payable:
(1) for a period equal to the years of service of the member, if the
member's total disability benefit is less than thirty percent (30%)
of the monthly salary of a first class patrolman or firefighter in the
year of the local board's determination of impairment and the
member has fewer than four (4) years of service; or
(2) for the remainder of the fund member's life if the fund
member's benefit is:
(A) equal to or greater than thirty percent (30%) of the
monthly salary of a first class patrolman or firefighter in the
year of the local board's determination of impairment; or
(B) less than thirty percent (30%) of the monthly salary of a
first class patrolman or firefighter in the year of the local
board's determination of impairment if the member has at least
four (4) years of service.

(i) Benefits for a Class 3 impairment are payable:
(1) for a period equal to the years of service of the member, if the
member's total disability benefit is less than thirty percent (30%)
of the monthly salary of a first class patrolman or firefighter in the
year of the local board's determination of impairment and the
member has fewer than four (4) years of service; or
(2) until the member becomes fifty-two (52) years of age if the
member's benefit is:
   (A) equal to or greater than thirty percent (30%) of the
   monthly salary of a first class patrolman or firefighter in the
   year of the local board's determination of impairment; or
   (B) less than thirty percent (30%) of the monthly salary of a
   first class patrolman or firefighter in the year of the local
   board's determination of impairment if the member has at least
   four (4) years of service.

(j) Upon becoming fifty-two (52) years of age, a fund member with
a Class 2 impairment determined under subsection (h)(1) is entitled to
receive the retirement benefit payable to a fund member with:
(1) twenty (20) years of service; or
(2) the total years of service (including both active service and the
period, not to exceed twenty (20) years, during which the member
received disability benefits) and salary, as of the year the member
becomes fifty-two (52) years of age, that the fund member would
have earned if the fund member had remained in active service
until becoming fifty-two (52) years of age;
whichever is greater.

(k) Upon becoming fifty-two (52) years of age, a fund member who
is receiving or has received a Class 3 impairment benefit that is:
(1) equal to or greater than thirty percent (30%) of the monthly
salary of a first class patrolman or firefighter in the year of the
local board's determination of impairment; or
(2) less than thirty percent (30%) of the monthly salary of a first
class patrolman or firefighter in the year of the local board's
determination of impairment if the member has at least four (4)
years of service;
is entitled to receive the retirement benefit payable to a fund member
with twenty (20) years of service.

(l) Notwithstanding section 12.3 of this chapter and any other
provision of this section, a member who:

(1) has had a covered impairment;
(2) recovers and returns to active service with the department; and
(3) within two (2) years after returning to active service has an
impairment that, except for section 12.3(b)(3) of this chapter,
would be a covered impairment;
is entitled to the benefit under this subsection if the impairment
described in subdivision (3) results from the same condition or
conditions (without an intervening circumstance) that caused the
covered impairment described in subdivision (1). The member is
entitled to receive the monthly disability benefit amount paid to the
member at the time of the member's return to active service plus any
adjustments under section 15 of this chapter that would have been
applicable during the member's period of reemployment.

(m) As used in this subsection, "catastrophic physical personal
injury" means a physical personal injury that results in a degree
of impairment to the fund member of at least sixty-seven percent
(67%). Notwithstanding any other provision of this section, a fund
member who has a permanent and total covered impairment that
is the direct result of a catastrophic physical personal injury that:

(1) occurs in the line of duty after July 1, 2008; and
(2) permanently prevents the fund member from performing
any gainful work;
shall receive, after July 1, 2017, a disability benefit equal to the
monthly salary of a first class patrolman or firefighter at the
commencement of the disability. The disability benefit provided
under this subsection is paid instead of the disability benefit
otherwise determined under this section. The disability benefit
determined under this subsection is payable for the remainder of
the fund member's life. The disability benefit provided under this
subsection must be increased at a rate equal to the increases in the
monthly salary of a first class patrolman or firefighter.

SECTION 4. IC 36-8-8-25 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2017]: Sec. 25. The child or spouse of a fund member who
qualifies for disability benefits under sections 13.3(f) or 13.5(m) of
this chapter may not be required to pay tuition or mandatory fees
at any state supported college, university, or technical school if:

(1) the child is less than twenty-three (23) years of age and is
a full-time student pursuing a prescribed course of study; or
(2) the spouse is pursuing a prescribed course of study toward an undergraduate degree.
COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1617, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 32, after "(f)" insert "As used in this subsection, "catastrophic personal injury" means a personal injury that results in a degree of impairment to the fund member of at least sixty-five percent (65%).".

Page 3, line 35, delete "2017;" and insert "2008;".

Page 3, line 38, after "receive" insert ", after July 1, 2017.".

Page 8, line 2, after "(m)" insert "As used in this subsection, "catastrophic personal injury" means a personal injury that results in a degree of impairment to the fund member of at least sixty-five percent (65%).".

Page 8, line 5, delete "2017;" and insert "2008;".

Page 8, line 8, after "receive" insert ", after July 1, 2017.".

Page 8, line 19, after "Sec. 15.5." insert "As used in this section, "catastrophic personal injury" means a personal injury that results in a degree of impairment to the employee beneficiary of at least sixty-five percent (65%).".

Page 8, line 23, delete "2017;" and insert "2008;".

Page 8, line 26, after "receive" insert ", after July 1, 2017;".

and when so amended that said bill do pass.

(Reference is to HB 1617 as introduced.)

VANNATTER

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1617 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 21-14-3-2, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. Provisions outside this article that provide for educational costs exemptions and reductions include the following:

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(1) IC 10-12-2-6 (free tuition for children of an employee of the state police department who is killed in the line of duty).
(2) IC 10-12-2-11 (child or spouse of an employee of the state police department who sustains catastrophic personal injury in the line of duty).
(3) IC 36-8-8-25 (child or spouse of a police officer or firefighter who sustains catastrophic personal injury in the line of duty).
(4) IC 36-8-10-15.8 (child or spouse of the sheriff of a county or a county police officer who sustains catastrophic personal injury in the line of duty).

Page 8, between lines 22 and 23, begin a new paragraph and insert:
"SECTION 4. IC 36-8-8-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 25. The child or spouse of a fund member who qualifies for disability benefits under sections 13.3(f) or 13.5(m) of this chapter may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school if:
(1) the child is less than twenty-three (23) years of age and is a full-time student pursuing a prescribed course of study; or
(2) the spouse is pursuing a prescribed course of study toward an undergraduate degree."

Page 9, after line 2, begin a new paragraph and insert:
"SECTION 6. IC 36-8-10-15.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15.8. The child or spouse of an employee beneficiary who qualifies for disability benefits under section 15.5 of this chapter may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school if:
(1) the child is less than twenty-three (23) years of age and is a full-time student pursuing a prescribed course of study; or
(2) the spouse is pursuing a prescribed course of study toward an undergraduate degree."

Renumber all SECTIONS consecutively.

(Reference is to HB 1617 as printed February 21, 2017.)

MORRIS
COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1617, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 11, after "catastrophic" insert "physical".
Page 1, delete lines 13 through 15.
Page 4, line 5, after "catastrophic" insert "physical".
Page 4, line 6, after "means a" insert "physical".
Page 4, line 7, delete "sixty-five percent (65\%)" and insert "sixty-seven percent (67\%)".
Page 4, line 10, after "catastrophic" insert "physical".
Page 8, line 20, after "catastrophic" insert "physical".
Page 8, line 21, after "means a" insert "physical".
Page 8, line 22, delete "sixty-five percent (65\%)" and insert "sixty-seven percent (67\%)".
Page 8, line 25, after "catastrophic" insert "physical".
Page 9, delete lines 6 through 38.
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1617 as reprinted February 24, 2017.)

BOOTS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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