IC 36-8
ARTICLE 8. PUBLIC SAFETY

IC 36-8-1
Chapter 1. Definitions

IC 36-8-1-1
Application of chapter
Sec. 1. The definitions in IC 36-1-2 and in this chapter apply throughout this article.

IC 36-8-1-2
"1925 fund"
Sec. 2. "1925 fund" refers to a police pension fund established under IC 36-8-6.

IC 36-8-1-3
"1937 fund"
Sec. 3. "1937 fund" refers to a firefighters' pension fund established under IC 36-8-7.

IC 36-8-1-4
"1953 fund"
Sec. 4. "1953 fund" refers to the police pension fund established under IC 36-8-7.5.

IC 36-8-1-5
"1977 fund"
Sec. 5. "1977 fund" refers to the police officers' and firefighters' pension and disability fund established under IC 36-8-8.
As added by Acts 1981, P.L.309, SEC.44.

IC 36-8-1-6
Repealed
(Repealed by P.L.329-1985, SEC.26.)

IC 36-8-1-7
"Local board"
Sec. 7. "Local board" means the board of trustees of a 1925, 1937, or 1953 fund.

IC 36-8-1-8
"Member of the fire department"
Sec. 8. "Member of the fire department" means the fire chief or a firefighter appointed to the department.

IC 36-8-1-9
"Member of the police department"
Sec. 9. (a) Except as provided in subsection (b), "member of the police department" means the police chief or a police officer appointed to the department.
(b) "Member of the police department", for purposes of IC 36-8-4-7, does not include the police chief hired under a waiver under IC 36-8-4-6.5(c).

IC 36-8-1-10
"Public way"
Sec. 10. "Public way" includes highway, street, avenue, boulevard, road, land, or alley.

IC 36-8-1-11
"Salary of a first class patrolman or first class firefighter"; longevity increases
Sec. 11. (a) "Salary of a first class patrolman or first class firefighter" means the base salary of a patrolman or firefighter plus all longevity increases, if provided by the employer, for service of twenty (20) years or less but does not include remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off.
(b) With respect to the 1925, 1937, and 1953 funds, "salary of a first class patrolman or firefighter" may include longevity increases for more than twenty (20) years of service at the option of the employer but only if these longevity increases had taken effect before January 1, 1983.

IC 36-8-1-12
"Upper level policymaking position"
Sec. 12. "Upper level policymaking position" refers to the position held by the police chief or fire chief and to each position held by the members of the police department or fire department in:
(1) the next rank and pay grade immediately below the chief, if the authorized size of the department is:
(A) more than ten (10) but less than fifty-one (51) members, in the case of a police department; or
(B) more than ten (10) but less than two hundred one (201) members, in the case of a fire department; or
(2) the next two (2) ranks and pay grades immediately below the chief, if the authorized size of the department is:
   (A) more than fifty (50) members, in the case of a police department; or
   (B) more than two hundred (200) members, in the case of a fire department.


IC 36-8-1-13
"Americans with Disabilities Act"

Sec. 13. "Americans with Disabilities Act" means the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and all applicable regulations and amendments, if any, related to the Act.

IC 36-8-2
Chapter 2. General Powers Concerning Public Safety

IC 36-8-2-1
Application of chapter
Sec. 1. This chapter applies to all units except townships.

IC 36-8-2-2
Police and law enforcement system
Sec. 2. A unit may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities and equipment for that system.

IC 36-8-2-3
Firefighting and fire prevention system
Sec. 3. A unit may establish, maintain, and operate a firefighting and fire prevention system and may provide facilities and equipment for that system.

IC 36-8-2-4
Regulation of dangerous conduct or property
Sec. 4. A unit may regulate conduct, or use or possession of property, that might endanger the public health, safety, or welfare.

IC 36-8-2-5
Medical care, health, and community services; hospitals
Sec. 5. A unit may provide medical care or other health and community services to persons and may impose restrictions upon persons or animals that might cause other persons or animals to be injured or contract diseases. A unit may also establish, aid, maintain, and operate hospitals.

IC 36-8-2-6
Animals; capture and destruction; shelters
Sec. 6. A unit may capture and destroy animals if necessary and may establish, maintain, and operate animal shelters.

IC 36-8-2-7
Regulation of business use of watercourse
Sec. 7. A unit may regulate any business use of a watercourse.

IC 36-8-2-8
Regulation of introduction of substance, odor, or sound in air
Sec. 8. A unit may regulate the introduction of any substance or odor into the air, or any generation of sound.

IC 36-8-2-9
Regulation of public gatherings
Sec. 9. A unit may regulate public gatherings, such as shows, demonstrations, fairs, conventions, sporting events, and exhibitions.

IC 36-8-2-10
Regulation of businesses and professions
Sec. 10. A unit may regulate the operation of businesses, crafts, professions, and occupations.

IC 36-8-2-11
Regulation of solicitations
Sec. 11. A unit may regulate solicitation by persons offering goods or services to the public or solicitation for charitable causes.

IC 36-8-2-12
Weights and measures standards control system
Sec. 12. A unit may establish, maintain, and operate a weights and measures standards control system. However, a unit may not establish fees for inspections or tests relating to weights and measures.

IC 36-8-2-13
Extraterritorial powers
Sec. 13. A municipality may exercise powers granted by sections 4, 5, and 6 of this chapter in areas within four (4) miles outside its corporate boundaries.
IC 36-8-3
Chapter 3. Safety Boards; Disciplinary Procedures

IC 36-8-3-1
Application of chapter
Sec. 1. This chapter applies to second and third class cities. It also applies to other units, where specifically indicated.

IC 36-8-3-2
Powers and duties of safety boards
Sec. 2. (a) The safety board of a city shall administer the police and fire departments of the city, except as provided by any statute or ordinance referred to in section 5 of this chapter.
(b) The safety board has exclusive control over all matters and property relating to the following:
   (1) Police department.
   (2) Fire department, fire alarms, and fire escapes.
   (3) Animal shelters.
   (4) Inspection of buildings.
   (c) The safety board may purchase the equipment and supplies and make the repairs needed in the department of public safety.
   (d) The safety board may:
       (1) adopt rules for the government and discipline of the police and fire departments; and
       (2) adopt general and special orders to the police and fire departments through the chiefs of the departments.

IC 36-8-3-3
Organization of safety boards; appointment of police officers, firefighters, and other officials
Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.
   (b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing the member to act in its behalf as its authorized agent.
   (c) The safety board shall appoint:
       (1) the members and other employees of the police department other than those in an upper level policymaking position;
       (2) the members and other employees of the fire department other than those in an upper level policymaking position;
       (3) a market master; and
(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body not later than November 1 of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey the city executive's orders and directions, notwithstanding any law or rule to the contrary.


IC 36-8-3-4
Police officers and firefighters; discipline, demotion, and dismissal; hearings; appeals; administrative leave

Sec. 4. (a) This section also applies to all towns and townships that have full-time, paid police or fire departments. For purposes of this section, the appropriate appointing authority of a town or township is considered the safety board of a town or township. In a town with a board of metropolitan police commissioners, that board is considered the safety board of the town for police department purposes.

(b) Except as provided in subsection (m), a member of the police or fire department holds office or grade until the member is dismissed or demoted by the safety board. Except as provided in subsection (n), a member may be disciplined by demotion, dismissal, reprimand, forfeiture, or suspension upon either:

(1) conviction in any court of any crime; or
(2) a finding and decision of the safety board that the member has been or is guilty of any one (1) or more of the following:

(A) Neglect of duty.
(B) A violation of rules.
(C) Neglect or disobedience of orders.
(D) Incapacity.
(E) Absence without leave.
(F) Immoral conduct.
(G) Conduct injurious to the public peace or welfare.
(H) Conduct unbecoming an officer.
(I) Another breach of discipline.
The safety board may not consider the political affiliation of the member in making a decision under this section. If a member is suspended or placed on administrative leave under this subsection, the member is entitled to the member's allowances for insurance benefits to which the member was entitled before being suspended or placed on administrative leave. In addition, the local unit may provide the member's allowances for any other fringe benefits to which the member was entitled before being suspended or placed on administrative leave.

(c) Before a member of a police or fire department may be suspended in excess of five (5) days without pay, demoted, or dismissed, the safety board shall offer the member an opportunity for a hearing. If a member desires a hearing, the member must request the hearing not more than five (5) days after the notice of the suspension, demotion, or dismissal. Written notice shall be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The hearing conducted under this subsection shall be held not more than thirty (30) days after the hearing is requested by the member, unless a later date is mutually agreed upon by the parties. The notice must state:

1. the time and place of the hearing;
2. the charges against the member;
3. the specific conduct that comprises the charges;
4. that the member is entitled to be represented by counsel;
5. that the member is entitled to call and cross-examine witnesses;
6. that the member is entitled to require the production of evidence; and
7. that the member is entitled to have subpoenas issued, served, and executed in the county where the unit is located.

If the corporation counsel or city attorney is a member of the safety board of a city, the counsel or attorney may not participate as a safety board member in a disciplinary hearing concerning a member of either department. The safety board shall determine if a member of the police or fire department who is suspended in excess of five (5) days shall continue to receive the member's salary during the suspension.

(d) Upon an investigation into the conduct of a member of the police or fire department, or upon the trial of a charge preferred against a member of either department, the safety board may compel the attendance of witnesses, examine them under oath, and require the production of books, papers, and other evidence at a meeting of the board. For this purpose, the board may issue subpoenas and have them served and executed in any part of the county where the unit is located.
located. If a witness refuses to testify or to produce books or papers in the witness's possession or under the witness's control, IC 36-4-6-21 controls to the extent applicable. The proper court may compel compliance with the order by attachment, commitment, or other punishment.

(e) The reasons for the suspension, demotion, or dismissal of a member of the police or fire department shall be entered as specific findings of fact upon the records of the safety board. A member who is suspended for a period exceeding five (5) days, demoted, or dismissed may appeal the decision to the circuit or superior court of the county in which the unit is located. However, a member may not appeal any other decision.

(f) An appeal under subsection (e) must be taken by filing in court, within thirty (30) days after the date the decision is rendered, a verified complaint stating in concise manner the general nature of the charges against the member, the decision of the safety board, and a demand for the relief asserted by the member. A bond must also be filed that guarantees the appeal will be prosecuted to a final determination and that the plaintiff will pay all costs adjudged against the plaintiff. The bond must be approved as bonds for costs are approved in other cases. The unit must be named as the sole defendant, and the plaintiff shall have a summons issued as in other cases against the unit. Neither the safety board nor the members of it may be made parties defendant to the complaint, but all are bound by service upon the unit and the judgment rendered by the court.

(g) In an appeal under subsection (e), no pleading is required by the unit to the complaint, but the allegations are considered denied. The unit may file a motion to dismiss the appeal for failure to perfect it within the time and in the manner required by this section. If more than one (1) person was included in the same charges and in the same decision of dismissal by the safety board, then one (1) or more of the persons may join as plaintiffs in the same complaint, but only the persons that appeal from the decision are affected by it. The decision of the safety board is final and conclusive upon all persons not appealing. The decision appealed from is not stayed or affected pending the final determination of the appeal, but remains in effect unless modified or reversed by the final judgment of the court.

(h) A decision of the safety board is considered prima facie correct, and the burden of proof is on the party appealing. All appeals shall be tried by the court. The appeal shall be heard de novo only upon any new issues related to the charges upon which the decision of the safety board was made. The charges are considered to be denied by the accused person. Within ten (10) days after the service of summons the safety board shall file in court a complete transcript of all papers, entries, and other parts of the record relating to the particular case. Inspection of these documents by the person affected, or by the person's agent, must be permitted by the safety board before the appeal is filed, if requested. Each party may produce evidence relevant to the issues that it desires, and the court shall review the record and decision of the safety board upon appeal.
The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the safety board appealed from should in all things be affirmed, its judgment should state that, and judgment for costs shall be rendered against the party appealing. If the court finds that the decision of the safety board appealed from should not be affirmed in all things, then the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision on it. The court shall either:

1) reverse the decision of the safety board; or
2) order the decision of the safety board to be modified.

The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify and file a copy of the final judgment of the court to the safety board, which shall conform its decisions and records to the order and judgment of the court. If the decision is reversed or modified, then the safety board shall pay to the party entitled to it any salary or wages withheld from the party pending the appeal and to which the party is entitled under the judgment of the court.

Either party shall be allowed a change of venue from the court or a change of judge in the same manner as such changes are allowed in civil cases. The Indiana Rules of Trial Procedure govern in all matters of procedure upon the appeal that are not otherwise provided for by this section.

An appeal takes precedence over other pending litigation and shall be tried and determined by the court as soon as practical.

Except as provided in IC 36-5-2-13, the executive may reduce in grade any member of the police or fire department who holds an upper level policy making position. The reduction in grade may be made without adhering to the requirements of subsections (b) through (l). However, a member may not be reduced in grade to a rank below that which the member held before the member's appointment to the upper level policy making position.

If the member is subject to criminal charges, the board may place the member on administrative leave until the disposition of the criminal charges in the trial court. Any other action by the board is stayed until the disposition of the criminal charges in the trial court. An administrative leave under this subsection may be with or without pay, as determined by the board. If the member is placed on leave without pay, the board, in its discretion, may award back pay if the member is exonerated in the criminal matter.

IC 36-8-3-4.1
Certain towns and townships; reprimand or temporary suspension of members without prior hearing; review by safety board

Sec. 4.1. (a) This section also applies to all towns and townships that have full-time, paid police or fire departments. For purposes of
this section, the appropriate appointing authority of a town or township is considered the safety board of a town or township. In a town with a board of metropolitan police commissioners, that board is considered the safety board of the town.

(b) In addition to the disciplinary powers of the safety board, the chief of the department may, without a hearing, reprimand or suspend without pay a member, including a police radio or signal alarm operator or a fire alarm operator, for a maximum of five (5) working days. For the purposes of this section, eight (8) hours of paid time constitutes one (1) working day. If a chief reprimands a member in writing or suspends a member, the chief shall, within forty-eight (48) hours, notify the board in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this section may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the board review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the board may hold a hearing during this review. If the board holds a hearing, written notice must be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must contain the information listed under section 4(c) of this chapter. If the decision is reversed, the member who was suspended is entitled to any wages withheld as a result of the suspension.


IC 36-8-3-4.3
Suspension or termination of EMS personnel; right to hearing and appeal

Sec. 4.3. (a) This section also applies to a town or township that has at least one (1) certified employee of a full-time, paid fire or police department, without regard to whether:

(1) the employee is an appointed police officer or firefighter; or
(2) under section 5 of this chapter, the police or fire department is exempt from sections 3, 4, and 4.1 of this chapter.

(b) As used in this section, "certified employee" means an individual who, as a condition of employment, holds a valid certification issued under IC 16-31-3 by the Indiana emergency medical services commission established by IC 16-31-2-1.

(c) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(d) If a medical director takes any of the following actions against a certified employee, the medical director shall provide to the certified employee and to the chief of the certified employee's department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the certified
employee.

(2) The medical director refuses or fails to attest to the competency of the certified employee to perform emergency medical services.

(3) The medical director suspends the certified employee from performing emergency medical services.

(e) Before a police or fire department takes any employment related action against a certified employee as the result of a medical director's action described in subsection (d), the certified employee is entitled to a hearing and appeal concerning the medical director's action as provided in section 4 of this chapter.

(f) If the medical director's action that is the subject of an appeal under subsection (e) is based on a health care decision made by the certified employee in performing emergency medical services, the safety board conducting the hearing shall consult with an independent medical expert to determine whether the certified employee followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

(1) must be a physician trained in emergency medical services; and

(2) may not be affiliated with the same hospital as the medical director.

As added by P.L.13-2010, SEC.1.

IC 36-8-3-5
Merit boards and commissions; exemption from statutory procedure

Sec. 5. Except as provided in section 4.3 of this chapter, sections 3, 4, and 4.1 of this chapter do not apply to a police or fire department having a board or commission established by statute or ordinance to establish or administer policies based on merit for the appointment, promotion, demotion, and dismissal of members of the department, unless the establishing law specifically incorporates one (1) or more of those sections.


IC 36-8-3-6
Police officers; powers and duties

Sec. 6. (a) This section applies to:

(1) all municipalities; and

(2) a county having a consolidated city.

(b) A warrant of search or arrest, issued by any judge, may be executed in the municipality by:

(1) any municipal police officer; or

(2) a member of the consolidated law enforcement department established under IC 36-3-1-5.1;

subject to the laws governing arrest and bail.

(c) The police officers of a municipality or a member of the consolidated law enforcement department shall:
(1) serve all process within the municipality or the consolidated city issuing from the city or town court;
(2) arrest, without process, all persons who within view violate statutes, take them before the court having jurisdiction of the offense, and retain them in custody until the cause of the arrest has been investigated;
(3) enforce municipal ordinances in accordance with IC 36-1-6;
(4) suppress all breaches of the peace within their knowledge and may call to their aid the power of the municipality or the consolidated city and pursue and commit to jail persons guilty of crimes;
(5) serve all process issued by:
   (A) the legislative body of the municipality or the consolidated city;
   (B) any committee of the legislative body of the municipality or the consolidated city; or
   (C) any of the executive departments of the municipality or the consolidated city;
(6) serve the city or town court and assist the bailiff in preserving order in the court; and
(7) convey prisoners to and from the county jail or station houses of the municipality or the consolidated city for arraignment or trial in the city or town court or to the place of imprisonment under sentence of the court.


IC 36-8-3-7
Police officers and firefighters; special duty; school security police

Sec. 7. (a) The safety board may detail regular police officers or firefighters, or appoint and swear an additional number of special police officers or firefighters, to do special duty within the city. Regular police officers and firefighters serving special duty shall be paid the same rate per diem for this service as is paid to members of the department in their regular employment. The board may determine the compensation of persons serving special duty in all other cases.

(b) Unless the safety board designates otherwise, the special police officers are subject to the police chief and the special firefighters are subject to the fire chief. If they are employees of departments other than the police or fire department, they shall obey the rules of their respective departments and conform to its discipline and orders to the extent these do not conflict with the orders of the safety board. A person other than a regular police officer or firefighter may not wear a uniform the design of which is not easily distinguishable from or which conforms with respect to the color or design of the state police or a sheriff's patrol of the county in which the city is located or the police or fire department of the city. Special police officers and firefighters, during the term of their appointment, have those powers, privileges, and duties assigned to them by the safety board. They
have these powers, privileges, and duties only while fulfilling the specific responsibilities for which the appointment is made. Persons other than regular police officers and firefighters appointed under this section may be removed by the safety board at any time without notice and without assigning any cause.

(c) The powers and duties of officers appointed to serve as security police for school corporations include:
   (1) the protection of school personnel while on school business, including school children, employees, and members of the governing body of the school corporation; and
   (2) the protection of all school corporation property.

(d) Auxiliary firefighters directly connected with and created to augment the regular fire departments may wear a uniform the design of which is established by the safety board. Persons so appointed may be removed at any time by the board, without notice and without assigning any cause.

(e) In time of emergency the safety board may also detail members from the police or fire department for the use of any other department of the city government.


IC 36-8-3-8
Police department; civilian personnel; merit system
Sec. 8. (a) The safety board may employ civilian technical and clerical personnel to work with the police department as civilian radio operators, radio technicians, chemical technicians, laboratory technicians, and other civilian technical personnel and clerical personnel that are required. The safety board shall fix the salary to be paid to the civilian technical and clerical personnel subject to the budgetary procedures applicable to the department of public safety. The civilian technical and clerical personnel are not eligible to be members of any police pension fund.

(b) The safety board may establish a merit system for civilian personnel appointed under subsection (a). However, in establishing a system the safety board shall consult with the state personnel board concerning the form and content of the merit system.


IC 36-8-3-9
Oaths; depositions
Sec. 9. The safety board, police chief, and fire chief may administer oaths to a person summoned in a proceeding authorized by this chapter and may take depositions under the rules or orders of the board.


IC 36-8-3-10
Police departments, chiefs, and captains; powers and duties
Sec. 10. (a) The police department shall, within the city:
(1) preserve peace;
(2) prevent offenses;
(3) detect and arrest criminals;
(4) suppress riots, mobs, and insurrections;
(5) disperse unlawful and dangerous assemblages and assemblages that obstruct the free passage of public streets, sidewalks, parks, and places;
(6) protect the rights of persons and property;
(7) guard the public health;
(8) preserve order at elections and public meetings;
(9) direct the movement of vehicles in public ways or public places;
(10) remove all nuisances in public parks or public ways;
(11) provide proper police assistance at fires;
(12) assist, advise, and protect strangers and travelers in public ways or at transportation facilities;
(13) carefully observe and inspect all places of business under license, or required to have them; and
(14) enforce and prevent the violation of all laws in force in the city.

(b) The police chief and each captain, in the captain's precinct or district, may supervise and inspect all pawnbrokers, vendors, junkshop keepers, cartmen, expressmen, dealers in secondhand merchandise, intelligence offices, architectural salvage material dealers (as defined in IC 24-4-16-3), and auctions. Any member of the department may be authorized by the chief in writing to exercise the same powers.


IC 36-8-3-11
Repealed
(Repealed by P.L.148-1995, SEC.8.)

IC 36-8-3-12
Board members, police officers, and firefighters; elective and appointive office

Sec. 12. Subject to IC 3-5-9, members of the safety board and members of any township, town, or city (including a consolidated city) police department, fire department, or volunteer fire department (as defined by IC 36-8-12-2) may:

(1) be candidates for elective office and serve in that office if elected;
(2) be appointed to any office and serve in that office if appointed; and
(3) as long as they are not in uniform and not on duty, solicit votes and campaign funds and challenge voters for the office for which they are candidates.

IC 36-8-3-13
Adoption of rules regulating performance bonds
Sec. 13. The safety board may, subject to city ordinances, adopt rules regulating the giving of bond by an appointee or class of appointees in the department for faithful performance of official duty. 

IC 36-8-3-14
Police and firefighters' insurance funds; creation, management, and distribution
Sec. 14. (a) This section does not apply to second class cities.
(b) The safety board may draft an ordinance and submit it to the legislative body for the creation, management, and distribution of a police insurance fund or a firefighters' insurance fund, including a provision for retaining a certain percentage of each appointee's salary for the creation of the fund. The ordinance must prescribe the conditions of investment and who is entitled to the benefits. 

IC 36-8-3-15
Police officers and firefighters; exemption from militia service
Sec. 15. (a) This section also applies to all members of a fire department organized by a town.
(b) Members of the police and fire departments are exempt from service in the militia, except in case of war, invasion, or insurrection. 

IC 36-8-3-16
Destruction of burning buildings; recovery of damages
Sec. 16. If a building in the city is on fire, or if a building adjacent to it is liable to take or convey fire to other buildings and cause great destruction of property, the fire chief, or his assistant acting as chief with the concurrence of the executive or of the safety board, may take down, blow up, or destroy the building or buildings. An action may not be maintained against a person for this action, but the owner of such a building may, in a civil action, recover damages from the city for its destruction. 

IC 36-8-3-17
Repealed
(Repealed by P.L.104-1983, SEC.7.)

IC 36-8-3-18
Humane officers; appointment; powers and duties
Sec. 18. A humane officer shall be appointed in every city from among the members of the police department. The humane officer
shall detect and arrest persons violating humane statutes. He is entitled to the same pay as other police officers of the city and is subject to the control and discipline of the police department. If there is an incorporated humane society in the city, the humane officer shall attend the stated and special meetings of the society and shall report to it, at least once a month, on all matters relating to his duties under law for the previous month. If a humane statute or ordinance has, to his knowledge, been violated, he shall, if directed by the president of the humane society, file his affidavits before a court charging the person violating the law with the violation.


IC 36-8-3-19
Police matrons; appointment; powers and duties; accommodations; compensation; qualifications
Sec. 19. (a) The safety board may appoint a police matron, including assistants that are necessary. The matron shall receive, search, and properly care for, at the jail or station house, all female prisoners who are arrested and detained in custody in the city. The matron is not a member of the police department of the city, but has all the authority delegated to a police officer. The matron is subject to rules that are prescribed for her by the safety board or by ordinance and may be removed by the board for good cause shown.
(b) The matron shall be given proper accommodations for herself and for all prisoners under her control. She is the jailer in charge of the woman's department of the station house or jail and may summon a police officer or other person to her aid when aid is required. The matron and her assistant or assistants shall be paid the compensation or salaries that are set for other employees of the police department. The matron, or her assistant, shall attend all courts when female prisoners are to be tried and shall take charge of all female prisoners while they are awaiting trial or transfer to or from a place of detention.
(c) The matron must be at least twenty-one (21) years of age, fully qualified, and of good moral character.


IC 36-8-3-20
Police reserve officers
Sec. 20. (a) This section applies to counties and towns as well as cities.
(b) A unit may provide by ordinance for any number of police reserve officers.
(c) Police reserve officers shall be appointed by the same authority that appoints regular members of the department.
(d) Police reserve officers may be designated by another name specified by ordinance.
(e) Police reserve officers may not be members of the regular police department but have all of the same police powers as regular
members, except as limited by the rules of the department. Each department may adopt rules to limit the authority of police reserve officers.

(f) To the extent that money is appropriated for a purpose listed in this subsection, police reserve officers may receive any of the following:

1. A uniform allowance.
2. Compensation for time lost from other employment because of court appearances.
3. Insurance for life, accident, and sickness coverage.
4. In the case of county police reserve officers, compensation for lake patrol duties that the county sheriff assigns and approves for compensation.

(g) Police reserve officers are not eligible to participate in any pension program provided for regular members of the department.

(h) A police reserve officer may not be appointed until he has completed the training and probationary period specified by rules of the department.

(i) A police reserve officer appointed by the department after June 30, 1993, may not:
   1. make an arrest;
   2. conduct a search or a seizure of a person or property; or
   3. carry a firearm;

unless the police reserve officer successfully completes a pre-basic course under IC 5-2-1-9(f).

(j) A police reserve officer may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(k) A police reserve officer carrying out lake patrol duties under this chapter is immune from liability under IC 34-30-12, notwithstanding the payment of compensation to the officer.


IC 36-8-3-21
Police or fire department members; membership in 1977 fund required

Sec. 21. (a) Except as provided in subsection (b), this section applies to all units.

(b) This subsection does not apply to the appointment of a fire chief under a waiver under IC 36-8-4-6(c) or the appointment of a police chief under a waiver under IC 36-8-4-6.5(c). An individual may not be employed by a unit after May 31, 1985, as a member of the unit's fire department or as a member of the unit's police department unless the individual meets the conditions for membership in the 1977 fund.
(c) Notwithstanding IC 36-8-1-9, the executive of the unit may request that the 1977 fund accept the following individuals in the 1977 fund under IC 36-8-8-7(h):

1. A fire chief appointed under a waiver under IC 36-8-4-6(c).
2. A police chief appointed under a waiver under IC 36-8-4-6.5(c).

IC 36-8-3.2
Chapter 3.2. Employment Standards for Public Safety Officers

IC 36-8-3.2-1
Application of chapter
Sec. 1. This chapter applies to the following:
(1) Full-time, fully paid firefighters hired or rehired after July 1, 1989.
(2) Full-time police officers hired or rehired after January 25, 1992.

IC 36-8-3.2-1.5
Administration of chapter
Sec. 1.5. This chapter shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.
As added by P.L.4-1992, SEC.23.

IC 36-8-3.2-2
Certification of applicants
Sec. 2. A person who is an applicant to become a firefighter or police officer must, before being hired, be certified by the local board to the board of trustees of the Indiana public retirement system as having passed the minimum agility and aptitude tests outlined in this chapter.

IC 36-8-3.2-3
Physical agility and aptitude tests; adoption of standards; review
Sec. 3. (a) The appointing authority shall adopt standards for firefighters establishing a physical agility test that:
(1) does not discriminate on the basis of sex;
(2) reflects the essential functions of the job; and
(3) at a minimum includes testing the following:
   (A) Fear of heights (acrophobia).
   (B) Fear of confinement (claustrophobia).
   (C) Muscular strength.
   (D) Muscular endurance.
   (E) Cardiovascular endurance.
   (F) Musculoskeletal flexibility.

   (b) The appointing authority shall also adopt standards for firefighters establishing a general aptitude test.

   (c) The standards required by this section must be presented to the board of firefighting personnel standards and education established by IC 22-12-3-1 for review.
IC 36-8-3.2-3.5
Physical agility test; standards; general aptitude test; review

Sec. 3.5. (a) The appointing authority shall adopt standards for police officers establishing a physical agility test that:
   (1) does not discriminate on the basis of sex;
   (2) reflects the essential functions of the job; and
   (3) at a minimum includes testing the following:
      (A) Muscular strength.
      (B) Muscular endurance.
      (C) Cardiovascular endurance.
      (D) Musculoskeletal flexibility.

(b) The appointing authority may also adopt standards for police officers establishing a general aptitude test.

(c) The standards required by this section must be presented to the law enforcement training board established under IC 5-2-1-3 for review.


IC 36-8-3.2-4
Administration of tests

Sec. 4. The appointing authority or its designee shall administer the agility and aptitude tests to applicants and shall certify the results to the local board before extending an offer of employment.


IC 36-8-3.2-5
Physical agility test; additional requirement

Sec. 5. The physical agility test established under section 3 or 3.5 of this chapter is in addition to the physical examination required under IC 36-8-3.5-12, IC 36-8-4-7, or IC 36-8-8-19.


IC 36-8-3.2-6
Additional standards

Sec. 6. An appointing authority may establish additional standards as a condition of employment. Any standards established under this section are in addition to the standards required by IC 36-8-8-19 and the standards identified in section 3 or 3.5 of this chapter.

As added by P.L.4-1992, SEC.29.
IC 36-8-3.5
Chapter 3.5. Police and Fire Merit Systems

IC 36-8-3.5-1
Application of chapter; retention of existing systems; establishment of new system

Sec. 1. (a) This chapter applies to each municipality or township that has a full-time paid police or fire department. A municipality may exercise the power of establishing a merit system for its police or fire department under this chapter or by ordinance adopted under IC 36-1-4-14. A township may exercise the power of establishing a merit system for its fire department under this chapter or by resolution under IC 36-1-4-14. This chapter does not affect merit systems established:

(1) by ordinance under IC 36-1-4-14, except as provided by subsection (e) and section 19.3 of this chapter;
(2) by resolution under IC 36-1-4-14, except as provided by subsection (f) and section 19.3 of this chapter; or
(3) by a prior statute, except as provided by subsection (b) and section 19.3 of this chapter.

(b) If a city had a merit system for its police or fire department under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2, IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29, IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

(1) be a person of good moral character; and
(2) except for a member of a fire department having a merit system established under IC 19-1-37.5, not be an active member of a police or fire department or agency.

(c) After December 31, 1984, the legislative body also may repeal the ordinance described in subsection (b), but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend the ordinance under subsection (b).) After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(d) If a city had a merit system for its police or fire department under a prior statute but fails to retain that system under subsection (b), the city legislative body shall, before July 1, 1983, pass an
ordinance to establish a new merit system under section 3 of this chapter. If the new merit system is approved as provided by section 4 of this chapter, it takes effect as provided by that section. However, if the new merit system is rejected under section 4 of this chapter, within thirty (30) days the city legislative body shall adopt an ordinance to retain the prior merit system. The prior merit system remains in effect until the new merit system takes effect, after which time all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(e) An ordinance adopted under IC 36-1-4-14 to establish a police or fire merit system must include a provision under which the commission, or governing board of the merit system, has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must be a person of good moral character who is not an active member of a police or fire department or agency. If an ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the ordinance must be amended to include this requirement.

(f) This chapter does not prevent a township or other unit that has adopted a merit system under section 3 of this chapter from later amending or deleting any provisions of the merit system contained in this chapter. However, the merit system must include a provision under which the commission has at least one-third (1/3) of its members elected by the active members of the department, as set forth in section 8 of this chapter and a provision that incorporates the requirements of section 6(a) of this chapter. This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend under this subsection.


IC 36-8-3.5-2
Definitions
Sec. 2. As used in this chapter:
"Commission" refers to the merit commission for a merit system established under this chapter.
"Department" refers to the police or fire department of a unit.

IC 36-8-3.5-3
Establishment; separate systems
Sec. 3. (a) The legislative body of a unit (other than a township) may, by ordinance, establish a merit system under this chapter for the police or fire department of the unit. The legislative body of a township may, by resolution, establish a merit system under this chapter for the township's fire department. Before the merit system takes effect, however, the system must be approved by a majority of the active members of the department in a referendum.
(b) The legislative body shall specify in the adopting ordinance or resolution which of the provisions of this chapter that are left to its discretion are being adopted.

(c) If a merit system is established under this chapter for each department of a unit, each department has a separate merit system.


IC 36-8-3.5-4
Approval or rejection of system by members; notice; voting; subsequent proposals

Sec. 4. (a) Within sixty (60) days after the adoption of an ordinance or resolution establishing a merit system, the safety board shall give at least three (3) weeks' notice to all active members of the department that a meeting will be held to approve or reject the merit system. The notice shall be given by posting it in prominent places in all stations of the department. The notice must designate the time, place, and purpose of the meeting.

(b) A copy of the ordinance or resolution shall be distributed to each active member of the department at least one (1) week before the date of the meeting.

(c) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as chairman. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the safety board and shall be posted in accordance with subsection (a).

(d) If a majority of the active members of the department vote to approve the merit system, the merit system takes effect on January 1 following the vote. Appointments to the merit commission shall be made by March 1 following that January 1.

(e) If a majority of the active members of the department vote to reject the merit system, another proposal may not be put to a vote within one (1) year after the day the meeting is held.


IC 36-8-3.5-5
Request to establish system; referendum; legislative action

Sec. 5. (a) A majority of the active members of the department, by referendum under section 4 of this chapter, may request the unit's legislative body to establish a merit system for the department. The legislative body shall vote on the request within sixty (60) days after it is filed with the clerk of the legislative body of a county or a municipality or the executive of a township.

(b) If the legislative body votes to grant the request, the legislative body shall adopt an ordinance or resolution establishing a merit system under this chapter. A copy of the ordinance or resolution shall be distributed to each active member of the department, and another referendum under section 4 of this chapter is required before the merit system takes effect.
(c) If the legislative body votes to deny the request, the request may not be resubmitted to the legislative body for one (1) year. Before the request may be resubmitted, another referendum under section 4 of this chapter must be held.


IC 36-8-3.5-6
Merit commission; establishment; appointment of members; qualifications; oath
Sec. 6. (a) A merit commission consisting of five (5) commissioners shall be established for each department of a unit having a merit system. The commissioners are:
(1) two (2) persons, who must be of different political parties, appointed by the unit's executive;
(2) one (1) person appointed by the unit's legislative body; and
(3) two (2) persons, who must be of different political parties, elected by the active members of the department.

Notwithstanding IC 36-1-8-10, political affiliation shall be determined through the voters' registration records of the three (3) most recent primary elections.

(b) Each commissioner must have been a legal resident of the unit for three (3) consecutive years immediately preceding the commissioner's term and must be a person of good moral character. The legislative body may, upon the recommendation of the safety board, determine a per diem to be paid to each commissioner for each day of actual service for the commission. A commissioner must be at least twenty-one (21) years of age. A commissioner may not be an active member of a police or fire department or agency and not more than two (2) of the commissioners may be past members of a police or fire department or agency. In addition, a person may not serve on the commission if the person receives any remuneration as salary from the unit.

(c) Each commissioner shall take an oath of office to conscientiously discharge the commissioner's duties. A signed copy of the oath shall be filed with the safety board.


IC 36-8-3.5-7
Commissioners; terms; tenure
Sec. 7. (a) The term of a commissioner is four (4) years. However, one (1) of the executive's initial selections and one (1) of the department's initial selections are for terms of two (2) years.

(b) A vacancy on the commission shall be filled within thirty (30) days by the appointing or electing authority. The selection is for the remainder of the unexpired term.

(c) A commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time. In the case of a commissioner elected by the department, the safety board shall call
a meeting of the active members of the department under the procedures specified in section 4 of this chapter if a recall petition signed by a majority of the active members is submitted to the board. *As added by Acts 1981, P.L.316, SEC.1.*

**IC 36-8-3.5-8**

**Elections; meeting; notice**

Sec. 8. (a) An election to be made by the active members of the department shall be made at a meeting called specifically for that purpose by the safety board. The board shall give at least three (3) weeks' notice of the meeting to all active members of the department by posting the notice in prominent locations in stations of the department. The notice shall also be read during shift roll calls. The notice must designate the time, place, and purpose of the meeting.

(b) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as chairman. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the safety board and shall be posted in accordance with subsection (a). *As added by Acts 1981, P.L.316, SEC.1.*

**IC 36-8-3.5-9**

**Rules governing commission; transaction of business; selection of officers; records; budget**

Sec. 9. (a) Within thirty (30) days after the commission is selected, the commission shall adopt rules to govern the commission, including the time and place of regular monthly meetings and special meetings that are necessary to transact the business of the commission. A majority of the commissioners constitutes a quorum, and a majority vote of all the commissioners is necessary to transact the business of the commission. Each year the commissioners shall select from among their number a president, vice president, and secretary. The commission shall keep a permanent record of its proceedings.

(b) The commission shall submit a proposed annual budget to the unit as other budgets of the unit are submitted. The legislative body shall include in its budget an amount sufficient for the necessary expenses of the commission. *As added by Acts 1981, P.L.316, SEC.1.*

**IC 36-8-3.5-10**

**Rules; adoption; notice and hearing**

Sec. 10. (a) Within ninety (90) days after the commission is selected, the commission shall adopt rules governing:

1. the selection and appointment of persons to be employed as members of the department, subject to applicable pension statutes;
2. promotions and demotions of members of the department; and
3. disciplinary action or dismissal of members of the department.
(b) Before the rules required by this chapter are adopted by the commission, the commission must hold a public hearing to consider the adoption of the proposed rules. At least ten (10) days before the public hearing, the commission must have a notice of the hearing published in accordance with IC 5-3-1. The notice must state the time and place of the hearing and give briefly the subject matter of the proposed rules.

(c) At least ten (10) days before the hearing, one (1) copy of the proposed rules must be placed on file in the office of the:

(1) clerk of a county, city, or town; or
(2) executive of a township;

for inspection by residents of the unit.

(d) At least ten (10) days before the hearing, three (3) copies of the proposed rules must be forwarded to the chief of the department and retained on file in the chief's office for inspection at all times by members of the department.

(e) At the hearing, any interested person of the unit and any member of the department must be afforded an opportunity to present both oral and written evidence on any matter relating to the adoption of the proposed rules. The commission shall give due consideration to this evidence in making its final decision concerning the adoption of the proposed rules.


IC 36-8-3.5-11
Department members; tenure; chief; appointment and qualifications

Sec. 11. (a) The commission may appoint and remove members of the department, except for a member in an upper level policymaking position. The executive of the unit shall appoint and may remove a member in an upper level policymaking position.

(b) The chief of a fire department shall be selected from the members of the department, and he must have at least five (5) years service in the department before his appointment. These requirements may be waived by a majority vote of the unit's legislative body upon request of the unit's executive. However, the chief must still have at least five (5) years service in a full-time, paid fire department or agency.

(c) To be appointed chief or deputy chief of a police department, an applicant must meet the qualifications in IC 36-8-4-6.5.

(d) The removal of a member from an upper level policymaking position is removal from rank only and not from the department. When the member is removed, he shall be appointed by the commission to the rank in the department that he held at the time of his upper level appointment or to any rank to which he had been promoted during his tenure in the upper level position. If such a rank is not open in either case, the member is entitled to the pay of that rank and shall be promoted to that rank as soon as an opening is available.
IC 36-8-3.5-12
Department members; appointment; qualifications; application; general aptitude test; ratings; eligibility list; vacancies; physical agility test; probation

Sec. 12. (a) To be appointed to the department, an applicant must be:

(1) a citizen of the United States;
(2) a high school graduate or equivalent; and
(3) at least twenty-one (21) years of age, but under thirty-six (36) years of age.

However, the age requirements do not apply to a person who has been previously employed as a member of the department.

(b) A person may not be appointed, reappointed, or reinstated if he has a felony conviction on his record.

(c) Applications for appointment or reappointment to the department must be filed with the commission. The applicant must produce satisfactory proof of the date and place of his birth.

(d) Applicants for appointment or reappointment to the department must pass the general aptitude test required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5. The general aptitude test shall:

(1) reflect the essential functions of the job;
(2) be conducted according to procedures adopted by the commission; and
(3) be administered in a manner that reasonably accommodates the needs of applicants with a disability.

The results of the general aptitude test shall be filed with the commission. If the commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(e) The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading the applicants, including the establishment of a passing score. The commission shall place the names of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

(f) If an applicant for original appointment reaches his thirty-sixth birthday, his name shall be removed from the eligibility list. Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.

(g) When a vacancy occurs in the department, the commission, upon a written request of the chief of the department, shall administer the physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes the physical agility test, the applicant shall then be enrolled as a member of the department to fill the vacancy if:
(1) the applicant is still of good character; and
(2) the applicant passes the required examinations identified in IC 36-8-3.2-6 and IC 36-8-8-19.

(h) All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the commission shall notify him in writing that he is being reprimanded, that he is being suspended, or that he will not receive a permanent appointment. If a member is notified that he will not receive a permanent appointment, his employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.


IC 36-8-3.5-13
Promotions; rules; requisites; eligibility list
Sec. 13. (a) Rules governing promotions must provide that the following factors be considered in rating a member of the department for a promotion:

(1) The score received by the member on a written competitive examination.
(2) The score received by the member on an oral competitive interview.
(3) The performance record of the member in the department.
(4) The member's length of service.

The commission shall determine the weight to be given to each of the factors. However, neither a member's length of service nor the score received on the oral interview may comprise more than twenty percent (20%) each of the rating.

(b) Promotions to a rank must be from the next lower rank. In addition, the member being promoted must have served at the lower rank for a period determined by the commission.

(c) Only members who are qualified in rank and length of service may be given the competitive examinations and placed on an eligibility list. The eligibility list for a position consists of members who have been placed on the list in order of their cumulative score on all rating factors. The eligibility list shall be maintained for two (2) years from the date of certification, after which time the list shall be retired and a new list established. The retired list shall be kept for five (5) years and then destroyed.


IC 36-8-3.5-14
Promotions; competitive examinations; procedures
Revisor's Note: The version of IC 36-8-3.5-14 appearing in the 1993 Edition of the Indiana Code was printed incorrectly. Use the following version of IC 36-8-3.5-14.

Sec. 14. (a) Before a written competitive examination may be held
to fill a current or expected vacancy in the ranks, the members eligible to take the examination must be notified of the written materials from which the questions will be taken. The commission may employ instructors, purchase materials, and make other expenditures to provide information for applicants for promotion examinations.

(b) The identity of a member taking the written examination shall be withheld from the person or persons grading the examination, and all written examinations are confidential. The commission shall notify each member in writing of the score that the member received on the examination. The score received by a member on the written examination becomes a part of the permanent file of the member, and the member is entitled to access to this file for examination at any time.

(c) The examination papers shall be kept under the commission's supervision. A member who is aggrieved with the score received on the written examination may appeal to the commission for review of the score. The appeal must be filed within ten (10) days after notice of the score has been sent to him. He may review the questions incorrectly answered by him and challenge the answer considered correct by the examiner. The commission shall either affirm the score or correct the score according to the findings of a review. The examination papers shall be retired after the two (2) year period during which the eligibility list is valid. The retired papers shall be kept for five (5) years and then destroyed.


IC 36-8-3.5-15
Performance ratings; rules; appeal

Sec. 15. (a) The commission shall adopt rules for determining a performance rating. The rules must require that a performance rating be made at least once every six (6) months for each member of the department, including probationary members. The rating shall be made by one (1) or more of the member's superiors, as defined in the commission's rules. Probationary members shall be rated in the same manner as other members of the department. The ratings shall be submitted to the chief of the department and kept on file in his office under his supervision. The chief shall notify each member in writing of the rating that the member received.

(b) A member who is aggrieved with the performance rating given to him by his superior may appeal to the commission for a review of the rating. The appeal must be filed within ten (10) days after notice of the rating has been sent to him. The commission shall either affirm or correct the rating.


IC 36-8-3.5-16
Promotions; certification of eligible members; probation; procedures

Sec. 16. (a) When a vacancy in rank occurs, the commission shall
certify to the chief of the department the three (3) members with the highest scores on the eligibility list for that particular rank. Within six (6) months the commission, upon the recommendation of the chief, shall promote one (1) of those members to fill the vacant position.

(b) All promotions are probationary for a period not to exceed one (1) year. At the end of the period, a probationary member's superior shall review the member's performance and recommend to the commission that:

(1) the promotion be made permanent; or
(2) the promotion be revoked.

(c) The commission shall prepare a rating chart for the superior's use in making the report. The commission shall review the report and decide what action should be taken. The probationary member is entitled to appear before the commission and be heard on any matter detrimental to him in his superior's report. He is also entitled to be represented by counsel or another representative of his choice. If the promotion is finally revoked the member may not be returned to a rank lower than that he held before the probationary promotion.

(d) Actions by the commission other than making the promotion permanent may be appealed within thirty (30) days to the circuit or superior court of the county, with the unit being named as the sole defendant.


IC 36-8-3.5-17
Disciplinary actions; grounds; hearing; notice; requisites; procedures; appeal

Sec. 17. (a) The commission may take the following disciplinary actions against a regular member of the department:

(1) Suspension with or without pay.
(2) Demotion.
(3) Dismissal.

If a member is suspended under this subsection, the member is entitled to the member's remuneration and allowances for insurance benefits to which the member was entitled before the suspension. In addition, the local unit may provide the member's allowances for any other fringe benefits to which the member was entitled before the suspension. The commission shall determine if a member of the department who is suspended in excess of five (5) days shall continue to receive the member's salary during suspension.

(b) A member may be disciplined by the commission if:

(1) the member is convicted of a crime; or
(2) the commission finds the member guilty of a breach of discipline, including:
   (A) neglect of duty;
   (B) violation of commission rules;
   (C) neglect or disobedience of orders;
   (D) continuing incapacity;
   (E) absence without leave;
   (F) immoral conduct;
(G) conduct injurious to the public peace or welfare;
(H) conduct unbecoming a member; or
(I) furnishing information to an applicant for appointment or promotion that gives that person an advantage over another applicant.

(c) If the chief of the department, after an investigation within the department, prefers charges against a member of the department for an alleged breach of discipline under subsection (b), including any civilian complaint of an alleged breach of discipline under subsection (b)(2)(F), (b)(2)(G), or (b)(2)(H), a hearing shall be conducted upon the request of the member. If a hearing is requested within five (5) days of the chief preferring charges, the parties may by agreement designate a hearing officer who is qualified by education, training, or experience. If the parties do not agree within this five (5) day period, the commission may hold the hearing or designate a person or board to conduct the hearing, as provided in the commission's rules. The designated person or board must be qualified by education, training, or experience to conduct such a hearing and may not hold an upper level policy making position. The hearing conducted under this subsection shall be held within thirty (30) days after it is requested by the member.

(d) Written notice of the hearing shall be served upon the accused member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must state:
   (1) the time and place of the hearing;
   (2) the charges against the member;
   (3) the specific conduct that comprises the charges;
   (4) that the member is entitled to be represented by counsel or another representative of the member's choice;
   (5) that the member is entitled to call and cross-examine witnesses;
   (6) that the member is entitled to require the production of evidence; and
   (7) that the member is entitled to have subpoenas issued, served, and executed.

(e) The commission may:
   (1) compel the attendance of witnesses by issuing subpoenas;
   (2) examine witnesses under oath; and
   (3) order the production of books, papers, and other evidence by issuing subpoenas.

(f) If a witness refuses to appear at a hearing of the commission after having received written notice requiring the witness's attendance, or refuses to produce evidence that the commission requests by written notice, the commission may file an affidavit in the circuit court of the county setting forth the facts of the refusal. Upon the filing of the affidavit, a summons shall be issued from the circuit court and served by the sheriff of the county requiring the appearance of the witness or the production of information or evidence to the commission.
(g) Disobedience of a summons constitutes contempt of the circuit court from which the summons has been issued. Expenses related to the filing of an affidavit and the issuance and service of a summons shall be charged to the witness against whom the summons has been issued, unless the circuit court finds that the action of the witness was taken in good faith and with reasonable cause. In that case, and in any case in which an affidavit has been filed without the issuance of a summons, the expenses shall be charged to the commission.

(h) A decision to discipline a member may be made only if the preponderance of the evidence presented at the hearing indicates such a course of action.

(i) A member who is aggrieved by the decision of a person or board designated to conduct a disciplinary hearing under subsection (c) may appeal to the commission within ten (10) days of the decision. The commission shall on appeal review the record and either affirm, modify, or reverse the decision on the basis of the record and such oral or written testimony that the commission determines, including additional or newly discovered evidence.

(j) The commission, or the designated person or board, shall keep a record of the proceedings in cases of suspension, demotion, or dismissal. The commission shall give a free copy of the transcript to the member upon request if an appeal is filed.


IC 36-8-3.5-18
Appeal to court; suspension or dismissal; precedence
Sec. 18. (a) A member who is aggrieved by a decision of the commission to suspend him for a period greater than ten (10) calendar days, demote him, or dismiss him may appeal to the circuit or superior court of the county in which the unit is located.

(b) The appeal shall be made according to the Indiana rules of trial procedure with the following exceptions:
(1) The verified appeal must be filed within thirty (30) days after the date of the board's decision.
(2) The unit shall be named as the sole defendant.
(3) The unit is assumed to have denied the allegations without filing a responsive pleading.
(4) The plaintiff must file a bond at the time of filing the complaint conditioned on the plaintiff prosecuting the appeal to a final determination and paying the court costs incurred in the appeal.
(5) Within thirty (30) days after the service of summons the commission shall file in court a complete transcript of all papers, entries, and other parts of the record relating to the case.

(c) The appeal takes precedence over other litigation pending before the court.
Summary disciplinary actions; reprimand or suspension

Sec. 19. (a) In addition to the disciplinary powers of the commission, the chief of the department, may, without a hearing, reprimand or suspend without pay a member, including a police radio or signal alarm operator or a fire alarm operator, for a maximum of five (5) working days. For the purposes of this subsection, eight (8) hours of paid time constitutes one (1) working day.

(b) If a chief reprimands a member in writing or suspends a member, he shall, within forty-eight (48) hours, notify the commission in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this section may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the commission review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the commission may hold a hearing during this review. If the board holds a hearing, written notice must be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must contain the information listed under section 17(d) of this chapter. If the decision is reversed, the individual who was suspended is entitled to any wages withheld as a result of the suspension.


IC 36-8-3.5-19.3
Suspension or termination of EMS personnel; right to hearing and appeal

Sec. 19.3. (a) This section applies to a department that has at least one (1) certified employee, without regard to whether:

(1) the employee is an appointed police officer or firefighter; or
(2) the department has a merit system to which this chapter does not otherwise apply as provided under section 1 of this chapter.

(b) As used in this section, "certified employee" means an individual who, as a condition of employment, holds a valid certification issued under IC 16-31-3 by the Indiana emergency medical services commission established by IC 16-31-2-1.

(c) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(d) If a medical director takes any of the following actions against a certified employee, the medical director shall provide to the certified employee and to the chief of the certified employee's department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the certified employee.

(2) The medical director refuses or fails to attest to the competency of the certified employee to perform emergency
medical services.

(3) The medical director suspends the certified employee from performing emergency medical services.

(e) Before a department takes any employment related action as the result of a medical director's action described in subsection (d) against a certified employee, the certified employee is entitled to a hearing and appeal concerning the medical director's action as provided in sections 17 and 18 of this chapter.

(f) If the medical director's action that is the subject of an appeal under subsection (e) is based on a health care decision made by the certified employee in performing emergency medical services, the commission conducting the hearing shall consult with an independent medical expert to determine whether the certified employee followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

1) must be a physician trained in emergency medical services; and
2) may not be affiliated with the same hospital as the medical director.

As added by P.L.13-2010, SEC.4.

IC 36-8-3.5-20
Retirement age

Sec. 20. A member of the department shall retire from the department when the member reaches the member's seventieth birthday. However, a member of the department who is seventy (70) years of age or older at the time the ordinance or resolution establishing the merit system takes effect may serve until the end of the calendar year.


IC 36-8-3.5-21
Temporary leave of absence; seniority; reinstatement

Sec. 21. (a) If it is necessary for the safety board to reduce the number of members of the department, the reduction shall be made by granting a temporary leave of absence, without pay or financial obligation to the unit, to the appropriate number of members. The last member appointed shall be put on leave first, with other members also put on leave in reverse hiring order, until the desired level is achieved.

(b) If the department is increased in number again, the members of the department who have been granted leaves of absence under this section shall be reinstated before an applicant on the eligibility list is appointed to the department. The reinstatements begin with the last member granted a leave.

(c) A member on leave of absence shall keep the commission advised of his current address. A member shall be informed of his reinstatement by written notice. Within ten (10) calendar days after a member receives notice of reinstatement, he must advise the
commission that he accepts reinstatement and will be able to commence employment on the date specified in the notice. All reinstatement rights granted to a member terminate upon his failure to accept reinstatement within that period.

*As added by Acts 1981, P.L.316, SEC.1.*

**IC 36-8-3.5-22**  
Rules; printing; copies to department members; effective date

Sec. 22. The department shall print all rules of the commission and furnish a copy to each member of the department. Amendments to the rules take effect thirty (30) days after their adoption if copies have been furnished to all members of the department within that period. Otherwise, they do not take effect until copies are furnished to all members of the department.

*As added by Acts 1981, P.L.316, SEC.1.*

**IC 36-8-3.5-23**  
Offense; furnishing information to applicants

Sec. 23. A commissioner who knowingly furnishes information to an applicant for original appointment or to a member eligible for promotion that gives that person an advantage over another person commits a Level 6 felony.

IC 36-8-4
Chapter 4. Police and Fire Employment Policies in Cities

IC 36-8-4-1
Application of chapter
Sec. 1. This chapter applies to all cities.

IC 36-8-4-2
Residence requirements
Sec. 2. (a) Members of the police and fire departments must reside in Indiana within:
(1) the county in which the city is located; or
(2) a county that is contiguous to the county in which the city is located.
(b) In a consolidated city, a member who was residing outside the county on January 1, 1975, is exempt from subsection (a).
(c) A city with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the city's police or fire department to comply with the following:
(1) Reside within the county in which the city is located.
(2) Have adequate means of transportation into the city.
(3) Maintain in the member's residence telephone service with the city.
(d) This subsection applies to a city that:
(1) has a population of less than seven thousand five hundred (7,500); and
(2) adopted an ordinance to establish the requirements described in this subsection before September 1, 1984.
A city may require, in addition to the requirements of subsection (c), that a member of the police or fire department reside within the city until the member has served in the department for five (5) years.
(e) An ordinance adopted under subsection (c) or described in subsection (d)(2) may not require a member of a city's police or fire department to reside within the county in which the city is located if the member resides outside the county on the date the ordinance is adopted.

IC 36-8-4-3
Use of departmental vehicles
Sec. 3. Members of the police and fire departments may not use vehicles owned or maintained by their department outside the county in which the city is located except during the performance of official duties or as provided for by department regulation.
IC 36-8-4-4
Provision of uniforms and equipment; cash allowance

Revisor's Note: IC 36-8-4-4, as added by Acts 1981, P.L.309, SEC.53 (which was effective 9-1-1981 until 7-1-2009), was printed incorrectly in the 1993 Edition of the Indiana Code but was correctly printed in the 1994 Supplement to the Indiana Code and subsequent Supplements and Editions of the Indiana Code.

Sec. 4. (a) A city shall provide the active members of the police and fire departments with all uniforms, clothing, arms, and equipment necessary to perform their duties. Except as provided in section 4.5 of this chapter, after one (1) year of regular service in either department, a member may be required by the city to furnish and maintain all of the active member's uniforms, clothing, arms, and equipment upon payment to the member by the city of an annual cash allowance of at least two hundred dollars ($200). The city may credit the uniform allowance to each member against the active member's purchases during the calendar year and provide for the payment of any cash balance remaining at the end of the calendar year.

(b) All uniforms, clothing, arms, and equipment provided by the city under this section remain the property of the city. The city may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the city. Any property lost or destroyed through the carelessness or neglect of an active member shall be charged against the active member and the value deducted from the active member's pay.


IC 36-8-4-4.5
Body armor for active members of police departments

Sec. 4.5. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).

(b) A city shall provide an active member of the police department of the city with body armor for the torso. The city shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the police department of a city shall not be required to maintain the body armor for the torso furnished under this section from any annual cash allowance paid to the member under section 4(a) of this chapter.

(d) Body armor for the torso provided by a city under this section remains the property of the city. The city may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the city.


IC 36-8-4-5
Care of police officers and firefighters injured or contracting illnesses as a result of performance of duties

Sec. 5. (a) A city shall pay for the care of a police officer or
firefighter who suffers an injury while performing the person's duty or contracts illness caused by the performance of the person's duty, including an injury or illness that results in a disability or death presumed incurred in the line of duty under IC 5-10-13. This care includes:

(1) medical and surgical care;
(2) medicines and laboratory, curative, and palliative agents and means;
(3) X-ray, diagnostic, and therapeutic service, including during the recovery period; and
(4) hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) Expenditures required by subsection (a) shall be paid from the general fund of the city.

(c) A city that has paid for the care of a police officer or firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the police officer or firefighter has a cause of action for an injury sustained because of or an illness caused by the third party. The city's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the police officer or firefighter against the third party.


IC 36-8-4-6
Promotions
Sec. 6. (a) This section applies only to:
(1) police departments in second and third class cities having a population of ten thousand (10,000) or more; and
(2) fire departments in second and third class cities; that are not governed by a merit system prescribed by statute or ordinance.

(b) Promotion of police officers or firefighters must be from the active personnel of the department.

(c) A person appointed fire chief must have had at least five (5) years of continuous service with the department immediately before his appointment. However, this requirement may be waived by a majority vote of the city legislative body upon request of the city executive, although the person must still have at least five (5) years service with a full-time, paid fire department or agency.

(d) A person appointed to a rank other than police or fire chief or deputy police chief must have had at least two (2) years of continuous service with the department immediately before his appointment.


IC 36-8-4-6.5
Police chiefs or deputy police chiefs; requirements
Sec. 6.5. (a) This section applies to the appointment of a police
chief or deputy police chief in all cities.

(b) An applicant must meet the following requirements:

1. Have five (5) years of service as a police officer with a full-time, paid police department or agency.
2. Be a citizen of the United States.
3. Be a high school graduate or equivalent.
4. Be at least twenty-one (21) years of age.
5. Be free of mental illness.
6. Be physically fit.
7. Have successfully completed the minimum basic training requirements established by the law enforcement training board under IC 5-2-1, or have continuous service with the same department to which the applicant was appointed as a law enforcement officer before July 6, 1972.

(c) In addition to the requirements of subsection (b), an applicant for appointment as police chief or deputy police chief must have at least five (5) years of continuous service with the police department of that city immediately before the appointment. This requirement may be waived by the city executive.


IC 36-8-4-7
Age limitations; aptitude, physical agility, and physical examinations

Sec. 7. (a) A person may not be appointed as a member of the police department or fire department after the person has reached thirty-six (36) years of age. A person may be reappointed as a member of the department only if the person is a former member or a retired member not yet receiving retirement benefits of the 1925, 1937, 1953, or 1977 fund and can complete twenty (20) years of service before reaching sixty (60) years of age.

(b) This section does not apply to a fire chief appointed under a waiver under section 6(c) of this chapter or a police chief appointed under a waiver under section 6.5(c) of this chapter.

(c) A person must pass the aptitude, physical agility, and physical examination required by the local board of the fund and by IC 36-8-8-19 to be appointed or reappointed as a member of the department.

(d) A fire chief appointed under a waiver under section 6(c) of this chapter or police chief appointed under a waiver under section 6.5(c) of this chapter who is receiving, or is entitled to receive, benefits from the 1925, 1937, 1953, or 1977 fund may receive those benefits while serving as chief, subject to all normal requirements for receipt of a benefit, including a separation from service.

**Police officers; maximum work week; compensation for additional time**

Sec. 8. (a) A member of the police department may not be required, except in case of a public emergency as determined by the city executive, to work more than six (6) days of eight (8) hours each in one (1) week, or more than an average of forty-eight (48) hours per week in one (1) year.

(b) If a member of the police department is requested or required to appear in court or to perform another service, and the time served does not fall within the limits of his normal eight (8) hour shift, then the member may be compensated for the additional time at a rate to be fixed by ordinance.

(c) This section does not apply to the police chief, chief of detectives, superintendent of the department, or matron of the department.


**IC 36-8-4-9**

**Firefighters; hours of work**

Sec. 9. (a) A member of a regularly organized and paid fire department may not be required to work more than an average of fifty-six (56) hours per week. However, if on September 1, 1985, a fire department was using sixty-three (63) hours as the maximum average number of hours a member could work a week, the department may continue to use that figure as the standard. A member may not be on duty more than twenty-four (24) consecutive hours and must be off duty at least twenty-four (24) consecutive hours out of any forty-eight (48) hour period. Each member is entitled to an additional twenty-four (24) consecutive hours off duty in every eight (8) day period.

(b) Notwithstanding subsection (a), in case of emergency, or if the personnel of the fire department has been reduced below its regular strength because members are serving in the armed forces of the United States, the chief of the fire department, the assistant chief, or other officer in charge may assign a member of the fire department to continuous duty during the emergency.


**IC 36-8-4-10**

**Public safety officers; preference for employment**

Sec. 10. (a) Subject to subsection (c), the board or persons having the authority to employ members of the fire or police department shall give a preference for employment according to the following priority:

1. A war veteran who has been honorably discharged from the United States armed forces.
2. A person whose mother or father was a:
   (A) firefighter of a unit;
   (B) municipal police officer; or
(C) county police officer;
who died in the line of duty (as defined in IC 5-10-10-2).

(b) Subject to subsection (c), the board or person having the
authority to employ members of a fire or police department may give
a preference for employment to any of the following:

1) A police officer or firefighter laid off by another city under
section 11 of this chapter.

2) A county police officer laid off by a sheriff's department
under IC 36-8-10-11.1.

3) A person who:
   (A) was employed full-time or part-time by a township to
       provide fire protection and emergency services; and
   (B) has been laid off by the township.

(c) A person described in subsection (a) or (b) may not receive a
preference for employment unless the person:

1) applies; and

2) meets all employment requirements prescribed:
   (A) by law, including physical and age requirements; and
   (B) by the fire or police department.

SEC.1; P.L.110-2010, SEC.35.

IC 36-8-4-11
Layoffs; reinstatement

Sec. 11. (a) If it is necessary for the safety board to reduce the
number of members of the police or fire department by layoff for
financial reasons, the last member appointed must be the first to be
laid off, with other members also laid off in reverse hiring order, until
the desired level is achieved.

(b) If the department is increased in number again, the members
of the department who have been laid off under this section shall be
reinstated before any new member is appointed to the department.
The reinstatements begin with the last member laid off.

(c) A member who is laid off shall keep the appointing authority
advised of the member's current address. A member shall be informed
of the member's reinstatement by written notice sent by certified mail
to the member's last known address. Within twenty (20) calendar
days after notice of reinstatement is sent to a member, the member
must advise the hiring body that the member accepts reinstatement
and will be able to commence employment on the date specified in
the notice. All reinstatement rights granted to a member terminate
upon the member's failure to accept reinstatement within that twenty
(20) day period or five (5) years after the day on which a member's
layoff begins.

SEC.1; P.L.56-2010, SEC.1.

IC 36-8-4-12
Probationary appointments

Sec. 12. The safety board may provide that all appointments to the
police or fire department are probationary for a period not to exceed one (1) year. If the safety board finds, upon the recommendation of the chief of the department during the probationary period, that the conduct or capacity of a member is not satisfactory, the safety board shall notify the member in writing that he is being suspended or that he will not receive a permanent appointment. If a member is notified that he will not receive a permanent appointment, his employment immediately ceases. Otherwise, at the expiration of the probationary period, the member is considered regularly employed.

*As added by P.L.361-1983, SEC.2.*
IC 36-8-4.3
Chapter 4.3. Police and Fire Employment Policies in Special Service Districts

IC 36-8-4.3-1
Application of chapter
Sec. 1. This chapter applies to a police or fire special service district created by IC 36-3-1-6.

IC 36-8-4.3-2
Payment of line of duty health care expenses of police and firefighters
Sec. 2. (a) A special service district shall pay for the care of:
(1) a full-time, paid police officer who:
   (A) suffers an injury; or
   (B) contracts an illness;
   during the performance of the officer's duty; or
(2) a full-time, paid firefighter who:
   (A) suffers an injury; or
   (B) contracts an illness;
   during the performance of the firefighter's duty.
(b) The special service district shall pay for the following expenses incurred by a police officer or firefighter described in subsection (a):
   (1) Medical and surgical care.
   (2) Medicines and laboratory, curative, and palliative agents and means.
   (3) X-ray, diagnostic, and therapeutic service, including during the recovery period.
   (4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.
(c) Expenditures required by subsection (a) shall be paid from the general fund of the special service district.
(d) A special service district that has paid for the care of a police officer or firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the police officer or firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The special service district's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the police officer or firefighter against the third party.
IC 36-8-4.5
Chapter 4.5. Town Police and Fire Employment Policies

IC 36-8-4.5-1
Application
Sec. 1. This chapter applies to the following:
(1) A member of a town police department under IC 36-5-7 or IC 36-8-9.
(2) A member of a town fire department.

IC 36-8-4.5-2
Chapter inapplicable to volunteer fire department
Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.

IC 36-8-4.5-3
"Member of a town fire department"
Sec. 3. As used in this chapter, "member of a town fire department" does not include a volunteer firefighter under IC 36-8-12-2.

IC 36-8-4.5-4
Residency in county or contiguous county
Sec. 4. A member of a town police or fire department must reside in Indiana within:
(1) the county in which the town is located; or
(2) a county that is contiguous to the county in which the town is located.

IC 36-8-4.5-5
Town with population of less than 7,500; ordinance requiring residence within town or certain distance of town
Sec. 5. A town with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the town police or fire department to satisfy all of the following:
(1) Reside within:
   (A) the county in which the town is located; or
   (B) a distance from the town stated in the ordinance.
(2) Have adequate means of transportation into the town.
(3) Maintain in the member's residence telephone service with the town.

IC 36-8-4.5-6
Town with population of less than 7,500; ordinance requiring town residency for five years
Sec. 6. This section applies to a town that:
   (1) has a population of less than seven thousand five hundred
       (7,500); and
   (2) adopted an ordinance to establish the requirements described
       in this section before September 1, 1984.
A town may require, in addition to the requirements of section 5 of
this chapter, that a member of the police or fire department reside
within the town until the member has served in the department for
five (5) years.

IC 36-8-4.5-7
Town with population of less than 7,500; exemption for members
not in compliance on date ordinance adopted
Sec. 7. An ordinance adopted under section 5 or 6 of this chapter
may not require a member of a town police or fire department to
comply with section 5(1) of this chapter if the member resides:
   (1) outside the county; or
   (2) a distance outside the town greater than stated in the
       ordinance;
on the date the ordinance is adopted.

IC 36-8-4.5-8
Exemption for members of town police departments appointed
before July 1, 2008
Sec. 8. Notwithstanding any other law, a member appointed to a
town police department under IC 36-5-7 or IC 36-8-9 before July 1,
2008, may not be required to reside within:
   (1) the county in which the town is located; or
   (2) a county that is contiguous to the county in which the town
       is located;
if the member resided within a county that is noncontiguous to the
county in which the town is located on July 1, 2008.

IC 36-8-4.5-9
Use of department vehicles
Sec. 9. Members of the police and fire departments may not use
vehicles owned or maintained by their department outside the county
in which the town is located except:
   (1) during the performance of official duties; or
   (2) as provided for by department regulation.
IC 36-8-5
Chapter 5. Police and Fire Leaves of Absence

IC 36-8-5-1
Application of chapter
Sec. 1. (a) This chapter applies to the following:
(1) All municipalities.
(2) A county having a consolidated city that establishes a consolidated law enforcement department under IC 36-3-1-5.1.
(b) Section 2 of this chapter applies to any other political subdivision that employs full-time, fully paid firefighters.

IC 36-8-5-2
Leaves of absence; authorization; duration; renewal; compensation
Sec. 2. (a) The police chief or fire chief may be granted a leave of absence by the authority who appointed the police chief or fire chief. This appointing authority may also grant a leave of absence to any other full-time, fully paid police officer or firefighter.
(b) A leave of absence under subsection (a) shall be granted for service in the Indiana general assembly. A leave of absence under subsection (a) may also be granted for service in any other elected office or for one (1) of the following reasons:
(1) Sickness.
(2) Disability.
(3) Sabbatical purposes.
However, a leave of absence because of disability may not be granted to a member of the 1977 fund under this subsection unless a leave granted under subsection (g) has expired without disability benefits having been paid from the 1977 fund. In the case of such an expiration, a leave for purposes of disability may be granted under this subsection but only until the member's eligibility for disability benefits is finally determined.
(c) Before a leave of absence may be granted for sabbatical purposes, the member must submit a written request explaining and justifying the leave to the appointing authority. Sabbatical purposes must be related to the improvement of the member's professional performance and skills, such as education, special training, work related experience, and exchange programs.
(d) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for a period of not more than one (1) year, determined by the appointing authority, and may be renewed upon written request of the member.
(e) This subsection applies to leaves of absence granted for service in an elected office. A police officer or firefighter who serves in the general assembly shall be granted a leave for the time spent in this service, including the time spent for committee or legislative council meetings. Except as provided in IC 3-5-9, a police officer or firefighter who serves in any other elected office may be granted a
leave for the time spent in this service. Leave for service in an elected office does not diminish a police officer's or firefighter's rights under the police officer's or firefighter's retirement or pension fund, except as provided in section 10 of this chapter, or advancement on the police officer's or firefighter's department salary schedule. For these purposes, the police officer or firefighter is, despite the leave, considered to be a member of the department during that time.

(f) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive compensation in an amount determined by the appointing authority, up to a maximum amount that equals the member's salary before the leave began.

(g) This subsection applies only to members of the 1977 fund. The local board may grant a leave of absence for purposes of disability to full-time, fully paid police officers or firefighters (including the police chief or fire chief). The leave is subject to the following conditions:

1. The police chief or fire chief must make a written determination that there is no suitable and available work on the appropriate department for which the fund member is or may be capable of becoming qualified.
2. The leave must be approved by the local board after a hearing conducted under IC 36-8-8-12.7.
3. The leave may not begin until the police officer or firefighter has exhausted all paid leave for sickness.
4. The leave shall continue until disability benefits are paid from the 1977 fund. However, the leave may not continue for more than six (6) months.
5. During the leave, the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins.

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the Indiana public retirement system.

(i) This subsection applies to leaves of absence granted under subsection (a) or (b). An appointing authority shall establish a policy in writing that specifies whether a police officer or firefighter is entitled, during a leave of absence, to participate in any promotional process or earn seniority. A policy established under this subsection is subject to a department's existing disciplinary procedures. An appointing authority shall reinstate a police officer or firefighter returning from a leave at the merit or permanent rank determined under the policy established under this subsection. However, except as otherwise provided by federal law, an appointing authority is not required to reinstate a police officer or firefighter in the job that the police officer or firefighter held at the time the police officer's or firefighter's leave began.

Military service; temporary leave of absence
Sec. 3. (a) An active member of a regularly organized police or fire department who is:
   (1) taken into military service by induction, enlistment, or commission or assigned by the government for war work during a national emergency declared by the president of the United States or during armed hostilities in which the United States is engaged; and
   (2) temporarily absent from the department;
is considered to be a continuing member of the department on a temporary leave of absence. The records of the department must show the member in this status.
   (b) Subsection (a) does not apply to a member who enlists or reenlists when no emergency or war has been declared.

Military leaves; overtime to cover vacancies
Sec. 4. The safety board and the police and fire chiefs may require members of the police and fire departments to work overtime to cover the vacancies created by members on temporary leave of absence under section 3 of this chapter. For overtime work the police officers and firefighters shall be compensated at a rate of pay not exceeding the amount that would have been paid the regular members had they not left for military service or been assigned to government war work.

Military leaves; use of temporary employees to cover vacancies
Sec. 5. (a) If, in the judgment of the executive, overtime work by the regular police officers or firefighters under section 4 of this chapter does not meet the requirements for public safety in the municipality, the safety board and the police and fire chiefs may employ persons temporarily. However, if there is an established merit system, eligibility lists for appointment or promotion in effect must be used in the selection of personnel before other temporary or permanent appointments. These persons shall be employed as temporary employees and are not members or beneficiaries of any pension fund under this article. All temporary employees' service terminates at the expiration of the emergency.
   (b) Temporary employees and overtime work shall be paid out of the unexpended appropriations for salaries of those on temporary leave of absence under section 3 of this chapter.
IC 36-8-5-6
Military leaves; salary appropriations for absent employees

Sec. 6. A municipality shall make a sufficient appropriation in its salary personnel budget appropriations for the police and fire departments for all members on temporary leave of absence under section 3 of this chapter. The personnel budget may not be reduced so as to make it impossible to absorb members who have returned from temporary leave.


IC 36-8-5-7
Military leaves; pension considerations

Sec. 7. (a) The monthly assessments against the salary of a member of a 1925, 1937, 1953, or 1977 fund shall be waived while the member is on temporary leave of absence under section 3 of this chapter or on a leave of absence that qualifies for the protections afforded by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(b) A member of a 1925, 1937, 1953, or 1977 fund does not lose his benefits from the fund because he fails to pay assessments that are assessed against him while on temporary leave or on a leave of absence that qualifies for the protections afforded by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(c) Notwithstanding any provision of this chapter, a member of the 1925, 1937, 1953, or 1977 fund is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).


IC 36-8-5-8
Reinstatement after termination of military service

Sec. 8. (a) A police officer or firefighter desiring to return to service in the police or fire department shall report to the person responsible for regulating and employing members of the department. This action must be taken within sixty (60) days after honorable discharge from military service or government war work.

(b) Within fifteen (15) days after the police officer or firefighter reports to the department, the police officer or firefighter shall be placed on duty at the rank held at the time of entering military service or government war work.

(c) If a member of the police or fire department is refused a proper assignment under subsection (b), he may file an action in the circuit court of the county in the manner prescribed by IC 36-8-3-4.


IC 36-8-5-9
Evidence of member's death
Sec. 9. Death notices from the department of defense or other satisfactory proof of death are bona fide evidence of a member's death. This evidence constitutes full authority for the local board of a fund to carry out the law regarding deceased police officers and firefighters and their beneficiaries.


IC 36-8-5-10
Credit for time spent on leave

Sec. 10. (a) Except as provided in subsection (b) or (c), a member on leave under either section 2 or section 3 of this chapter is entitled to be credited with time spent in full-time employment for all purposes, including retirement and pension benefits.

(b) A member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted an unpaid leave of absence under the Family Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) shall be credited with time spent on leave for the purposes of benefit eligibility and vesting to the extent required by the Family Medical Leave Act. The member shall not receive credit for purposes of accruing additional benefits, except to the extent required by the Family Medical Leave Act.

(c) This subsection applies to a member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted a leave of absence for service in an elected office under section 2 of this chapter. In order to receive service credit in the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund for the period of the leave of absence, the member must pay to the applicable fund for or during the leave the assessment or contribution that the member would have paid during the period of the leave had the member not been on the leave during that time. The member's employer may pay all or a part of the assessment or contribution for the member.

IC 36-8-6
Chapter 6. 1925 Police Pension Fund

IC 36-8-6-0.1
Application of certain amendments to chapter
Sec. 0.1. The following amendments to this chapter apply as follows:
   (1) The addition of section 20 of this chapter by P.L.223-1986 applies only to fund members who die after March 10, 1986.
   (2) The amendments made to section 8 of this chapter by P.L.171-1990 apply to all benefits paid after March 15, 1990.
   (3) The amendments made to section 9.8 of this chapter by P.L.28-2008 apply only to benefits payable with respect to a member of the 1925 police pension fund who dies after June 30, 2008.
As added by P.L.220-2011, SEC.668.

IC 36-8-6-1
Application of chapter
Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, in second and third class cities, and in towns that have established a board of metropolitan police commissioners.
   (b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if he:
      (1) was hired before May 1, 1977;
      (2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981); and
      (3) is rehired after April 30, 1977, by the same employer.
   (c) A police officer is covered by this chapter and not by IC 36-8-8 if he:
      (1) was hired before May 1, 1977;
      (2) did not convert under IC 19-1-17.8-7 (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 fund.
   (d) A police matron is covered by this chapter and not by IC 5-10.3 or IC 36-8-8 if she:
      (1) was hired before May 1, 1977;
      (2) is a member of a police department in a second or third class city; and
      (3) is employed as a police matron on March 31, 1996.

IC 36-8-6-1.5
Qualification of 1925 fund under Internal Revenue Code; benefit limitations
Sec. 1.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The 1925 fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the 1925 fund. In order to meet those requirements, the 1925 fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The local board shall distribute the corpus and income of the 1925 fund to members and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the 1925 fund may be used or diverted to any purpose other than the exclusive benefit of the members and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under this chapter.

(4) If the 1925 fund is terminated, or if all contributions to the 1925 fund are completely discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the 1925 fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the 1925 fund is subject to the following provisions:

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

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

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

(6) The local board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of members or beneficiaries;

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

(7) Benefits paid under this chapter may not exceed the
maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

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

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


IC 36-8-6-1.7
"Americans with Disabilities Act"

Sec. 1.7. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

As added by P.L.4-1992, SEC.32.

IC 36-8-6-1.9
Administration of fund

Sec. 1.9. The 1925 fund shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

As added by P.L.4-1992, SEC.33.

IC 36-8-6-2
Creation of fund; management by board of trustees; selection and compensation of trustees

Sec. 2. (a) A police pension fund to be known as the 1925 fund is established in each municipality described in section 1(a) of this chapter.

(b) The 1925 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having at least seven (7) but not more than nine (9) trustees, as follows:

(1) The municipal executive, the municipal fiscal officer, and the police chief, who are ex officio voting members of the local board.

(2) One (1) retired member of the police department.

(3) At least three (3) but not more than five (5) active members
of the police department.
However, in cities where there are not sufficient members of the
police department to appoint a local board consisting of at least five
(5) trustees, the local board may be composed of three (3) trustees,
those being the executive, the fiscal officer, and the police chief.

(c) The trustees under subsections (b)(2) and (b)(3) shall be
elected at a meeting of the members of the police department at the
central police station on the second Monday in February of each year.
The trustees are elected for terms of three (3) years, succeeding those
trustees whose terms of office expire on that date. The trustees hold
their offices until their successors are elected and qualified.

(d) If a vacancy occurs on the local board among those trustees
elected by the police department, the police department shall, within
a reasonable time, hold a special meeting upon the call of the
municipal executive and elect a successor for the remainder of the
trustee's term.

(e) A majority of all the trustees constitutes a quorum for the
transaction of business.

(f) The trustees receive no pay for their services and shall be paid
only their necessary expenses. However, the trustees, the secretary,
and each member of the police department selected by the local board
shall be paid their necessary traveling expenses from the 1925 fund
when acting upon matters pertaining to the fund.

(g) The local board may make all necessary bylaws for:

(1) meetings of the trustees;
(2) the manner of their election, including the counting and
canvassing of the votes;
(3) the collection of all money and other property due or
belonging to the 1925 fund;
(4) all matters connected with the care, preservation, and
disbursement of the fund; and
(5) all other matters connected with the proper execution of this
chapter.


IC 36-8-6-3
Board of trustees; officers; duties

Sec. 3. (a) The municipal executive is president of the local board,
and the local board shall

(b) The president shall preside over all meetings of the local
board, call special meetings of the police department of the city, and
preside over the annual and called meetings of the department
concerning the 1925 fund.

(c) The treasurer:

(1) has custody of all money and securities due or belonging to
the 1925 fund and shall collect the principal and interest on
them;
(2) is liable on the treasurer's bond as an officer for the municipality for the faithful accounting of all money and securities belonging to the fund that come into the treasurer's hands;
(3) shall keep a separate account showing at all times the true condition of the fund; and
(4) shall, upon the expiration of the treasurer's term of office, account to the local board for all money and securities coming into the treasurer's hands, including the proceeds of them, and turn over to the treasurer's successor all money and securities belonging to the fund remaining in the treasurer's hands.

(d) The secretary shall:
(1) keep a true account of the proceedings of the local board and of the police department of the municipality when acting upon matters relating to the 1925 fund;
(2) keep a correct statement of the accounts of each member with the fund;
(3) collect and turn over to the treasurer of the local board all money belonging to the fund;
(4) give the local board a monthly account of the secretary's acts and services as secretary; and
(5) turn over to the secretary's successor all books and papers pertaining to the office.

(e) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the secretary's duties.

(f) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the municipal clerk. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

(g) Each member of the police department shall turn over to the secretary of the local board, within thirty (30) days after receiving it, all money and securities belonging to the 1925 fund that come into the secretary's hands.


IC 36-8-6-4
Derivation of funds; salary assessments
Sec. 4. (a) The 1925 fund is derived from the following sources:
(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest of any money, chose in action, personal property, or real property, or an interest in it. The local board shall take the property in the name of the local board and may hold, assign, transfer, or sell it.
(2) From money, fees, and awards that are paid or given to the police department of the municipality or to a member of the
department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1925 fund, an amount equal to six percent (6%) of the salary of a first class patrolman. However, the employer may pay all or a part of the assessment for the member.

(b) The secretary of the local board shall prepare a roll of each of the assessments and place opposite the name of every member of the police department the amount of the assessment against him. The treasurer of the local board shall retain out of the salary paid to the member each month the amount of the assessment, other than any amount paid on behalf of the member, and credit it to the 1925 fund. Except to the extent the assessment is paid on behalf of the member, every person becoming a member of the police department is liable for the payment of the assessments and is conclusively considered to agree to pay it and have it deducted from his salary as required in this section.


IC 36-8-6-5
Insufficient funds; payment of deficiency by municipality; tax levy

Sec. 5. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the municipality is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1925 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 4(a) of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) The local board may provide in its annual budget and pay all necessary expenses of operating the 1925 fund, including the payment of all costs of litigation and attorney fees arising in connection with the fund, as well as the payment of benefits and
pensions, including the payments described in section 5.5 of this chapter. Notwithstanding any other law, neither the municipal legislative body, the county board of tax adjustment, nor the department of local government finance may reduce an item of expenditure.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled;
(2) the name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive; and
(3) the name and age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of attaining the age at which dependents cease to be dependents, and the monthly and yearly amount of the payment to which the dependent is entitled.

(d) The total receipts shall be deducted from the total expenditures stated in the itemized estimate and the amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the municipality in the same manner as other expenses of the municipality are paid. A tax levy shall be made annually for this purpose, as provided in subsection (e). The estimates submitted shall be prepared and filed in the same manner and form and at the same time that estimates of other municipal offices and departments are prepared and filed.

(e) The municipal legislative body shall levy an annual tax in the amount and at the rate that are necessary to produce the revenue to pay that part of the police pensions that the municipality is obligated to pay. All money derived from the levy is for the exclusive use of the police pensions and benefits, including the payments described in section 5.5 of this chapter. The amounts in the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the municipality. The legislative body shall make a levy for them that will yield an amount equal to the estimated disbursements, less the amount of the estimated receipts. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the levy.


IC 36-8-6-5.5
Use of certain amounts in 1925 fund
Sec. 5.5. (a) This section applies to a balance in the 1925 fund that:

(1) accrued from property taxes;
(2) is not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1925 fund because of amendments to IC 5-10.3-11-4.7 in 2008; and
(3) is determined under subsection (c).

(b) A local board may authorize the use of money in the 1925 fund to pay any or all of the following:

(1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1925 fund.
(2) The municipality's employer contributions under IC 36-8-8-6.
(3) The contributions paid by the municipality for a member under IC 36-8-8-8(a).

(c) The maximum amount that may be used under subsection (b) is equal to the sum of:

(1) the unencumbered balance of the 1925 fund on December 31, 2008; plus
(2) the amount of property taxes:
   (A) imposed for an assessment date before January 16, 2008, for the benefit of the 1925 fund; and
   (B) deposited in the 1925 fund after December 31, 2008.

As added by P.L.182-2009(ss), SEC.428.

IC 36-8-6-6
Investment of funds

Sec. 6. (a) The local board shall determine how much of the 1925 fund may be safely invested and how much should be retained for the needs of the fund. The investment shall be made:

(1) in interest bearing bonds of the United States, the state, or an Indiana municipal corporation. The bonds shall be deposited with and must remain in the custody of the treasurer of the board, who shall collect the interest due as it becomes due; or
(2) under IC 5-13-9.

(b) Investments under this section are subject to section 1.5 of this chapter.


IC 36-8-6-7
Repealed

(Repealed by P.L.363-1983, SEC.4.)

IC 36-8-6-8
Disability retirement; benefits; procedure for determination of disability and reinstatement; period of disability credited

Sec. 8. (a) For a member who became disabled before July 1, 2000, the 1925 fund shall be used to pay a pension in a sum
determined by the local board, but not exceeding:

(1) for a disability or disease occurring before July 1, 1982, fifty percent (50%); and

(2) for a disability or disease occurring after June 30, 1982, fifty-five percent (55%);

of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability that renders the patrolman unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(b) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) 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
(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

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering
reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(c) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is not described in subsection (b)(1); and
(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(d) The member must have retired from active service after a physical examination by the police surgeon or another surgeon appointed by the local board. The disability must be determined solely by the local board after the examination and a hearing conducted under IC 36-8-8-12.7. A member shall be retained on active duty with full pay until the member is retired by the local board because of the disability.

(e) After a member has been retired upon pension, the local board may, at any time, require the retired member to again be examined by the police surgeon or another surgeon appointed by the local board. After the examination the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the retired member should remain on the pension roll. The retired member shall be retained on the pension roll until reinstated in the service of the police department, except in case of resignation. If after the examination and hearing the retired member is found to have recovered from the member's disability and to be again fit for active duty, then the member shall be put on active duty with full pay and from that time is no longer entitled to payments from the 1925 fund. If the member fails or refuses to return to active duty, the member waives all rights to further benefits from the 1925 fund.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below:

(1) the amount of the first full monthly pension received by that person; or
(2) fifty-five percent (55%) of the salary of a first class patrolman;
whichever is greater.

(g) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the member has a total of twenty (20) years of service.

(h) A fund member who is receiving disability benefits under subsection (a) or (c) shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(i) A fund member who is receiving disability benefits under subsection (b) is entitled to:

(1) receive a disability benefit for the remainder of the fund member's life; and

(2) have the amount of the disability benefit computed under section 9 of this chapter when the fund member becomes fifty-five (55) years of age.


IC 36-8-6-8.1
Determination whether disability in line of duty

Sec. 8.1. (a) If a local board determines that a fund member has a temporary or a permanent disability, the local board shall also make a recommendation to the board of trustees of the Indiana public retirement system (referred to in this section as "the system board") concerning whether the disability is:

(1) a disability in the line of duty (as described in section 8(b)(1) of this chapter); or

(2) a disability not in the line of duty (a disability other than a disability described in section 8(b)(1) of this chapter).

The local board shall forward its recommendation to the system board.

(b) The system board shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The system board shall notify the local board, the safety board, and the fund member of its initial determination.

(c) The fund member, the safety board, or the local board may object in writing to the system board's initial determination under subsection (b) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

IC 36-8-6-9
Retirement benefits
Sec. 9. (a) Benefits paid under this section are subject to section 1.5 of this chapter.
(b) The 1925 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:
   (1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service; or
   (2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;
of the retired member over twenty (20) years. However, the pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.
(c) If a member voluntarily retires after twenty (20) or more years of service, the member is entitled to retirement and the pension, without reference to his physical condition at the time of application. However, he then relinquishes all rights to other benefits or pensions for temporary disability. After retirement the member is not required to render further services on the police department, is no longer subject to the rules of the department, and may not be deprived of other benefits under this chapter that may accrue to him or his dependents.
(d) To be retired based upon length of service, only the time served by the member on the regularly constituted police department may be computed. Time served by a member as a special police officer, a merchant police officer, or a private police officer may not be considered in computing length of service.

IC 36-8-6-9.5
Reemployment after retirement
Sec. 9.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:
   (1) be rehired by the same municipality that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and
   (2) continue to receive the member's pension benefit under this chapter.
(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.
IC 36-8-6-9.6
Members dying other than in line of duty; monthly benefit

Sec. 9.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 10.1 of this chapter).

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to the following:

(1) To the surviving spouse of a member who died before January 1, 1989, an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(2) Except as otherwise provided in this subdivision, to the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the amount under clause (B), the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided in this subdivision is subject to adjustment as provided in subsection (e).

(c) Except as otherwise provided in this subsection, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (b) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. This maximum benefit
is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) Except as otherwise provided in this subsection, if a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

As added by P.L.118-2000, SEC.6.

IC 36-8-6-9.7
Members dying in line of duty before September 1, 1982; monthly benefit for surviving spouse, children, or parents

Sec. 9.7. (a) This section applies to a member who died in the line of duty (as defined in section 10.1 of this chapter) before September 1, 1982.

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) Except as otherwise provided in this subsection, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:
(1) until the child becomes eighteen (18) years of age;
(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
(3) during the entire period of the child's physical or mental disability;
whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (b) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. This maximum benefit is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:
(1) until the child becomes eighteen (18) years of age;
(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
(3) during the entire period of the child's physical or mental disability;
whichever period is longest. If health insurance coverage is offered
by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).


IC 36-8-6-9.8
Funeral benefits
Sec. 9.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.
(b) The 1925 fund shall be used to pay funeral benefits to the heirs or estate of an active or a retired member of the police department who has died from any cause, in an amount fixed by ordinance, but at least twelve thousand dollars ($12,000).


IC 36-8-6-9.9
Repealed
(Repealed by P.L.200-1984, SEC.7.)

IC 36-8-6-10
Repealed
(Repealed by P.L.50-1984, SEC.9.)

IC 36-8-6-10.1
Members dying in line of duty after August 31, 1982; monthly benefit for surviving spouse, children, or parents
Sec. 10.1. (a) This section applies to a member who dies in the line of duty after August 31, 1982.
(b) The surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but no less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the surviving spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.
(c) A payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:
   (1) until the child becomes eighteen (18) years of age;
   (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school
or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental
disability;

whichever period is longer.

(d) The surviving children of the deceased member who are
eligible to receive a benefit under subsection (c) may receive an
additional benefit in an amount fixed by ordinance, but the total
additional benefit under this subsection to all the member's children
may not exceed a total of thirty percent (30%) of the monthly wage
received by a first class patrolman. However, this limitation does not
apply to the children of a member who have a physical or mental
disability.

(e) If a deceased member leaves no surviving spouse and no child
who qualifies for benefits under subsection (c) but does leave a
dependent parent or parents, an amount equal to twenty percent
(20%) of the monthly pay of a first class patrolman per month from
the time of the member's death shall be paid to the dependent parent
or parents during their dependency. When both parents survive, the
total amount is still twenty percent (20%), to be paid to them jointly.
In all cases of payment to a dependent relative of a deceased member,
the board is the final judge of the question of necessity and
dependency and of the amount to be paid. The board may also reduce
or terminate temporarily or permanently a payment to a dependent
relative of a deceased member when it determines that the condition
of the fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased,
the pension payable under this section shall be proportionately
increased or decreased. However, the monthly pension payable to a
member or survivor may not be reduced below the amount of the first
full monthly pension received by that person.

(g) For purposes of this section, "dies in the line of duty" means
death that occurs as a direct result of personal injury or illness caused
by incident, accident, or violence that results from any action that the
member in the member's capacity as a police officer:

(1) is obligated or authorized by rule, regulation, condition of
employment or service, or law to perform; or

(2) performs in the course of controlling or reducing crime or
enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under
IC 5-10-13.

(h) The unit of local government that employed the deceased
member shall after December 31, 2003, offer to provide and pay for
health insurance coverage for the member's surviving spouse and for
each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the
child is enrolled in and regularly attending a secondary school
or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental
disability;
whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).


IC 36-8-6-11
Members dismissed after 20 years' service; benefits

Sec. 11. The 1925 fund shall be used to pay an amount, equal to the pensions provided by this chapter in the case of voluntary retirement after twenty (20) years' service, to a member of the police department who is dismissed for any reason after having been in actual service for twenty (20) years, including two percent (2%) additional for each full year of service in excess of twenty (20) years' service. However, a pension under this section may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.


IC 36-8-6-12
Reduction of benefits after first payment

Sec. 12. The monthly pension payable to a member or survivor under this chapter may not be reduced below the amount of the first full monthly pension received by that person.


IC 36-8-6-13
Disability retirees; orders, discipline, and duties; examination by police surgeon; transcripts, reports, records, and other material

Sec. 13. (a) A member of the police department placed on the retired list, except those that have served on the department for twenty (20) years or more and have been retired for that reason, shall report for duty to the chief of police as is provided in the bylaws of the local board. A member is then subject to the orders and discipline of the chief and shall perform the duties that are required of him and for which, in the opinion of the police surgeon, he is fit, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. He shall be paid full salary for these duties.

(b) If a retired member refuses to obey orders or breaches discipline, the chief shall report the member at once to the safety board for action that is considered proper for the good of the service. A member is subject to punishment and dismissal in the same manner
as officers in active service. The pension to which the retired member is entitled ceases upon his expulsion, and the pension is subject to the action considered proper by the safety board.

(c) The police surgeon of the municipality shall examine members of the police department when:
   (1) the local board requests it;
   (2) a member requests it for the purpose of certifying his physical or mental condition to the local board; or
   (3) he considers it proper.

The surgeon shall then certify to the local board the true physical or mental condition of the person.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:
   (1) kept in separate medical files for each member; and
   (2) treated as confidential medical records.


IC 36-8-6-14
Priority of claims on insufficient funds; procedure for making pension payments; exemption of payments from judicial process

Sec. 14. (a) If there is not sufficient money to the credit of the 1925 fund to pay all claims against it in full, claims arising from the death of members of the department shall be paid in full first with as little delay as possible, after which an equal percentage shall be paid upon all other claims to the full extent of the money on hand, until the fund is replenished.

(b) All pensions shall be paid by the treasurer of the local board at his office at the same time and in the same installments as the members of the police department are paid.

(c) All pensions payable out of the 1925 fund are exempt from seizure or levy upon attachment, execution, supplemental process, and all other process, whether mesne or final. Except as provided in section 21 of this chapter, pensions are not subject to sale, assignment, or transfer by a beneficiary.


IC 36-8-6-15
Eligibility of employees for pension plan; age; medical examination

Sec. 15. A pension may not be paid to an employee of the police department who at the time of his appointment was thirty-six (36) years of age or older, or who failed at that time to pass the medical examination required by the board. However, such a person is exempt from paying or contributing to the 1925 fund.


IC 36-8-6-16
Eligibility of persons employed when fund established
Sec. 16. (a) Notwithstanding section 15 of this chapter, all employees of the police department at the time a municipality established a 1925 fund, regardless of their age at the time they became members of the department, became members of the 1925 fund and are entitled to all the benefits of it. They shall pay the assessments prescribed by and are subject to this chapter.

(b) A member of the police department who:
(1) was in active service on March 9, 1935;
(2) was a member of the 1925 fund;
(3) passed the physical examination required by the local board;
(4) had previous service in the police department; and
(5) was thirty-six (36) years of age or older at the time of his reinstatement or reappointment;

is entitled to all of the benefits of the 1925 fund, with all of the years of active service with the police department counted in determining his eligibility for retirement.


IC 36-8-6-17
Discontinuance or reduction of benefits; failure to comply with requirements of local board; failure to report

Sec. 17. If a person who has received a benefit from the 1925 fund fails to report for duty or for examination, or otherwise fails to comply with legal requirements imposed by the local board, the local board may, after notice to the person, discontinue or reduce future payments.


IC 36-8-6-18
Pension funds governed by other laws

Sec. 18. If a second or third class city maintains a police pension fund that pays a smaller amount to the beneficiary under prior statutes governing the pension fund, this chapter does not increase those amounts.


IC 36-8-6-19
Items excluded when computing benefits; liability for overpayment

Sec. 19. (a) Remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off may not be used in the computation of benefits under this chapter.

(b) If the remuneration or allowances described in subsection (a) were used to compute benefits for a recipient who began receiving benefits before May 2, 1977, this computation may continue only for that recipient and only during the eligibility period for benefits. The municipality and the official involved are not liable for making the overpayment, and a recipient is not required to repay the overpayment.
IC 36-8-6-20
Special lump sum death benefit in addition to other benefits

Sec. 20. (a) As used in this section, "dies in the line of duty" has the meaning set forth in section 10.1 of this chapter.

(b) A special death benefit of seventy-five thousand dollars ($75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars ($150,000) for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the Indiana public retirement system from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty:

(1) To the surviving spouse.
(2) If there is no surviving spouse, to the surviving children (to be shared equally).
(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(c) The benefit provided by this section is in addition to any other benefits provided under this chapter.


IC 36-8-6-21
Rollover to eligible retirement plan

Sec. 21. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the 1925 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

As added by P.L.10-1993, SEC.15.
IC 36-8-7
Chapter 7. 1937 Firefighters' Pension Fund

IC 36-8-7-0.1
Application of certain amendments to chapter
Sec. 0.1. The following amendments to this chapter apply as follows:
   (1) The addition of section 26 of this chapter by P.L.223-1986 applies only to fund members who die after March 10, 1986.
   (2) The addition of section 12.1 of this chapter by P.L.171-1990 applies to all benefits paid after March 15, 1990.
   (3) The amendments made to section 13 of this chapter by P.L.28-2008 apply only to benefits payable with respect to a member of the 1937 firefighters' pension fund who dies after June 30, 2008.
As added by P.L.220-2011, SEC.669.

IC 36-8-7-1
Application of chapter
Sec. 1. (a) This chapter applies to pension benefits for members of fire departments hired before May 1, 1977, in units for which a 1937 fund was established before May 1, 1977.
   (b) A firefighter with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if the firefighter:
      (1) was hired before May 1, 1977;
      (2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981); and
      (3) is rehired after April 30, 1977, by the same employer.
   (c) A firefighter is covered by this chapter and not by IC 36-8-8 if the firefighter:
      (1) was hired before May 1, 1977;
      (2) did not convert under IC 19-1-36.5-7 (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 1937 fund.
   (d) A firefighter who:
      (1) is covered by this chapter before a consolidation under IC 36-3-1-6.1; and
      (2) becomes a member of a fire department of a consolidated city under IC 36-3-1-6.1;
      is covered by this chapter after the effective date of the consolidation, and the firefighter's service as a member of a fire department of a consolidated city is considered active service under this chapter.

IC 36-8-7-2
"Fire company" defined
Sec. 2. As used in this chapter, "fire company" means each organization or group doing duty as part of the fire department, including engine companies, hose companies, those in the telephone or telegraph service, inspectors, mechanics, watchmen, and others in charge of apparatus for extinguishing fires.


IC 36-8-7-2.5
Qualification of 1937 fund under Internal Revenue Code; benefit limitations

Sec. 2.5. (a) As used in this chapter, "Internal Revenue Code":
(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or
(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The 1937 fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the 1937 fund. In order to meet those requirements, the 1937 fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The local board shall distribute the corpus and income of the 1937 fund to members and their beneficiaries in accordance with this chapter.
(2) No part of the corpus or income of the 1937 fund may be used or diverted to any purpose other than the exclusive benefit of the members and their beneficiaries.
(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under this chapter.
(4) If the 1937 fund is terminated, or if all contributions to the 1937 fund are completely discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.
(5) All benefits paid from the 1937 fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the 1937 fund is subject to the following provisions:

(A) The life expectancy of a member, the member's spouse, or the member's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.
(B) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.
(C) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue
(6) The local board may not:
   (A) determine eligibility for benefits;
   (B) compute rates of contribution; or
   (C) compute benefits of members or beneficiaries;
   in a manner that discriminates in favor of members who are
   considered officers, supervisors, or highly compensated, as
   prohibited under Section 401(a)(4) of the Internal Revenue
   Code.

(7) Benefits paid under this chapter may not exceed the
maximum benefit specified by Section 415 of the Internal
Revenue Code.

(8) The salary taken into account under this chapter may not
exceed the applicable amount under Section 401(a)(17) of the
Internal Revenue Code.

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

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

As added by P.L.55-1989, SEC.52. Amended by P.L.4-1990, SEC.16;
P.L.42-2011, SEC.82.

IC 36-8-7-2.7
"Americans with Disabilities Act"

Sec. 2.7. As used in this chapter, "Americans with Disabilities
Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101
et seq.) and any amendments and regulations related to the Act.
As added by P.L.4-1992, SEC.36.

IC 36-8-7-2.9
Administration of fund

Sec. 2.9. The 1937 fund shall be administered in a manner that is
consistent with the Americans with Disabilities Act, to the extent
required by the Act.
As added by P.L.4-1992, SEC.37.

IC 36-8-7-3
Creation of fund; management by board of trustees; powers and
duties

Sec. 3. (a) A firefighters' pension fund to be known as the 1937
fund is established in each unit described by section 1(a) of this chapter.

(b) The 1937 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) composed of seven (7) trustees. Two (2) trustees are the executive of the unit and the fire chief, who are ex officio voting trustees. The other trustees are one (1) retired member of the fire department and four (4) active members of the fire department elected for the terms and in the manner provided in this chapter.

(c) The local board has control of the 1937 fund of the unit. The local board shall manage, use, and disburse the fund for the purpose and in the manner prescribed by this chapter. The local board may adopt and enforce bylaws that do not conflict with this chapter and are considered necessary to enable it to achieve the purposes for which it was organized. Each trustee shall, before entering upon the duties of his office, take an oath to faithfully perform his duties. 


IC 36-8-7-4
Fire departments with fewer than five members; trustees; elections

Sec. 4. (a) If a unit has less than five (5) members in its fire department, the unit may provide for the organization of a local board consisting of the fire chief, the executive of the unit, and one (1) member of the fire department.

(b) The trustee from the fire department shall be elected under this section.

(c) The local board may amend the bylaws of the fund to elect the trustee from the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(d) This subsection applies only if the local board does not elect to be governed by subsection (c). The trustee from the fire department shall be elected at a meeting held on the second Monday in February each year. The meeting shall be called by the fire chief and held at the house or quarters of the fire department.

(e) The term of the elected trustee is one (1) year beginning immediately after the trustee's election.

(f) Each member of the department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The executive of the unit, the fire chief, and the city or county clerk shall canvass and count the ballots, and the clerk shall issue a certificate of election to the person having received the highest number of votes. If two (2) persons have received the same number of votes, the executive and the chief shall immediately determine by lot who will be the trustee from the persons receiving an equal number of votes.

(g) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.
IC 36-8-7-5
Trustees; election of active members

Sec. 5. (a) An election shall be held each year under this section to elect one (1) trustee from the active members of the fire department for a term of four (4) years, commencing on the day of his election. The fire chief shall fix a time for holding a convention to nominate candidates for trustees to be elected at each election. Each convention must be held at least five (5) days before the day on which the annual election is held. A convention consists of one (1) delegate from each fire company and one (1) delegate to be selected by the chief and the chief's assistants. The delegate from each fire company shall be elected by ballot by the members of the company at a time to be fixed by the chief in the call for a convention. The election of delegates shall be certified by the captain or other officer of the company, or, if there is not an officer present, then by the oldest member of the company present. The convention, when assembled, shall nominate six (6) members of the fire department to be voted upon as trustees, and the delegates shall report the names of the persons nominated as candidates to their respective companies in writing.

(b) The local board may amend the bylaws of the fund to elect the trustee from the active members of the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the respective companies of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(c) This subsection applies only if the local board does not elect to be governed by subsection (b). The election shall be held at the houses or quarters of the respective companies on the second Monday in February between 9 a.m. and 6 p.m.

(d) Each member of a fire company is entitled to one (1) ballot, and the ballot may not contain the names of more than one (1) person, chosen from the six (6) persons nominated by the convention. The candidate receiving the highest number of votes is elected.

(e) The captain or other officer in command of each of the fire companies, immediately after the casting of all ballots, shall canvass and count the ballots. The captain or other officer shall certify in writing the total number of ballots cast and the number of votes received by each candidate for the office of trustee. After signing the certificate, the officer shall enclose it, together with all the ballots cast by the fire company, in an envelope, securely sealed and addressed, and deliver them to the fire chief. The fire chief shall deliver them to the executive of the unit as soon as the chief receives all the certificates and ballots. Upon receipt the executive shall, in the presence of the chief and the clerk of the unit, open the envelopes, examine the certificates, and determine the total number of votes cast.
for each of the candidates. The executive shall then issue a certificate of election to the candidate having received the highest number of votes. If two (2) or more candidates have received the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes. An election may not be set aside for lack of formality in balloting by the members or in certifying or transmitting the returns of an election by the officers in charge.

(f) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.


IC 36-8-7-6

Trustees; election of retired members

Sec. 6. (a) An election shall be held under this section every two (2) years to elect one (1) trustee from the retired members of the fire department for a term of two (2) years, commencing on the day of the trustee's election, if the retired list contains at least three (3) retired members at the time of election. The fire chief shall fix a time for holding a convention to nominate candidates for trustee to be elected at each election. Each convention must be held at least fifteen (15) days before the day on which the biennial election is held. All retired members of the fire department may participate in the convention. The convention, when assembled, shall nominate not more than four (4) members of the retired list to be voted upon as trustee. The secretary of the board shall mail the names of the persons nominated along with an official ballot to the retired members within forty-eight (48) hours of the end of the convention.

(b) The election shall be conducted by mail. Each retired member is entitled to cast one (1) ballot by mail and the ballot may not contain more than one (1) name, chosen from the list of retired persons nominated by the convention. The candidate receiving the highest number of votes by 6 p.m. on the second Monday in February or an alternative date in February specified in the bylaws of the fund is elected.

(c) The ballots must remain closed and inviolate until the close of the election, at which time, in the presence of the executive of the unit, the fire chief, and the clerk of the unit, the ballots shall be opened and counted. A certificate of election shall be issued to the candidate receiving the highest number of votes. If two (2) or more candidates receive the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes.

(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.


IC 36-8-7-6.5
Securing ballots; tampering with ballots
Sec. 6.5. (a) All ballots voted under this chapter shall be secured until the balloting is closed.
(b) Tampering with a ballot for an election under this chapter is a Class A infraction.
(c) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.


IC 36-8-7-7
Trustees; officers; local board secretary bond; rules; application for relief or pensions
Sec. 7. (a) The fire chief is the president of the local board.
(b) At the first meeting after each election, the local board shall elect a secretary, who may be chosen from among the trustees. However, the local board may consider it proper to have a secretary who is a member of the fire department, to be elected by the companies for a term of four (4) years in the same manner as the election for trustees. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose. The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the secretary's duties.
(c) The local board shall make all rules necessary for the discharge of its duties and shall hear and determine all applications for relief or pensions under this chapter.
(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.


IC 36-8-7-8
Derivation of money in fund
Sec. 8. The 1937 fund is derived from the following sources:
(1) From all money and other property that is given to the local board or 1937 fund for the uses and purposes for which the fund is created. The local board may take by gift, grant, devise, or bequest any money, personal property, real estate, or an interest in it. The gift, grant, devise, or bequest may be absolute or in fee simple or upon the condition that only the rents, income, or profits arising from it may be applied to the purposes for which the fund is established.
(2) All money, fees, rewards, or emoluments that are paid, given, devised, or bequeathed to the fire department or one (1) of the fire companies.
(3) All money accruing as interest on the securities or investments that are owned by and held in the name of the local board.
(4) All money received by the local board from the sale or by the maturity of securities or investments owned by the local
board.

(5) An assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member equal to six percent (6%) of the salary of a fully paid first class firefighter. However, the employer may pay all or a part of the assessment for the member. The secretary of the fire department, or the person whose duty it is to make out the payrolls, shall place on the payroll opposite the name of every member the amount of assessment on his salary. The unit's fiscal officer shall deduct monthly from the salary of every member the sum listed opposite his name, other than any amount paid on behalf of the member, and shall credit that amount to the 1937 fund. Except to the extent the assessment is paid on behalf of the member, every person who becomes a member of the fire department is liable for the assessment and is conclusively considered to agree to pay it by having it deducted from his salary as required in this section.

(6) Appropriations that are made for the fund by the unit's fiscal body.


IC 36-8-7-9
Use of funds

Sec. 9. The 1937 fund and the appropriations made for the fund shall be used exclusively for the following:

(1) Payments to retired members and the dependents of deceased members.
(2) Death benefits.
(3) Other incidental expenses that are authorized by and are essential to the proper administration of this chapter, including the payment of all costs of litigation (including attorney's fees) arising in connection with the 1937 fund.
(4) Payments described in section 9.5 of this chapter.


IC 36-8-7-9.5
Use of certain amounts in 1937 fund

Sec. 9.5. (a) This section applies to a balance in a 1937 fund that:

(1) accrued from property taxes;
(2) is not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1937 fund because of amendments to IC 5-10.3-11-4.7 in 2008; and
(3) is determined under subsection (c).

(b) A local board may authorize the use of money in the 1937 fund to pay any or all of the following:

(1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1937 fund.
(2) The unit's employer contributions under IC 36-8-8-6.

(3) The contributions paid by the unit for a member under IC 36-8-8-8(a).

(c) The maximum amount that may be used under subsection (b) is equal to the sum of the following:
   (1) the unencumbered balance of the 1937 fund on December 31, 2008; plus
   (2) the amount of property taxes:
      (A) imposed for an assessment date before January 16, 2008, for the benefit of the 1937 fund; and
      (B) deposited in the 1937 fund after December 31, 2008.

As added by P.L.182-2009(ss), SEC.430.

IC 36-8-7-10

Investment of funds

Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that the fiscal officer will faithfully discharge the duties of the fiscal officer's office and faithfully account for and pay over to the persons authorized to receive it all money that comes into the fiscal officer's hands by virtue of the fiscal officer's office. The bond and sureties must be approved by the local board.
and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.


IC 36-8-7-11
Members retiring due to disability or inability to perform essential functions of job; monthly benefit

Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) If a member of the fire department becomes seventy (70) years of age or is found upon examination by a medical officer to have a physical or mental disability and to be unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, so as to make necessary the person's retirement from all service with the department, the local board shall retire the person.

(c) The local board may retire a person for disability only after a hearing conducted under IC 36-8-8-12.7.

(d) If after the hearing the local board determines that a person who became disabled before July 1, 2000, is disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(e) If, after the hearing under this section and a recommendation under section 12.5 of this chapter, the board of trustees of the Indiana public retirement system determines that a person who becomes disabled after June 30, 2000:

(1) has a disability 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 responding to an emergency or reported emergency for which the fund member is trained; 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
(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;
the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(f) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the board of trustees of the Indiana public retirement system determines that a person who becomes disabled after June 30, 2000:
(1) has a disability that is not a disability described in subsection (e)(1); and
(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;
the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.
IC 36-8-7-12
Repealed
(Repealed by P.L.196-1988, SEC.5.)

IC 36-8-7-12.1
Members retiring with 20 years service
Sec. 12.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) A member who has been in service twenty (20) years, upon making a written application to the fire chief, may be retired from all service with the department without a medical examination or disability. Except as provided in subsection (f), the local board shall authorize the payment to the retired member of fifty percent (50%) of the salary of a fully paid first class firefighter of the unit at the time of the payment of the pension, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each year of service; or
(2) for a member who retires after December 31, 1985, one percent (1%) of that salary for each six (6) months of service; over twenty (20) years. However, the pension in one (1) year may not exceed an amount greater than seventy-four percent (74%) of the salary of a fully paid first class firefighter.

(c) A member who is discharged from the fire department after having served at least twenty (20) years is entitled to receive the amount equal to the amount that the member would have received if the member retired voluntarily.

(d) All pensions in a class are on an equal basis. The local board may not depart from this chapter in authorizing the payment of pensions.

(e) The monthly pension payable to a member may not be reduced below the amount of the first full monthly pension received by that person.

(f) The monthly pension payable to a member who is transferred from disability to regular retirement status may not be reduced below fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(g) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(h) A fund member who is receiving disability benefits under section 11(d) or 11(f) of this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(i) A fund member who is receiving disability benefits under
section 11(e) of this chapter is entitled to:
   (1) receive a disability benefit for the remainder of the fund member's life; and
   (2) have the amount of the disability benefit computed under section 11(e) of this chapter when the fund member becomes fifty-five (55) years of age.


IC 36-8-7-12.2
Members dying other than in line of duty
Sec. 12.2. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 12.4 of this chapter).
   (b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:
      (1) a surviving spouse;
      (2) a child or children less than eighteen (18) years of age;
      (3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or
      (4) a child or children less than twenty-three (23) years of age who are:
         (A) enrolled in and regularly attending a secondary school; or
         (B) full-time students at an accredited college or university;
      the local board shall authorize the payment to the surviving spouse and to the child or children the amount from the fund as prescribed by this section. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.
   (c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.
   (d) If a member dies while in active service or after retirement:
      (1) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than:
         (A) for the surviving spouse of a member who dies before
January 1, 1989, thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(B) for the surviving spouse of a member who dies after December 31, 1988, except as otherwise provided in this clause, an amount per month, during the spouse's life, equal to the greater of thirty percent (30%) of the monthly pay of a first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death (these amounts shall be proportionately increased or decreased if the salary of a first class firefighter is increased or decreased); however, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the second amount under this item, the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class firefighter in the unit at the time of payment of the pension;

(2) the member's children who are:

(A) less than eighteen (18) years of age; or

(B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university; are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(e) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

As added by P.L.118-2000, SEC.12.

IC 36-8-7-12.3
Members dying in line of duty before September 1, 1982

Sec. 12.3. (a) This section applies to a member who died in the line of duty (as defined in section 12.4 of this chapter) before September 1, 1982.

(b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:
   (1) a surviving spouse;
   (2) a child or children less than eighteen (18) years of age;
   (3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or
   (4) a child or children less than twenty-three (23) years of age who are:
      (A) enrolled in and regularly attending a secondary school; or
      (B) full-time students at an accredited college or university;
   the local board shall authorize the payment to the surviving spouse and to the child or children of the amount from the fund as prescribed by this section. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.

(d) If a member dies while in active service:
   (1) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension;
   (2) the member's children who are:
      (A) less than eighteen (18) years of age; or
      (B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;
   are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and
   (3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty
percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(c) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(g) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;
(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).


IC 36-8-7-12.4
Members dying in line of duty after August 31, 1982

Sec. 12.4. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a fully paid first class firefighter. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue
during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a member dies while in active service, the member's children who are:

(1) less than eighteen (18) years of age; or
(2) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class firefighter. However, this limitation does not apply to the children of a member who have a physical or mental disability.

(e) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund. Each parent of a deceased member who was eligible for a pension under this subsection is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(f) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a firefighter:

(1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
(2) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(g) If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subsection (c)(2), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity
continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(h) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(i) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(j) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

1. until the child becomes eighteen (18) years of age;
2. until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
3. during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).


IC 36-8-7-12.5

Determination whether disability in line of duty

Sec. 12.5. (a) If a local board determines that a fund member has a temporary or a permanent disability, the local board shall also make a recommendation to the board of trustees of the Indiana public retirement system (referred to in this section as "the system board") concerning whether the disability is:

1. a disability in the line of duty (as described in section 11(e)(1) of this chapter); or
2. a disability not in the line of duty (a disability other than a disability described in section 11(e)(1) of this chapter).

The local board shall forward its recommendation to the system board.

(b) The system board shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The system board shall notify the local board, the safety board, and the fund member of its initial determination.
(c) The fund member, the safety board, or the local board may object in writing to the system board's initial determination under subsection (b) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.


IC 36-8-7-12.7
Reemployment after retirement

Sec. 12.7. (a) Not less than thirty (30) days after a member retires from a fire department covered by this chapter, the member may:

1) be rehired by the same unit that employed the member as a firefighter for a position other than that of a full-time, fully paid firefighter; and

2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

As added by P.L.130-2008, SEC.5.

IC 36-8-7-13
Lump sum death benefit

Sec. 13. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) Upon the death of a disabled, retired, or discharged member of the fire department who was receiving or entitled to receive a pension at the time of the member's death, or upon the death of a member in active service at the time of the member's death, the local board shall authorize and pay out of the 1937 fund at least twelve thousand dollars ($12,000) as death benefits.

(c) The death benefit described under this section shall be paid:

1) to the surviving spouse;
2) if there is no surviving spouse, to the surviving children; and
3) if there is no surviving spouse, and if there are no surviving children, to the estate;

of the deceased member and is in addition to other benefits paid to a member or survivor under this chapter.


IC 36-8-7-14
Annual statement of receipts and disbursements; payment of excess expenditures by unit; appropriations
Sec. 14. (a) The local board shall meet annually and prepare an itemized estimate, in the form prescribed by the state board of accounts, of the amount of money that will be receipted into and disbursed from the 1937 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements must be divided into two (2) parts, designated as part 1 and part 2.

(b) Part 1 of the estimated disbursements consists of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the next fiscal year, and to the dependents of deceased members. Part 2 of the estimated disbursements consists of an estimate of the amount of money that will be needed to pay death benefits and other expenditures that are authorized or required by this chapter.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing the following:

1. The name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled.
2. The name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive.
3. The name and the age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of attaining the age at which dependents cease to be dependents, and the monthly and yearly amount of the payment to which the dependent is entitled.
4. The amount that would be required for the next fiscal year to maintain level cost funding during the active fund members' employment on an actuarial basis.
5. The amount that would be required for the next fiscal year to amortize accrued liability for active members, retired members, and dependents over a period determined by the local board, but not to exceed forty (40) years.

(d) The total receipts shall be deducted from the total expenditures as listed in the itemized estimate. The amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the unit in the same manner as other expenses of the unit are paid, and an appropriation shall be made annually for that purpose. The estimates submitted shall be prepared and filed in the same manner and form and at the same time that estimates of other offices and departments of the unit are prepared and filed.

(e) The estimates shall be made a part of the annual budget of the
unit. When revising the estimates, the executive, the fiscal officer, and other fiduciary officers may not reduce the items in part 1 of the estimated disbursements.

(f) The unit's fiscal body shall make the appropriations necessary to pay that proportion of the budget of the 1937 fund that the unit is obligated to pay under subsection (d). In addition, the fiscal body may make appropriations for purposes of subsection (c)(4), (c)(5), or both. All appropriations shall be made to the local board for the exclusive use of the 1937 fund, including the payments described in section 9.5 of this chapter. The amounts listed in part 1 of the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the unit. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the appropriations made to pay the amount equal to estimated disbursements minus estimated receipts. As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.345-1985, SEC.1; P.L.90-2002, SEC.488; P.L.224-2007, SEC.124; P.L.146-2008, SEC.777; P.L.182-2009(ss), SEC.431.

IC 36-8-7-15
Insufficient funds for appropriations; loans; tax levy to repay loans
Sec. 15. If the appropriations for any of the purposes contemplated in section 14 of this chapter are exhausted before the end of the fiscal year for which the appropriations have been made, the unit's fiscal body shall make the necessary additional appropriations according to IC 6-1.1-18-5. If the amount of money in the general fund not otherwise appropriated is less than the additional appropriations found to be necessary, the fiscal body shall borrow the necessary money in the manner prescribed by statute for making loans by the unit. A tax shall be levied for the next year sufficient to repay the loan and the interest that has accrued. As added by Acts 1981, P.L.309, SEC.57.

IC 36-8-7-16
Disability retirees; physical examinations; reactivation; hearing; period of disability credited; transcripts, reports, records, and other materials
Sec. 16. (a) After a member of the fire department has been retired upon pension because of disability, the local board may require the retired member to again be examined by competent physicians or surgeons. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the retired member should be continued on the pension roll. However, the retired member remains upon the pension roll until placed back in active service of the department, except in cases of dismissal or resignation.

(b) If a retired member is found after the examination and hearing to be physically able to be placed back in active service of the department, considering reasonable accommodation to the extent
required by the Americans with Disabilities Act, the local board shall certify the person's name and that fact to the safety board or other appointing authority. The person shall be placed back on active duty by the appointing authority as soon as the first vacancy occurs.

(c) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the member has a total of twenty (20) years of service.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:
   (1) kept in separate medical files for each member; and
   (2) treated as confidential medical records.


IC 36-8-7-17
Eligibility for employment; physical examinations; age requirements
Sec. 17. (a) The local board may require and provide for a physical examination of applicants for employment in the fire department.

(b) A person who:
   (1) is at least thirty-six (36) years of age; or
   (2) fails to pass the physical examination required by the local board;
may not be appointed, reappointed, or reinstated as a member of the fire department.


IC 36-8-7-18
Membership of persons employed on March 2, 1937, in pension fund
Sec. 18. (a) Notwithstanding section 17 of this chapter, each member of the fire department who was in active service on March 2, 1937, but who was not a member of the firemen's pension fund, is conclusively considered to be a member of the 1937 fund and shall pay, in addition to his previous assessments, the same amount into the 1937 fund for unpaid assessments that he would have paid as assessments if he had been a member of the 1937 fund during all of the years of his service.

(b) A member of the fire department who:
   (1) was in active service on March 2, 1937;
   (2) was a member of the 1937 fund;
   (3) had previous service in the fire department; and
   (4) who was thirty-six (36) years of age or older at the time of his reinstatement or reappointment;
is entitled to all of the benefits of the 1937 fund with all of the years of active service with the fire department counted in determining his eligibility for retirement.
IC 36-8-7-19
Repealed
(Repealed by P.L.38-1986, SEC.8.)

IC 36-8-7-20
Deposit of funds
Sec. 20. All money that is collected and received by the local board or an officer of it by virtue of subdivisions (1) through (4) of section 8 of this chapter shall be paid to the unit's fiscal officer, who shall credit this money to the 1937 fund. The 1937 fund is a public fund for purposes of IC 5-13.

IC 36-8-7-21
Payments; procedure
Sec. 21. Payments to beneficiaries and dependents from the 1937 fund shall be made upon a warrant of the unit's fiscal officer upon a verified schedule of beneficiaries and dependents and the amount payable to each. The schedule shall be prepared and verified by the secretary, signed by the president, and countersigned by the secretary of the local board. All other claims shall be signed by the president and countersigned by the secretary and shall be paid upon a warrant of the fiscal officer.

IC 36-8-7-22
Exemption of fund from judicial process; authorized expenditures
Sec. 22. The 1937 fund may not be, either before or after an order for distribution to members of the fire department or to the surviving spouses or guardians of a child or children of a deceased, disabled, or retired member, held, seized, taken, subjected to, detained, or levied on by virtue of an attachment, execution, judgment, writ, interlocutory or other order, decree, or process, or proceedings of any nature issued out of or by a court in any state for the payment or satisfaction, in whole or in part, of a debt, damages, demand, claim, judgment, fine, or amercement of the member or the member's surviving spouse or children. The 1937 fund shall be kept and distributed only for the purpose of pensioning the persons named in this chapter. The local board may, however, annually expend an amount from the 1937 fund that it considers proper for the necessary expenses connected with the fund. Notwithstanding any other law, neither the fiscal body, the county board of tax adjustment, nor the department of local government finance may reduce these expenditures.
IC 36-8-7-23
Fiscal officer as custodian of fund; liability; accounts

Sec. 23. The unit's fiscal officer is the custodian of all money belonging to the 1937 fund, and all money belonging to the fund shall be promptly paid to the officer. The officer is liable on the officer's bond for the faithful performance of all duties imposed upon the officer by this chapter in relation to the fund and for the faithful accounting of all money and securities that come into the officer's possession and belong to the fund. The officer shall keep a separate account of the 1937 fund, which must always show the true condition of the fund.


IC 36-8-7-24
Temporary loans; authorization and procedure

Sec. 24. The local board may, by resolution, authorize temporary loans to be made and effected in anticipation of current revenues of the unit actually levied and in the course of collection for the fiscal year in which the loans are made. The fiscal body of the unit shall by ordinance authorize the temporary loans and the issuance and sale of securities for them in the same manner as prescribed for the unit generally in making temporary loans.


IC 36-8-7-25
Items excluded when computing benefits; liability for overpayment

Sec. 25. (a) Remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off may not be used in the computation of benefits under this chapter.

(b) If the remuneration or allowances described in subsection (a) were used to compute benefits for a recipient who began receiving benefits before May 2, 1977, this computation may continue only for that recipient and only during the eligibility period for benefits. The unit and the official involved are not liable for making the overpayment, and a recipient is not required to repay the overpayment.


IC 36-8-7-26
Special lump sum death benefit in addition to other benefits

Sec. 26. (a) As used in this section, "dies in the line of duty" has the meaning set forth in section 12.4 of this chapter.

(b) A special death benefit of seventy-five thousand dollars ($75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars ($150,000) for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the Indiana public retirement system from the pension relief fund established under IC 5-10.3-11.
to the following relative of a fund member who dies in the line of duty:

(1) To the surviving spouse.
(2) If there is no surviving spouse, to the surviving children (to be shared equally).
(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(c) The benefit provided by this section is in addition to any other benefits provided under this chapter.


IC 36-8-7-27
Rollover to eligible retirement plan

Sec. 27. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the 1937 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

As added by P.L.10-1993, SEC.16.
IC 36-8-7.5
Chapter 7.5. 1953 Police Pension Fund (Indianapolis)

IC 36-8-7.5-0.1
Application of certain amendments to chapter
Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 22 of this chapter by P.L.223-1986 applies only to fund members who die after March 10, 1986.

(2) The amendments made to section 13.8 of this chapter by P.L.28-2008 apply only to benefits payable with respect to a member of the 1953 police pension fund who dies after June 30, 2008.

As added by P.L.220-2011, SEC.670.

IC 36-8-7.5-1
Application of chapter; officers eligible for benefits
Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, by a consolidated city.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if:

(1) the officer was hired before May 1, 1977;
(2) the officer did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);
(3) the officer was not a member of the 1953 fund because:
   (A) the officer's employment was on a temporary or emergency status under a statute in effect before February 25, 1953;
   (B) the officer failed to pass a five (5) year physical requirement under such a statute; or
   (C) the officer was a war veteran without pension status;
(4) the officer submitted to a physical medical examination, if required by the local board, and the results were satisfactory; and
(5) the officer was accepted by the local board as a member of the 1953 fund upon payment of all dues required for the officer's entire time as a member of the police department.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if the officer:

(1) was hired before May 1, 1977; and
(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981).

(d) A police officer is covered by this chapter and not by IC 36-8-8 if the officer:

(1) was hired before May 1, 1977;
(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);
(3) is a regularly appointed member of the police department;
(4) is a member of the 1953 fund;
(5) was employed on a temporary or emergency status before
regular employment; and
(6) paid into the 1953 fund by not later than January 1, 1968, all
dues for the period the officer was on temporary or emergency
status.

(e) A police officer who:
(1) is covered by this chapter before consolidation under
IC 36-3-1-5.1; and
(2) becomes a member of the consolidated law enforcement
department through consolidation under IC 36-3-1-5.1;
is covered by this chapter after the effective date of the consolidation,
and the officer's service as a member of the consolidated law
enforcement department is considered active service under this
chapter.

(f) In computing the length of active service rendered by any
police officer for the purpose of determining the expiration of a
period of twenty (20) years of active service, all of the following
periods are counted:
(1) All of the time the officer performed the duties of the
officer's position in active service.
(2) Vacation time or periods of leave of absence with whole or
part pay.
(3) Periods of leave of absence without pay that were necessary
on account of physical or mental disability.
(4) Periods of disability for which the officer will receive or has
received any disability benefit.

(g) In computing the term of service there is not included any of
the following:
(1) Periods during which the police officer was or is suspended
or on leave of absence without pay.
(2) Periods during which the officer was not in active service on
account of the officer's resignation from the department.
(3) Time served as a special police officer, a merchant police
officer, or private police officer.


IC 36-8-7.5-1.5
Qualification of 1953 fund under Internal Revenue Code; benefit
limitations
Sec. 1.5. (a) As used in this chapter, "Internal Revenue Code"
(1) means the Internal Revenue Code of 1954, as in effect on
September 1, 1974, if permitted with respect to governmental
plans; or
(2) to the extent not inconsistent with subdivision (1), has the
meaning set forth in IC 6-3-1-11.

(b) The 1953 fund shall satisfy the qualification requirements in
Section 401 of the Internal Revenue Code, as applicable to the 1953
fund. In order to meet those requirements, the 1953 fund is subject to
the following provisions, notwithstanding any other provision of this
chapter:
(1) The local board shall distribute the corpus and income of the 1953 fund to members and their beneficiaries in accordance with this chapter.
(2) No part of the corpus or income of the 1953 fund may be used or diverted to any purpose other than the exclusive benefit of the members and their beneficiaries.
(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under this chapter.
(4) If the 1953 fund is terminated, or if all contributions to the 1953 fund are completely discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.
(5) All benefits paid from the 1953 fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the 1953 fund is subject to the following provisions:
   (A) The life expectancy of a member, the member's spouse, or the member's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.
   (B) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.
   (C) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.
(6) The local board may not:
   (A) determine eligibility for benefits;
   (B) compute rates of contribution; or
   (C) compute benefits of members or beneficiaries;
   in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.
(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.
(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.
(9) The local board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.
(c) Notwithstanding any other provision of this chapter, and solely for the purposes of the benefits provided under this chapter, the benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of
the Internal Revenue Code, as amended by the Technical and Miscellaneous Revenue Act of 1988. This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code, other than Section 415(b)(2)(G) of the Internal Revenue Code, applied without regard to Section 415(b)(2)(F) of the Internal Revenue Code (before its repeal on June 7, 2001, by P.L.107-16) to anyone who did not first become a participant before January 1, 1990.


IC 36-8-7.5-1.7
"Americans with Disabilities Act"

Sec. 1.7. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

As added by P.L.4-1992, SEC.40.

IC 36-8-7.5-1.9
Administration of fund

Sec. 1.9. The 1953 fund shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

As added by P.L.4-1992, SEC.41.

IC 36-8-7.5-2
Establishment of fund; local board of trustees; terms; vacancies; compensation; bylaws

Sec. 2. (a) A police pension fund to be known as the 1953 fund is established in each consolidated city.

(b) The 1953 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having nine (9) trustees, as follows:

1. The city executive, the county treasurer, and the city police chief.
2. One (1) retired member of the police department.
3. Five (5) active members of the police department.

(c) The trustee under subsection (b)(2) shall be elected at a meeting of the retired members of the 1953 fund. The trustees under subsection (b)(3) shall be elected at a meeting of the active members of the police department. The trustees are elected for terms of three (3) years, beginning on January 1 following the election, and succeeding those trustees whose terms of office expire on that date.

(d) If a vacancy occurs on the local board among those trustees elected by the police department, the remaining trustees of the local board shall fill the vacancy for the unexpired term of the trustee causing the vacancy, from the same class of members, active or retired, as was the trustee causing the vacancy.

(e) Any trustee of the local board elected as an active member of the police department automatically ceases to be a member of the
local board if he ceases, for any reason, to be an active member of the police department and the vacancy shall be filled as provided in subsection (d).

(f) The trustees receive no compensation for their services and shall be paid only their necessary and actual expenses, including travel expenses, out of the fund in the custody of the treasurer, for acting upon matters related to the 1953 fund. The submission of expenses by any local board member and the authorization by the local board at regular meeting is sufficient authorization to the treasurer for payment.

(g) The local board may make all necessary bylaws for:
   1) meetings of the trustees;
   2) the manner of their election, including the counting and canvassing of the votes;
   3) the collection of all money and other property due or belonging to the 1953 fund;
   4) all matters connected with the care, preservation, and disbursement of the fund; and
   5) all other matters connected with the proper execution of this chapter.


IC 36-8-7.5-3
Officers of local board; powers and duties; secretary's bond; reports

Sec. 3. (a) The city executive is president of the local board, the police chief is its vice president, the county treasurer is its treasurer, and the local board shall elect a secretary. The secretary shall be paid out of the 1953 fund a sum for his services as fixed by the local board.

(b) The treasurer:
   1) has custody of all property, money, and securities belonging to the 1953 fund and shall collect the principal and interest on them;
   2) is liable on his bond as a county officer for the faithful accounting of all money and securities belonging to the 1953 fund that come into his hands;
   3) shall keep a separate account showing at all times the true condition of the 1953 fund; and
   4) shall, upon the expiration of his term of office, account to the local board for all money and securities coming into his hands, including the proceeds of them, and turn over to his successor all money and securities belonging to the fund remaining in his hands.

(c) The secretary shall:
   1) keep a true account of the proceedings of the local board when acting upon matters relating to the 1953 fund;
   2) keep a correct statement of the accounts of each member with the 1953 fund;
   3) give the local board a monthly account of his acts and
services as secretary;
(4) turn over to his successor all books and papers pertaining to his office; and
(5) perform any other duties imposed upon him by the local board.

d) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of his duties.

e) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the city fiscal officer. The books of the secretary and treasurer must be open at all times to examination by members of the local board.


IC 36-8-7.5-4
Management of revenue of fund by local board
Sec. 4. (a) The local board shall ensure and confirm that:
(1) all amounts specified in this chapter to be applied to the 1953 fund, from any sources, are collected and applied to the fund;
(2) the various sums to be deducted from the salaries of the police officers concerned are deducted and are paid into the 1953 fund;
(3) the various sums to be contributed by the police special service district are so contributed and are received into the 1953 fund;
(4) any revenue in form of interest upon money invested or upon money due to the 1953 fund is received and placed into the fund; and
(5) all other money that should accrue to the 1953 fund is collected and paid into it.

(b) The local board shall have an audit of the accounts of the 1953 fund done at least once each biennium, by a person or persons competent to perform the audit, if the state board of accounts fails to examine the affairs of the fund during the period.


IC 36-8-7.5-5
Applications to local board for annuities, pensions, and benefits
Sec. 5. (a) The local board shall consider and pass upon all applications for annuities, pensions, and benefits.

(b) The local board shall authorize the payment of any annuity, pension, or benefit, whether granted under this chapter or under any other statute superseded by this chapter.

(c) The local board may inquire into the validity of any grant of annuity, pension, or benefit paid from or payable out of the 1953 fund, whether the grant has been or is made in accordance with this chapter or with a statute in effect before February 25, 1953.

(d) The local board may effect an increase, decrease, or suspension of any grant payable from the 1953 fund whenever the grant or any
part was secured or granted, or the amount fixed, as a result of misrepresentation, fraud, or error. However, a grant may not be reduced or suspended until the grantee concerned is:
   (1) notified of the proposed action; and
   (2) given an opportunity to be heard concerning the proposed action.

IC 36-8-7.5-6
Annual report of local board
   Sec. 6. The local board shall submit a report in the month of June of each year to the city legislative body. The report shall be made as of the close of business on December 31 of the preceding year and must contain a detailed statement of the affairs of the 1953 fund under the control of the local board. The report must show the income and disbursements of, and the assets and liabilities of each fund established and maintained within the 1953 fund during the preceding year.

IC 36-8-7.5-7
Employees of local board; compensation
   Sec. 7. The local board shall appoint the actuarial, medical, clerical, legal, or other employees as are necessary, and fix or approve the compensation of each of them, which shall be paid by the treasurer.

IC 36-8-7.5-8
Sources of fund
   Sec. 8. The 1953 fund is derived from the following sources:
   (1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest any money, chose in action, personal property, real property, or use the same for the purposes of the 1953 fund or for such purposes specified by the grantor.
   (2) From money, fees, and awards of every nature that are given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, all money from gambling cases and from gambling devices as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and confiscated by court order, and sold at a public sale in accordance with law.
   (3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1953 fund, an
amount equal to six percent (6%) of the salary of a first class patrolman. However, the employer may pay all or a part of the assessment for the member.

(4) From the income from investments of the 1953 fund.

(5) From the proceeds of a tax levied by the police special service district upon taxable property in the district, which the treasurer shall collect and credit to the 1953 fund, to be used exclusively by the 1953 fund, including the payments described in section 10.5 of this chapter.


IC 36-8-7.5-9

City officers; powers and duties

Sec. 9. The proper officers of the city shall do the following:

(1) Deduct all sums that this chapter provides from the salaries of members of the police department and pay the sums to the local board in the manner that the local board specifies.

(2) On the first day of each month, notify the local board of all the following regarding members eligible for the 1953 fund that occurred during the preceding month and state the dates upon which these events occurred:

- New employments.
- Discharges.
- Resignations.
- Suspensions from the service.
- Deaths.
- Changes in salary that occurred during the preceding month.

(3) Procure for and transmit to the local board, in the form and time or times specified by the local board, all information requested by the local board concerning the service, age, salary, residence, marital condition, spouse, children, physical condition, mental condition, and death of any member of the police department.

(4) Convey to the local board all information required by the local board concerning each newly appointed member of the police department immediately after the appointment.

(5) Certify to the pension board, as of same day in the year to be fixed by the local board, the name of each member of the police department to whom this chapter applies.

(6) Keep such records concerning members of the police department as the local board may reasonably require and specify.

(7) Perform all duties without any cost to the 1953 fund.


IC 36-8-7.5-10

Insufficient pension fund; estimates; statement; tax levy

Sec. 10. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits,
pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the police special service district is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1953 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the estimated number of beneficiaries from the 1953 fund during the ensuing fiscal year in each of the various classifications of beneficiaries as prescribed in this chapter, and the names and amount of benefits being paid to those actively on the list of beneficiaries at that time;

(2) the name, age, and length of service of each member of the police department who is eligible to and expects to retire during the ensuing fiscal year, and the monthly and yearly amounts of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent of a member of the police department who is then receiving benefits, the date on which the dependent commenced drawing benefits, and the date on which the dependent will cease to be a dependent by reason of attaining the age limit prescribed by this chapter, and the monthly and yearly amounts of the payments to which each of the dependents is entitled.

(c) After the amounts of receipts and disbursements shown in the itemized estimate are fixed and approved by the executive, fiscal officer, legislative body and other bodies, as provided by law for other municipal funds, the total receipts shall be deducted from the total expenditures stated in the itemized estimate, and the amount of the excess shall be paid by the police special service district in the same manner as other expenses of the district are paid. The legislative body shall levy a tax and the money derived from the levy shall, when collected, be credited exclusively to the 1953 fund, including the payments described in section 10.5 of this chapter. The tax shall be levied in the amount and at the rate that is necessary to produce sufficient revenue to equal the deficit. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the tax levy.

IC 36-8-7.5-10.5
Use of certain amounts in 1953 fund
Sec. 10.5. (a) This section applies to a balance in the 1953 fund that:
(1) accrued from property taxes;
(2) is not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1953 fund because of amendments to IC 5-10.3-11-4.7 in 2008; and
(3) is determined under subsection (c).
(b) A local board may authorize the use of money in the 1953 fund to pay any or all of the following:
(1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1953 fund.
(2) The consolidated city's employer contributions under IC 36-8-8-6.
(3) The contributions paid by the consolidated city for a member under IC 36-8-8-8(a).
(c) The maximum amount that may be used under subsection (b) is equal to the sum of the following:
(1) the unencumbered balance of the 1953 fund on December 31, 2008; plus
(2) the amount of property taxes:
   (A) imposed for an assessment date before January 16, 2008, for the benefit of the 1953 fund; and
   (B) deposited in the 1953 fund after December 31, 2008.
As added by P.L.182-2009(ss), SEC.434.

IC 36-8-7.5-11
Investments of local board
Sec. 11. (a) The local board shall determine how much of the 1953 fund may be safely invested and how much should be retained for the needs of the fund. The investment shall be made in interest bearing direct obligations of the United States, obligations or issues guaranteed by the United States, bonds of the state of Indiana or any political subdivision, or street, sewer, or other improvement bonds of the state of Indiana or any political subdivision. However, the local board may not invest in obligations issued by the consolidated city, the county, or any political subdivision in the county. Any securities shall be deposited with and remain in the custody of the treasurer of the local board, who shall collect the interest due on them as it becomes due and payable. The local board may sell any of the securities belonging to the 1953 fund and borrow money upon the securities as collateral whenever in the judgment of the local board this action is necessary to meet the cash requirements of the 1953 fund.
(b) The revenues derived from the tax levy authorized by section 10(c) of this chapter may not be invested but shall be used for the exclusive purpose of paying the pensions and benefits that the local board is obligated to pay. These revenues are in addition to all money
derived from the income on the investments of the board.

(c) Investments under this section are subject to section 1.5 of this chapter.


IC 36-8-7.5-12
Voluntary retirement pension; emergency services

Sec. 12. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service; or
2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. The pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member retires upon his voluntary application after twenty (20) years or more of active service, he then relinquishes all rights to other benefits or pensions for disability during the time of his retirement.

(d) After retirement the member is not required to render further services on the police department and is no longer subject to the rules of the police department, unless a national emergency has been declared by the local board, on application by the executive, the safety board, and the police chief of the city. Upon declaration of such an emergency, the retired member, if physically able, shall return to active duty under the rank he attained at the time of his retirement, and if he refuses to return to active duty upon being declared physically fit, he forfeits his right to receive his pension until the time he returns to active duty and again is retired or discharged from service.

(e) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

**IC 36-8-7.5-12.5**

**Reemployment after retirement**

Sec. 12.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:

(1) be rehired by the same consolidated city that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and
(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

*As added by P.L.130-2008, SEC.6.*

**IC 36-8-7.5-13**

**Disability retirement; benefits; procedure for determination of disability and reinstatement; period of disability credited**

Sec. 13. (a) For a member who becomes disabled before July 1, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to:

(1) fifty percent (50%) for a disease or disability occurring before July 1, 1991; and
(2) fifty-five percent (55%) for a disease or disability occurring after June 30, 1991;

of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(b) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered or contracted a mental or physical disease or disability that renders the member permanently unfit for active duty in the police department, or to an active member of the police department who has been in active service for less than one (1) year who has suffered or received personal injury from violent external causes while in the actual discharge of the member's duties as a police officer. The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department.

(b) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) has suffered or incurred a disability that renders the member permanently unfit for active duty in the police department and 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; 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
(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.
The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.
(c) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:
(1) has suffered or incurred a disability that:
   (A) renders the member permanently unfit for active duty in the police department; and
   (B) is not described in subsection (b)(1); and
   (2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.
The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately
increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(d) For a member who became disabled before July 1, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(a) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered any physical or mental disability that renders the member temporarily or permanently unable to perform the member's duties as a member of the police department, or to an active member of the police department who has been in active service for less than one (1) year and who has suffered or received personal injury from violent external causes while in the actual discharge of the member's duties as a police officer, until the time the member is physically and mentally able to return to active service on the police department.

(e) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) suffers or incurs a disability that renders the member temporarily unfit for active duty in the police department and 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
   (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
(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department:

(1) who has been in active service for at least one (1) year;
(2) suffers or incurs a disability that:
   (A) renders the member temporarily unfit for active duty in the police department; and
   (B) is not described in subsection (e)(1); and
(3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) If an application is made by an active member of the police department because of physical or mental disability for temporary benefits as provided in subsection (d), (e), or (f), the benefit is not payable until the local board determines after a hearing conducted under IC 36-8-8-12.7 that the member is unfit for active duty on the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. Before the hearing, a physician to be appointed by the local board shall examine the member and certify in writing whether in the physician's opinion the member is unfit, physically or mentally, for active duty in the police department. After the pension or benefit has been granted by the local board, the payment commences with the original date of the injury or illness causing the disability.

(h) A member who has been granted a disability benefit under this section and who fails or refuses to submit to a physical examination at any time by the local board physician has no right in the future to
receive the disability benefit, and any benefit that has been granted shall be immediately canceled by the local board.

(i) The local board may, from time to time, require a member of the police department who is receiving at any time disability benefits or pensions as provided in this section to be examined by the physician appointed by the local board. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the member should continue to receive the pension or benefit. If after the examination and hearing the member is found to have recovered from the member's disability and is fit for active duty on the police department, then upon written notice to the member by the local board, the member shall be reinstated in active service, the safety board shall be informed of the action of the local board, and from that time the member is no longer entitled to payments from the 1953 fund. If the member fails or refuses to return to active duty after ordered by the local board, the member ceases to be a member of the 1953 fund and waives all rights to any further pensions or benefits provided by the 1953 fund.

(j) Notwithstanding any other provision of this chapter, no disability benefit may be paid for any disability based upon or caused by any mental or physical condition that a member had at the time the member entered or reentered the member's active service in the police department.

(k) If a member who is receiving disability benefits under subsection (a), (b), or (c) for a disease or disability occurring after June 30, 1991, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the salary of a first class patrolman at the time of payment of the pension.

(l) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

(1) kept in separate medical files for each member; and
(2) treated as confidential medical records.

(m) A fund member who is receiving disability benefits under subsection (d) or (f) shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(n) A fund member who is receiving disability benefits under subsection (e) is entitled to:

(1) receive a disability benefit for the remainder of the fund member's life; and
(2) have the amount of the disability benefit computed under section 12 of this chapter when the fund member becomes fifty-five (55) years of age.

IC 36-8-7.5-13.2
Determination whether disability in line of duty
Sec. 13.2. (a) If a local board determines that a fund member has a temporary or a permanent disability, the local board shall also make a recommendation to the board of trustees of the Indiana public retirement system (referred to in this section as "the system board") concerning whether the disability is:
   (1) a disability in the line of duty (as described in section 13(b)(1) of this chapter); or
   (2) a disability not in the line of duty (a disability other than a disability described in section 13(b)(1) of this chapter).
The local board shall forward its recommendation to the system board.
(b) The system board shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The system board shall notify the local board, the safety board, and the fund member of its initial determination.
(c) The fund member, the safety board, or the local board may object in writing to the system board's initial determination under subsection (b) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

IC 36-8-7.5-13.6
Members dying other than in line of duty
Sec. 13.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter).
(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member of the fund who dies from any cause after having served for one (1) year or more. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.
(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this
chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause after having served for one (1) year or more as an active member of the police department. The pension to each child continues:

1. until the child becomes eighteen (18) years of age;
2. until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
3. during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

d) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund is used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause after having served for one (1) year or more as an active member of the police department. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

e) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

g) Except as otherwise provided in this subsection, the annuity payable under subsection (b) equals one (1) of the following:

1. For the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a first class patrolman.
2. For the surviving spouse of a member who dies after December 31, 1988, an amount per month during the spouse's life equal to the greater of:
   A. thirty percent (30%) of the monthly pay of a first class patrolman; or
   B. fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit
because the member had not completed twenty (20) years of service, for the purposes of computing the amount under subdivision (2)(B) the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided in this subdivision is subject to adjustment as provided in subsection (f). *As added by P.L.118-2000, SEC.19. Amended by P.L.1-2001, SEC.44.*

**IC 36-8-7.5-13.7**

**Members dying in line of duty before September 1, 1982**

Sec. 13.7. (a) This section applies to a member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

1. until the child becomes eighteen (18) years of age;
2. until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
3. during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(e) In all cases of payment to a dependent relative of a deceased
member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) The annuity payable under subsection (b) equals thirty percent (30%) of the salary of a first class patrolman. The amount provided in this subsection is subject to adjustment as provided in subsection (f).

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;
(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).


IC 36-8-7.5-13.8
Death benefits paid to beneficiary or estate of member

Sec. 13.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to pay twelve thousand dollars ($12,000) to the beneficiary or estate of a member of the fund, active or retired, who:

(1) dies from any cause after having served for one (1) year or more as an active member of the police department; or
(2) dies from any cause while in the actual discharge of the member's duties as a police officer after having served less than one (1) year as an active member of the police department.

Any member of the fund may name a beneficiary to receive the amount provided for upon the member's death by designating in
writing in such form as is prescribed by the local board and delivered to the board. The beneficiary may be changed from time to time by the member by canceling the designation and delivering a new designation to the local board. If the member makes no designation of beneficiary, the sum provided for shall be paid to the member's estate.


IC 36-8-7.5-13.9
Repealed
(Repealed by P.L.200-1984, SEC.7.)

IC 36-8-7.5-14
Repealed
(Repealed by P.L.50-1984, SEC.11.)

IC 36-8-7.5-14.1
Members dying in line of duty after August 31, 1982
Sec. 14.1. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department dies in the line of duty after August 31, 1982, and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

1) until the child becomes eighteen (18) years of age;
2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.
(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total benefit to all the member's children under this subsection may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who have a physical or mental disability.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause while in the actual discharge of duties as a police officer. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(h) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a police officer:

1. is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
2. performs in the course of controlling or reducing crime or enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(i) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

1. until the child becomes eighteen (18) years of age;
2. until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
3. during the entire period of the child's physical or mental
disability; whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).


IC 36-8-7.5-15
Necessity of application; dismissed member of police department
Sec. 15. (a) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

(b) The 1953 fund shall be used to pay an amount equal to the pensions, annuities, and benefits provided by this chapter in the case of retirement after twenty (20) years service, to a member of the police department and to the dependents of a member, if the member is dismissed from service for any reason other than conviction of a felony after having been in actual service for twenty (20) years. If the member is dismissed for conviction of a felony, none of the pensions or other benefits provided for in this chapter are payable to the member, his beneficiaries, or his dependents.


IC 36-8-7.5-16
Reduction in monthly pension
Sec. 16. The monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.


IC 36-8-7.5-17
Payments to dependent children or mentally incompetent persons; benefits where member dies before payments are made; payments where member is entitled to part salary; reentry into active service
Sec. 17. (a) If benefits are payable to a dependent child under eighteen (18) years of age or to a person adjudged mentally incompetent, the local board may, when it is to the apparent interest of the dependent child or incompetent person, waive guardianship proceedings and pay the benefit directly to the person providing for
and caring for the dependent child, and to the spouse, parent, or blood relative providing for and caring for the incompetent person. The local board may, if it finds it in the best interest of any dependent child, pay any benefits due to the dependent child directly to such child regardless of any other law.

(b) A member is not entitled to receive the benefits of this chapter until the member's payments are paid in full, unless the member has suffered permanent disability or death from any cause while in actual discharge of duties as a police officer. If the member dies before the required payments are made, the surviving spouse or other dependents shall pay any balance due and are then entitled to pension benefits.

(c) Notwithstanding any other provision of this chapter, no disability or retirement benefit of any kind provided for in this chapter may be paid to any member of the police department for any period during which the member receives or is entitled to receive all or any part of the member's salary.

(d) If any member reenters active service in the police department of any municipality after having been pensioned for any reason, the payment of the pension ceases but shall be resumed upon the resignation or discharge of the member.


IC 36-8-7.5-18
Application for benefits other than for disability or voluntary retirement after 20 years

Sec. 18. (a) In connection with an application for any pensions, annuities, or benefits other than for disability and other than voluntary retirement after twenty (20) years of active service in the police department, the local board may, if it is satisfied with the facts reported in the application made for the pension, annuity, or benefit, act upon the application and allow the pension, annuity, or benefits applied for.

(b) In connection with an application for the pensions, annuities, or benefits referred to in subsection (a), the local board may deny the application. If the local board denies the application, it may, and shall upon the written request of the applicant, hold a hearing on the application at which time it shall hear any evidence of the applicant or any other person as to the facts contained in the application, and as to any of the requirements stated in this chapter for receiving the pension, annuity, or benefit. After the hearing the board shall decide whether the application shall be granted or denied.

(c) At any hearing held by the local board as provided in this chapter, the local board may subpoena witnesses, and examine all witnesses under oath, and any member of the local board may administer the oath to any witness at any hearing.

(d) The local board shall give due notice of the time and place of the hearing.

(e) The applicant is entitled to be present at the hearing, to be
represented by counsel, to examine any witness testifying at the hearing, and to introduce any evidence upon his behalf as to any question properly before the local board. The local board shall, upon the request of the applicant, subpoena any witness requested in writing by the applicant to be present at the hearing.

IC 36-8-7.5-19
Attachment or garnishment of pensions, annuities, or benefits
Sec. 19. All pensions, annuities, and benefits payable out of the 1953 fund are exempt from seizure or levy upon attachment, garnishment, execution, and all other process. Except as provided in section 23 of this chapter, pensions, annuities, and benefits are not subject to sale, assignment, or transfer by a beneficiary.

IC 36-8-7.5-20
Benefits paid contrary to IC 36-8-7.5
Sec. 20. Any pension, annuity, or benefit provided for in this chapter that is paid by the local board contrary to this chapter or on account of the fraud or misrepresentation by the member concerned or any other applicant shall be treated as erroneously paid, and the local board may recover the pension, annuity, or benefit in an action against the person to whom the benefit was paid or against the estate of the person. The local board may also deduct these amounts from any future pensions, annuities, or benefits properly payable to the member or his dependents.

IC 36-8-7.5-21
Remuneration or allowances not to be used in computation of benefits
Sec. 21. (a) Remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off may not be used in the computation of benefits under this chapter.
(b) If the remuneration or allowances described in subsection (a) were used to compute benefits for a recipient who began receiving benefits before May 2, 1977, this computation may continue only for that recipient and only during the eligibility period for benefits. The city and the official involved are not liable for making the overpayment, and a recipient is not required to repay the overpayment.

IC 36-8-7.5-22
Special lump sum death benefit in addition to other benefits
Sec. 22. (a) As used in this section, "dies in the line of duty" has the meaning set forth in section 14.1 of this chapter.
(b) A special death benefit of seventy-five thousand dollars ($75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars ($150,000) for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the Indiana public retirement system from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty:

(1) To the surviving spouse.
(2) If there is no surviving spouse, to the surviving children (to be shared equally).
(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(c) The benefit provided by this section is in addition to any other benefits provided under this chapter.


IC 36-8-7.5-23
Rollover to eligible retirement plan

Sec. 23. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the 1953 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

As added by P.L.10-1993, SEC.18.
IC 36-8-8
Chapter 8. 1977 Police Officers' and Firefighters' Pension and Disability Fund

IC 36-8-8-0.1
Application of certain amendments to chapter
Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 20 of this chapter by P.L.223-1986 applies only to fund members who die after March 10, 1986.
(2) The amendments made to section 10 of this chapter by P.L.232-1997 apply only to members of the 1977 fund who initially:
   (A) become fifty-five (55) years of age; or
   (B) retire; after June 30, 1997.
(3) The amendments made to section 16 of this chapter by P.L.28-2008 apply only to benefits payable with respect to a member of the 1977 police officers' and firefighters' pension and disability fund who dies after June 30, 2008.
(4) The amendments made to sections 12 and 13.5 of this chapter by P.L.32-2009 and by P.L.34-2009 apply to a member of the 1977 police officers' and firefighters' pension and disability fund who:
   (A) after June 30, 2009, receives a benefit based on a determination that the member has a Class 1 or Class 2 impairment, regardless of whether the determination was made before, on, or after June 30, 2009; and
   (B) before July 1, 2009, has not had the member's disability benefit recalculated under section 13.5 of this chapter (as the section read before amendment by P.L.32-2009 and by P.L.34-2009).

As added by P.L.220-2011, SEC.671.

IC 36-8-8-1
Application of chapter
Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);
(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);
(3) 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;
(4) a park ranger who:
   (A) 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;
(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and
(C) 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);
(5) a full-time fully paid firefighter who is covered by this chapter before the effective date of consolidation and becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1, provided that the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter;
(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after the effective date of the consolidation by a consolidated fire department established under IC 36-3-1-6.1;
(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter; and
(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1;
except as provided by section 7 of this chapter.

IC 36-8-8-1.5
"Electronic funds transfer"
Sec. 1.5. As used in this chapter, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).
As added by P.L.13-2011, SEC.15.

IC 36-8-8-2
"Employer"
Sec. 2. As used in this chapter, "employer" means:
(1) a municipality that established a 1925 or 1953 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;
(2) a unit that established a 1937 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;
(3) a consolidated city that consolidated the fire departments of
units that:
(A) established a 1937 fund; or
(B) participated in the 1977 fund;
before the units' consolidation into the fire department of a consolidated city established by IC 36-3-1-6.1; or
(4) a consolidated city that establishes a consolidated law enforcement department under IC 36-3-1-5.1.


IC 36-8-8-2.1
"Local board"
Sec. 2.1. (a) As used in this chapter, "local board" means the following:
(1) For a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.
(2) For a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.
(3) For a consolidated city that established a 1953 fund for its police officers, the local board described in IC 36-8-7.5-2.
(4) For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).
(b) If a unit did not establish a 1925 fund for its police officers, a local board shall be composed in the same manner described in IC 36-8-6-2(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.
(c) If a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

As added by P.L.236-1996, SEC.5.

IC 36-8-8-2.3
"System board"
Sec. 2.3. As used in this chapter, "system board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by P.L.35-2012, SEC.113.

IC 36-8-8-2.5
Qualification of 1977 fund under Internal Revenue Code
Sec. 2.5. (a) As used in this chapter, "Internal Revenue Code":
(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or
(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.
(b) The 1977 fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the 1977 fund. In order to meet those requirements, the 1977 fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The system board shall distribute the corpus and income of the 1977 fund to members and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the 1977 fund may be used or diverted to any purpose other than the exclusive benefit of the members and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under this chapter.

(4) If the 1977 fund is terminated, or if all contributions to the 1977 fund are completely discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the 1977 fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the 1977 fund is subject to the following provisions:

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

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

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

(6) The system board may not:

   (A) determine eligibility for benefits;
   (B) compute rates of contribution; or
   (C) compute benefits of members or beneficiaries;

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

(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

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


IC 36-8-8-2.6
Administration of fund
Sec. 2.6. The 1977 fund shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.
As added by P.L.4-1992, SEC.43.

IC 36-8-8-3
Participation by units
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 firefighter is a member of the public employees' retirement fund, the firefighter may continue as a member of that fund instead of the 1977 fund.


IC 36-8-8-4

Fund established; managed by system board

Sec. 4. (a) There is established a police officers' and firefighters' pension and disability fund to be known as the 1977 fund. The 1977 fund consists of fund member and employer contributions, plus the earnings on them, to be used to make benefit payments to fund members and their survivors in the amounts and under the conditions specified in this chapter.

(b) The system board shall administer the 1977 fund, which may be commingled for investment purposes with other funds administered by the Indiana public retirement system. All actuarial data shall be computed on the total membership of the fund, and the cost of participation is the same for all employers in the fund. The fund member and employer contributions shall be recorded separately for each employer.


IC 36-8-8-5

System board; powers and duties; appeals; personnel; confidentiality of fund records

Sec. 5. (a) The system board shall:

(1) determine eligibility for and make payments of benefits, except as provided in section 12 of this chapter;

(2) in accordance with the powers and duties granted it in IC 5-10.3-5-3 through IC 5-10.3-5-6, IC 5-10.5-4, and IC 5-10.5-5, administer the 1977 fund;

(3) provide by rule for the implementation of this chapter; and

(4) authorize deposits.

(b) A determination by the system board may be appealed under the procedures in IC 4-21.5.

(c) The powers and duties of the director appointed by the system board, the actuary of the system board, and the attorney general, with respect to the 1977 fund, are those specified in IC 5-10.3-3, IC 5-10.3-4, and IC 5-10.5.

(d) The system board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(e) The 1977 fund records of individual members and membership information are confidential, except for the name and years of service of a 1977 fund member.

IC 36-8-8-6
Employer contributions
Sec. 6. (a) Each employer shall annually on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, or an alternate date established by the rules of the system board, pay into the 1977 fund an amount determined by the system board:

(1) for administration expenses; and
(2) sufficient to maintain level cost funding during the period of employment on an actuarial basis for members hired after April 30, 1977.

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

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


IC 36-8-8-7
Membership in fund; employment with second employer that participates in fund
Revisor's Note: See IC 1-1-3.5-8 concerning the effective date of this section as amended by P.L.119-2012, SEC.1.
Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), (h), (k), (l), and (m):

(1) a police officer; or
(2) a firefighter;
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 forty (40) years, the amount and the period 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 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
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 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 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.

IC 36-8-8-7.2
Fire chief or police chief transfer of service credit to PERF
Sec. 7.2. (a) This section applies to an individual:
(1) who becomes a member of the 1977 fund under section 7(h) of this chapter;
(2) whose appointment as a fire chief or police chief ends after June 30, 2007; and
(3) who is not eligible to receive a benefit from the 1977 fund at the end of the individual's appointment as a fire chief or
police chief.

(b) A fund member described in subsection (a) may elect:

(1) to receive the fund member's contributions to the 1977 fund under section 8 of this chapter; or

(2) to transfer the fund member's service credit earned as a fire chief or police chief to PERF under subsection (c).

(c) If a fund member makes the election described in subsection (b)(2), the system board shall:

(1) grant to the fund member service credit in PERF for all service earned as a fire chief or police chief in the 1977 fund; and

(2) transfer from the 1977 fund to PERF:

(A) the fund member's contributions made during the fund member's appointment as a fire chief or police chief to the 1977 fund; plus

(B) the present value of the unreduced benefit that would be payable to the transferring fund member upon retirement under section 10 of this chapter.

(d) The system board shall deposit the amounts transferred to PERF under subsection (c) as follows:

(1) The fund member's contributions to the 1977 fund shall be credited to the fund member's PERF annuity savings account.

(2) The present value of the unreduced benefit that would be payable to the transferring fund member upon retirement under section 10 of this chapter shall be credited to PERF's retirement allowance account.

(e) For a fund member who makes the election described in subsection (b)(2), all credit for service as a fire chief or police chief in the 1977 fund is waived.


IC 36-8-8-8
Employee contributions; lump sum withdrawal on termination of employment

Sec. 8. (a) Each fund member shall contribute during the period of the fund member's employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The employer shall send to the system board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, or an alternate date established by the rules of the system board, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

(b) After December 31, 2011, an employer shall submit:

(1) the list described in subsection (a) in a uniform format
through a secure connection over the Internet or through other
electronic means specified by the system board; and
(2) the contributions paid by or on behalf of a member under
subsection (a) by electronic funds transfer.

(c) Except as provided in section 7(n) or 7.2 of this chapter, if a
fund member ends the fund member's employment other than by
death or disability before the fund member completes twenty (20)
years of active service, the system board shall return to the fund
member in a lump sum the fund member's contributions plus interest
at a rate specified by rule by the system board. If the fund member
returns to service, the fund member is entitled to credit for the years
of service for which the fund member's contributions were refunded
if the fund member repays the amount refunded to the fund member
in either a lump sum or a series of payments determined by the
system board.

P.L.182, SEC.10; P.L.312-1989, SEC.4; P.L.180-2007, SEC.10;

IC 36-8-8-8.3
Purchase of military service credit

Sec. 8.3. (a) This section applies to a fund member who, after June
30, 2009, completes service for which the 1977 fund gives credit.

(b) A fund member may purchase not more than two (2) years of
service credit for the fund member's service on active duty in the
armed services if the fund member meets the following conditions:

(1) The fund member has at least one (1) year of credited
service in the fund.

(2) The fund member serves on active duty in the armed
services of the United States for at least six (6) months.

(3) The fund member receives an honorable discharge from the
armed services.

(4) Before the fund member retires, the fund member makes
contributions to the fund as follows:

(A) Contributions that are equal to the product of the
following:

(i) The salary of a first class patrolman or firefighter at the
time the fund member actually makes a contribution for the
service credit.

(ii) A rate, determined by the actuary of the 1977 fund, that
is based on the age of the fund member at the time the fund
member actually makes a contribution for service credit
and that is computed to result in a contribution amount that
approximates the actuarial present value of the retirement
benefit attributable to the service credit purchased.

(iii) The number of years of service credit the fund
member intends to purchase.

(B) Contributions for any accrued interest, at a rate
determined by the actuary of the 1977 fund, for the period
from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(c) A fund member must have at least twenty (20) years of service before a fund member may receive a benefit based on a service credit purchased under this section. A fund member's years of service may not exceed thirty-two (32) years with the inclusion of the service credit purchased under this section.

(d) A fund member may not receive service credit under this section:

(1) for service credit received under IC 36-8-5-7; or
(2) if the military service for which the fund member requests credit also qualifies the fund member for a benefit in a military or another governmental retirement system.

(e) A fund member who:

(1) terminates service before satisfying the eligibility requirements necessary to receive a retirement benefit payment from the 1977 fund; or
(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

(f) The following apply to the purchase of service credit under this section:

(1) The system board may allow a fund member to make periodic payments of the contributions required for the purchase of the service credit. The system board shall determine the length of the period during which the payments must be made.
(2) The system board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
(3) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

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

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state under Section 457(b) of the Internal Revenue Code.
(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.
(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:
   (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
   (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.


IC 36-8-8-8.5
Purchase of service credit in certain Indiana public retirement funds

Sec. 8.5. (a) This section applies to a fund member who, after June 30, 2010, completes service for which the 1977 fund gives credit.
(b) As used in this section, "public retirement fund" refers to any of the following, either singly or collectively:
   (1) The public employees' retirement fund (IC 5-10.3).
   (2) The Indiana state teachers' retirement fund (IC 5-10.4).
   (3) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund (IC 5-10-5.5).
   (4) The state police pension trust (IC 10-12).
   (5) A sheriff's pension trust (IC 36-8-10-12).
(c) Subject to this section, a fund member may purchase service credit for the fund member's prior service in a position covered by a public retirement fund.
(d) To purchase the service credit described in subsection (c), a fund member must meet the following requirements:
   (1) The fund member has at least one (1) year of creditable service in the 1977 fund.
   (2) The fund member has not attained vested status in and is not an active member in the public retirement fund from which the fund member is purchasing service credit.
   (3) Before the fund member retires, the fund member makes contributions to the 1977 fund as follows:
      (A) Contributions that are equal to the product of the following:
         (i) The salary of a first class patrolman or firefighter at the time the fund member actually makes a contribution for the service credit.
         (ii) A rate, determined by the actuary for the 1977 fund, that is based on the age of the fund member at the time the fund member actually makes a contribution for the service credit and that is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.
         (iii) The number of years of service credit the fund
member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(e) At the request of the fund member purchasing service credit under this section, the amount a fund member is required to contribute under subsection (d)(3) may be reduced by a trustee to trustee transfer from the public retirement fund in which the fund member has an account that contains amounts attributable to member contributions (plus any credited earnings) to the 1977 fund. The fund member may direct the transfer of an amount only to the extent necessary to fund the service purchase under subsection (d)(3). The fund member shall complete any forms required by the public retirement fund from which the fund member is requesting a transfer or the 1977 fund before the transfer is made.

(f) A fund member must have at least twenty (20) years of service in the 1977 fund before a fund member may receive a retirement benefit based on service credit purchased under this section. A fund member's years of service may not exceed thirty-two (32) years with the inclusion of the service credit purchased under this section.

(g) A fund member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another tax supported governmental retirement plan other than the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting a properly completed application for a refund to the 1977 fund.

(h) The following apply to the purchase of service credit under this section:

(1) The system board may allow a fund member to make periodic payments of the contributions required for the purchase of the service credit. The system board shall determine the length of the period during which the payments may be made.

(2) The system board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

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

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.
(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

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

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

(j) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:
   (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
   (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(k) The fund member's employer may pay all or a part of the fund member's contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (g), (h)(1), (h)(3), and (i) do not apply. As added by P.L.70-2010, SEC.1. Amended by P.L.35-2012, SEC.123.

IC 36-8-8-8.8

Purchase of out-of-state service credit

Sec. 8.8. (a) This section applies to a fund member who, after June 30, 2010, completes service for which the 1977 fund gives credit.

(b) As used in this section, "out-of-state service" means service in another state in a comparable position for which the fund member would receive service credit in the 1977 fund if the service had been performed in Indiana.

(c) Subject to subsections (d) through (g), a fund member may purchase out-of-state service credit if the fund member meets the following requirements:
   (1) The fund member has at least one (1) year of credited service in the 1977 fund.
   (2) Before the fund member retires, the fund member makes contributions to the 1977 fund as follows:
      (A) Contributions that are equal to the product of the following:
         (i) The salary of a first class patrolman or firefighter at the time the fund member makes a contribution for the service credit.
         (ii) A rate, determined by the actuary for the 1977 fund, that is based on the age of the fund member at the time the fund member makes a contribution for the service credit and that is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.
         (iii) The number of years of out-of-state service credit the
fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(3) The fund member has received verification from the 1977 fund that the out-of-state service is, as of the date payment is made by the fund member, valid.

(d) A fund member must have at least twenty (20) years of service before the fund member may receive a benefit based on service credit purchased under this section. A fund member's years of service may not exceed thirty-two (32) years with the inclusion of service credit purchased under this section.

(e) A fund member may not receive service credit under this section if the service for which the fund member requests credit also qualifies the fund member for a benefit in another governmental retirement system.

(f) A fund member who:

(1) terminates service before satisfying the eligibility requirements necessary to receive a retirement benefit payment from the 1977 fund; or
(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the 1977 fund a properly completed application for a refund.

(g) The following apply to the purchase of service credit under this section:

(1) The system board may allow a fund member to make periodic payments of the contributions required for the purchase of the service credit. The system board shall determine the length of the period during which the payments must be made.
(2) The system board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
(3) The fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

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

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state
or a political subdivision of a state under Section 457(b) of the Internal Revenue Code.

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

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

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.


IC 36-8-8-9
Conversion from prior fund
Sec. 9. (a) This section applies to all police officers and firefighters who converted their benefits under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981).

(b) A police officer or firefighter who converted his benefits from a 1925, 1937, or 1953 fund to the benefits and conditions of this chapter is not entitled to receive any benefits from the original fund. However, he is entitled to credit for all years of service for which he would have received credit before his conversion in that original fund.

(c) A police officer or firefighter who:
(1) converted his benefits from a 1925, 1937, or 1953 fund;
(2) retired or became disabled on or before June 30, 1998; and
(3) is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;
shall be treated as a member of this fund for purposes of paying his benefits from the 1977 fund effective for benefits paid on or after October 1, 1998. Prior to October 1, 1998, he remains a member of the original fund entitled to receive only the benefits provided under this chapter based on the eligibility requirements of this chapter.

(d) A police officer or firefighter who:
(1) converted his benefits from a 1925, 1937 or 1953 fund;
(2) who did not retire or become disabled on or before June 30, 1998; and
(3) who is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;
remains a member of that original fund but is entitled to receive only the benefits provided under this chapter and based on the eligibility requirements of this chapter.

(e) A police officer or firefighter who converted shall contribute six percent (6%) of the salary of a first class patrolman or firefighter to the 1925, 1937, or 1953 fund. This amount shall be deducted from his salary each pay period by the disbursing officer of the employer. Contributions under this subsection may not be refunded.
IC 36-8-8-10
Eligibility for retirement; initiation of benefits; election to receive actuarially reduced benefits
Sec. 10. (a) A fund member is eligible for retirement after he has completed twenty (20) years of active service.
(b) Unless the member is receiving benefits under subsection (c), unreduced benefits to a retired fund member begin the date:
(1) the fund member becomes fifty-two (52) years of age; or
(2) on which the fund member retires;
whichever is later. Benefit payments to a retired fund member under this subsection begin on the first day of the month on or after the date he reaches fifty-two (52) years of age or on which he retires, whichever is later.
(c) A retired member may elect to receive actuarially reduced benefits that begin the date:
(1) the fund member becomes fifty (50) years of age; or
(2) on which the fund member retires;
whichever is later. Benefit payments to a retired fund member under this subsection begin on the first day of the month on or after the date the member reaches fifty (50) years of age or on which the member retires, whichever is later.
(d) If a fund member:
(1) becomes fifty-two (52) years of age in the case of unreduced benefits or fifty (50) years of age in the case of reduced benefits; or
(2) retires on a date other than on the first day of the month;
the amount due the fund member for the initial partial monthly benefit is payable together with the regular monthly benefit on the first of the month following the date the fund member becomes fifty-two (52) or fifty (50) years of age, respectively, or retires, whichever is later.

IC 36-8-8-11
Computation of retirement benefits; actuarially reduced benefits
Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.
(b) Except as provided in section 24.8 of this chapter, each fund member who qualifies for a retirement benefit payment under section 10(b) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended the member's active service plus:
(1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each full year of active service; or
(2) for a member who retires after December 31, 1985, one percent (1%) of that salary for each six (6) months of active service; over twenty (20) years, to a maximum of twelve (12) years.

(c) Each fund member who qualifies for a retirement benefit payment under section 10(c) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended the member's active service plus one percent (1%) of that salary for each six (6) months of active service over twenty (20) years, to a maximum of twelve (12) years, all actuarially reduced for each month (if any) of benefit payments prior to fifty-two (52) years of age, by a factor established by the fund's actuary from time to time.


IC 36-8-8-11.5
Reemployment after retirement

Sec. 11.5. (a) Not less than thirty (30) days after a fund member retires from a position covered by this chapter, the fund member may:

(1) be rehired by the same unit that employed the fund member in a position covered by this chapter for a position not covered by this chapter; and

(2) continue to receive the fund member's retirement benefit under this chapter.

(b) This section may be implemented unless the system board receives from the Internal Revenue Service a determination that prohibits the implementation.


IC 36-8-8-12
Benefits for members with covered impairments; retirement benefits for members who have a disability and are less than 52 years old

Sec. 12. (a) Benefits paid under this section are subject to sections 2.5 and 2.6 of this chapter.

(b) If an active fund member has a covered impairment, as determined under sections 12.3 through 13.1 of this chapter, the member is entitled to receive the benefit prescribed by section 13.3 or 13.5 of this chapter. A member who has had a covered impairment and returns to active duty with the department shall not be treated as a new applicant seeking to become a member of the 1977 fund.

(c) If a retired fund member who has not yet reached the member's fifty-second birthday is found by the system board to be permanently or temporarily unable to perform all suitable work for which the member is or may be capable of becoming qualified, the member is entitled to receive during the disability the retirement benefit payments payable at fifty-two (52) years of age. During a reasonable
period in which a fund member with a disability is becoming qualified for suitable work, the member may continue to receive disability benefit payments. However, benefits payable for disability under this subsection are reduced by amounts for which the fund member is eligible from:

1. a plan or policy of insurance providing benefits for loss of time because of disability;
2. a plan, fund, or other arrangement to which the fund member's employer has contributed or for which the fund member's employer has made payroll deductions, including a group life policy providing installment payments for disability, a group annuity contract, or a pension or retirement annuity plan other than the fund established by this chapter;
3. the federal Social Security Act (42 U.S.C. 401 et seq.), the Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States Department of Veterans Affairs, or another federal, state, local, or other governmental agency;
4. worker's compensation payable under IC 22-3; and
5. a salary or wage, including overtime and bonus pay and extra or additional remuneration of any kind, the fund member receives or is entitled to receive from the member's employer.

For the purposes of this subsection, a retired fund member is considered eligible for benefits from subdivisions (1) through (5) whether or not the member has made application for the benefits.

(d) Notwithstanding any other law, a plan, policy of insurance, fund, or other arrangement:
1. delivered, issued for delivery, amended, or renewed after April 9, 1979; and
2. described in subsection (c)(1) or (c)(2);
may not provide for a reduction or alteration of benefits as a result of benefits for which a fund member may be eligible from the 1977 fund under subsection (c).

c) Time spent receiving disability benefits, not to exceed twenty (20) years, is considered active service for the purpose of determining retirement benefits. A fund member's retirement benefit shall be based on:
1. the member's years of active service; plus
2. if applicable, the period, not to exceed twenty (20) years, during which the member received disability benefits.

(f) A fund member who is receiving disability benefits:
1. under section 13.3(d) of this chapter; or
2. based on a determination under this chapter that the fund member has a Class 3 impairment;
shall be transferred from disability to regular retirement status when the member becomes fifty-two (52) years of age.

(g) A fund member who is receiving disability benefits:
1. under section 13.3(c) of this chapter; or
2. based on a determination under this chapter that the fund member has a Class 1 or Class 2 impairment;
is entitled to receive a disability benefit for the remainder of the fund
member's life in the amount determined under the applicable sections of this chapter.


IC 36-8-8-12.3
Covered impairments; hearings; inclusions; Class 3 excludable condition; determination

Sec. 12.3. (a) Upon a request from a fund member or from the safety board of the appropriate police or fire department, the local board shall conduct a hearing under section 12.7 of this chapter to determine whether the fund member has a covered impairment.

(b) A covered impairment is an impairment that permanently or temporarily makes a fund member unable to perform the essential function of the member's duties, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, with the police or fire department. However, a covered impairment does not include an impairment:

1. resulting from an intentionally self-inflicted injury or attempted suicide while sane or insane;
2. resulting from the fund member's commission or attempted commission of a felony;
3. that begins within two (2) years after a fund member's entry or reentry into active service with the department and that was caused or contributed to by a mental or physical condition that manifested itself before the fund member entered or reentered active service. Notwithstanding this subdivision, a fund member may not be required to satisfy more than one (1) such two (2) year period for the same mental or physical condition; or
4. that is occasioned, in whole or in part, by the fund member currently engaging (as defined in 29 CFR 1630.3, Appendix) in any of the following:
   A. Use of a controlled substance (as defined in the Controlled Substances Act (21 U.S.C. 812)).
   B. Unlawful use of a prescription drug.
(c) Notwithstanding subsection (b), this subsection applies to the following:

1. A fund member who is hired after March 1, 1992.
2. A fund member who was admitted to the 1977 fund after having been covered by another public pension plan as a police officer or firefighter.

For a fund member who is determined by the system board to have a Class 3 excludable condition under IC 36-8-8-13.6, a covered impairment does not include an impairment that would be classified as a Class 3 impairment that begins at any time after the fund
member's entry or reentry into active service with the department and is related in any manner to the Class 3 excludable condition.

(d) If the local board determines that a covered impairment exists, the chief of the police or fire department shall submit to the local board written determinations of the following:

(1) Whether there is suitable and available work on the appropriate department for which the fund member is or may be capable of becoming qualified, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

(2) For a fund member covered by sections 12.5 and 13.5 of this chapter, the fund member's years of service with the department.


IC 36-8-8-12.4
Election of coverage by IC 36-8-8-12.5 and IC 36-8-8-13.5

Sec. 12.4. A fund member who is hired for the first time before January 1, 1990, may choose to be covered by sections 12.5 and 13.5 of this chapter (instead of section 13.3 of this chapter) if the fund member files an election with the system board before January 1, 1991. However, an election may not be filed after the fund member has a covered impairment. An election filed under this section is irrevocable.


IC 36-8-8-12.5
Determination of class of impairment

Sec. 12.5. (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 13.5 of this chapter under section 12.4 of this chapter; or
(3) is described in section 12.3(c)(2) of this chapter.

(b) At the same hearing where the determination of whether the fund member has a covered impairment is made, the local board shall determine the following:

(1) Whether the fund member has a Class 1 impairment. A Class 1 impairment is a covered impairment that is the direct result of one (1) or more of the following:

(A) A personal injury that occurs while the fund member is on duty.
(B) A personal injury that occurs while the fund member is off duty and is responding to:
   (i) an offense or a reported offense, in the case of a police officer; or
   (ii) an emergency or reported emergency for which the fund member is trained, in the case of a firefighter.
(C) An occupational disease (as defined in IC 22-3-7-10). A covered impairment that is included within this clause and
subdivision (2) shall be considered a Class 1 impairment.
(D) A health condition caused by an exposure risk disease that results in a presumption of disability or death incurred in the line of duty under IC 5-10-13.

(2) Whether the fund member has a Class 2 impairment. A Class 2 impairment is a covered impairment that is:
(A) a duty related disease. A duty related disease means a disease arising out of the fund member's employment. A disease shall be 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
(B) a health condition caused by:
   (i) an exposure related heart or lung disease;
   (ii) an exposure related cancer; or
   (iii) exposure related Parkinson's disease;
that results in a presumption of disability incurred in the line of duty under IC 5-10-15.

(3) Whether the fund member has a Class 3 impairment. A Class 3 impairment is a covered impairment that is not a Class 1 impairment or a Class 2 impairment.


IC 36-8-8-12.7
Hearings; notice; procedure; discovery; determinations; appeals; records; determination whether disability in line of duty

Sec. 12.7. (a) This section applies to hearings conducted by local boards concerning determinations of impairment under this chapter or of disability under IC 36-8-5-2(g), IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

(b) At least five (5) days before the hearing, the local board shall give notice to the fund member and the safety board of the time, date, and place of the hearing.

(c) The local board must hold a hearing not more than ninety (90) days after the fund member requests the hearing.

(d) At the hearing, the local board shall permit the fund member and the safety board to:
   (1) be represented by any individual;
   (2) through witnesses and documents, present evidence;
   (3) conduct cross-examination; and
(4) present arguments.

e) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board.

f) The local board shall, at the request of the fund member or the safety board, issue:
   (1) subpoenas;
   (2) discovery orders; and
   (3) protective orders;
in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(g) The local board shall have the hearing recorded so that a transcript may be made of the proceedings.

h) After the hearing, the local board shall make its determinations, including findings of fact, in writing and shall provide copies of its determinations to the fund member and the safety board not more than thirty (30) days after the hearing.

i) If the local board:
   (1) does not hold a hearing within the time required under subsection (c); or
   (2) does not issue its determination within the time required under subsection (h);
the fund member shall be considered to be totally impaired for purposes of section 13.5 of this chapter and, if the issue before the local board concerns the class of the member's impairment, the member shall be considered to have a Class 1 impairment. The system board shall review an impairment determined under this subsection as provided in section 13.1 of this chapter.

(j) The local board may on its own motion issue:
   (1) subpoenas;
   (2) discovery orders; and
   (3) protective orders;
in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(k) At the hearing, the local board may exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on the basis of evidentiary privilege recognized by the courts.

(l) At the hearing, the local board may request the testimony of witnesses and the production of documents.

(m) If a subpoena or order is issued under this section, the party seeking the subpoena or order shall serve it in accordance with the Indiana Rules of Trial Procedure. However, if the subpoena or order is on the local board's own motion, the sheriff of the county in which the subpoena or order is to be served shall serve it. A subpoena or order under this section may be enforced in the circuit or superior court of the county in which the subpoena or order is served.

(n) With respect to a hearing conducted for purposes of determining disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5, the determination of the local board after a hearing is final and may be appealed to the court.
(o) With respect to a hearing conducted for purposes of determining impairment or class of impairment under this chapter, the fund member may appeal the local board's determinations. An appeal under this subsection:

(1) must be made in writing;
(2) must state the class of impairment and the degree of impairment that is claimed by the fund member;
(3) must include a written determination by the chief of the police or fire department stating that there is no suitable and available work; and
(4) must be filed with the local board and the system board's director no later than thirty (30) days after the date on which the fund member received a copy of the local board's determinations.

(p) To the extent required by the Americans with Disabilities Act, the transcripts, records, reports, and other materials generated as a result of a hearing, review, or appeal conducted to determine an impairment under this chapter or a disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5 must be:

(1) retained in the separate medical file created for the member; and

(2) treated as a confidential medical record.

(q) If a local board determines that a fund member described in section 13.3(a) of this chapter has a covered impairment, the local board shall also make a recommendation to the system board concerning whether the covered impairment is an impairment described in section 13.3(c) of this chapter or whether it is an impairment described in section 13.3(d) of this chapter. The local board shall forward its recommendation to the system board.

(r) The system board shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The system board shall notify the local board, the safety board, and the fund member of its initial determination.

(s) The fund member, the safety board, or the local board may object in writing to the system board's initial determination under subsection (r) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.


IC 36-8-8-13
Repealed
(Repealed by P.L.1-1991, SEC.212.)

IC 36-8-8-13.1
Submission of determination of local board and safety board to system director; medical examinations; initial determination; objections; hearing; final order; appeals

Sec. 13.1. (a) If:
(1) the local board has determined under this chapter that a covered impairment exists and the safety board has determined that there is no suitable and available work within the department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act; or
(2) the fund member has filed an appeal under section 12.7(o) of this chapter;
the local board shall submit the local board's determinations and the safety board's determinations to the system board's director.

(b) Whenever a fund member is determined to have an impairment under section 12.7(i) of this chapter, the system board's director shall initiate a review of the default award not later than sixty (60) days after the director learns of the default award.

(c) After the system board's director receives the determinations under subsection (a) or initiates a review under subsection (b), the fund member must submit to an examination by a medical authority selected by the system board. The authority shall determine if there is a covered impairment. With respect to a fund member who is covered by sections 12.5 and 13.5 of this chapter, the authority shall determine the degree of impairment. The system board shall adopt rules to establish impairment standards, such as the impairment standards contained in the United States Department of Veterans Affairs Schedule for Rating Disabilities. The report of the examination shall be submitted to the system board's director. If a fund member refuses to submit to an examination, the authority may find that no impairment exists.

(d) The system board's director shall review the medical authority's report and the local board's determinations and issue an initial determination within sixty (60) days after receipt of the local board's determinations. The system board's director shall notify the local board, the safety board, and the fund member of the initial determination. The following provisions apply if the system board's director does not issue an initial determination within sixty (60) days and if the delay is not attributable to the fund member or the safety board:

(1) In the case of a review initiated under subsection (a)(1):
   (A) the determinations of the local board and the chief of the police or fire department are considered to be the initial determination; and
   (B) for purposes of section 13.5(d) of this chapter, the fund member is considered to be totally impaired.

(2) In the case of an appeal submitted under subsection (a)(2),
the statements made by the fund member under section 12.7(o) of this chapter are considered to be the initial determination.

(3) In the case of a review initiated under subsection (b), the initial determination is the impairment determined under section 12.7(i) of this chapter.

(e) The fund member, the safety board, or the local board may object in writing to the director's initial determination within fifteen (15) days after the determination is issued. If no written objection is filed, the initial determination becomes the final order of the system board. If a timely written objection is filed, the system board shall issue the final order after a hearing. Unless an administrative law judge orders a waiver or an extension of the period for cause shown, the final order shall be issued not later than one hundred eighty (180) days after the date of receipt of the local board's determination or the date the system board's director initiates a review under subsection (b). The following provisions apply if a final order is not issued within the time limit described in this subsection and if the delay is not attributable to the fund member or the chief of the police or fire department:

(1) In the case of a review initiated under subsection (a)(1):
   (A) the determinations of the local board and the chief of the police or fire department are considered to be the final order; and
   (B) for purposes of section 13.5(d) of this chapter, the fund member is considered to be totally impaired.

(2) In the case of an appeal submitted under subsection (a)(2), the statements made by the fund member under section 12.7(o) of this chapter are considered to be the final order.

(3) In the case of a review initiated under subsection (b), the impairment determined under section 12.7(i) of this chapter is considered to be the final order.

(f) If the system board approves the director's initial determination, then the system board shall issue a final order adopting the initial determination. The local board and the chief of the police or fire department shall comply with the initial determination. If the system board does not approve the initial determination, the system board may receive additional evidence on the matter before issuing a final order.

(g) Appeals of the system board's final order may be made under IC 4-21.5.

(h) The transcripts, records, reports, and other materials compiled under this section must be retained in accordance with the procedures specified in section 12.7(p) of this chapter.


IC 36-8-8-13.3
Disability benefits
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
(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) 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 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;

IC 36-8-8-13.4
Application with local board for recommendation of line of duty
disability; final determination by system board

Sec. 13.4. (a) This section applies only to a fund member or survivor of a fund member who is receiving a disability benefit under section 13.3(b) of this chapter.

(b) A fund member or survivor of a fund member described in subsection (a) may file an application, in accordance with this section, requesting a determination that:

1) the member's covered impairment, as determined under section 13.3(b) of this chapter, was:
   (A) the direct result of:
       (i) a personal injury that occurred while the fund member was on duty;
       (ii) a personal injury that occurred while the fund member was off duty and was 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 was 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, which for purposes of this section, 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; or

2) the member's covered impairment, as determined under section 13.3(b) of this chapter, was not a covered impairment described in subsection (b)(1). The application must be filed with the local board that made the determination of a covered impairment resulting in a disability benefit under section 13.3(b) of this chapter. The application form shall be prepared by the system board or its designee and be made available to a fund member or survivor of a fund member described in subsection (a) upon request.

(c) A fund member or survivor of a fund member who files an application under this section has the burden of presenting sufficient evidence to support a finding that the member's covered impairment, as determined under section 13.3(b) of this chapter, satisfies the standard provided in subsection (b)(1). Such evidence may include
any documents, materials, or other evidence provided in connection with the original hearing and determination of a covered impairment as determined under section 13.3(b) of this chapter, including any transcript from that proceeding. A fund member or a survivor of a fund member may include with an application any additional probative evidence that is relevant to the determination under subsection (b)(1). The local board may establish reasonable procedures with respect to the application process and may engage a medical authority to provide opinions relevant to making its determination. The local board may hold a hearing with respect to an application filed under this section if the fund member or survivor of a fund member shows good cause that documents or other probative evidence sufficient to make the showing required under this subsection is not reasonably obtainable and that holding a hearing would be reasonably likely to provide such probative evidence. If the local board conducts a hearing, it shall be subject to the provisions of section 12.7 of this chapter relating to the conduct of hearings on the determinations of covered impairments under this chapter.

(d) The local board shall make its recommendation, including findings of fact, in writing and shall provide copies of its recommendation to the fund member or survivor of the fund member and the system board not later than thirty (30) days after the:

(1) filing of the application, if no hearing is held; or
(2) hearing, if held.

(e) If the local board does not issue its recommendation within the time required under subsection (d), the member's covered impairment shall be considered to be a covered impairment described under subsection (b)(1) for purposes of the local board's recommendation.

(f) The system board shall review the local board's recommendation, or the considered recommendation under subsection (e), not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the covered impairment is one described under subsection (b)(1). The system board shall notify the local board and the fund member or survivor of the fund member of its initial determination.

(g) The fund member or survivor of the fund member or the local board may object in writing to the system board's initial determination under subsection (f) not later than fifteen (15) days after the initial determination is issued by filing an objection with the system board. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. Unless an administrative law judge orders a waiver or an extension of the period for cause shown, the final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

(h) If the system board fails to issue an initial determination within forty-five (45) days after receiving the local board's recommendation, the default determination on whether the covered impairment is one described under subsection (b)(1) will be the determination made by
the system board's medical authority. An objection to this
determination may be filed in accordance with the provisions of
subsection (g).

(i) A determination that a member's covered impairment is one
described under subsection (b)(1) will apply only on a prospective
basis beginning on January 1 of the calendar year in which the
determination is made. The amount of the benefit will not be changed
as a result of this determination.

(j) A fund member or survivor of a fund member described in
subsection (a) must file an application under this section no later than
two (2) years after the date the system board notifies the fund
members and survivors described in subsection (a) that the board has
received a favorable ruling from the Internal Revenue Service. The
system board will provide notice of receipt of a favorable ruling
within thirty (30) days of its receipt.

(k) This section expires July 1, 2021.
As added by P.L.177-2011, SEC.2. Amended by P.L.35-2012,
SEC.131.

IC 36-8-8-13.5
Applicability to certain fund members; disability benefits for
classes of impairment
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 is related in any manner to the Class 3 excludable condition.

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 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.

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.


IC 36-8-8-13.6
"Class 3 excludable condition"; rules; recording and retaining listing of condition
Sec. 13.6. (a) As used in this chapter, "Class 3 excludable
condition" means a condition that is included on the list of excludable medical conditions established by the system board under subsection (b).

(b) The system board shall adopt rules to establish a list of excludable medical conditions.

(c) To the extent required by the Americans with Disabilities Act, the system board shall record and retain the listing of a fund member's Class 3 excludable condition in the fund member's confidential medical file.


IC 36-8-8-13.7
Review of member's impairment; hearing; costs of medical examination

Sec. 13.7. (a) No more than once every twelve (12) months after the final determination of covered impairment under this chapter:

   (1) a petition for review of the fund member's impairment may be filed with the local board by the fund member, the safety board, or the system board; or
   (2) the local board may on its own motion seek a review of a fund member's impairment.

(b) The review may include a review of whether a covered impairment continues to exist, whether the degree of impairment has changed, and any other matter considered appropriate by the local board.

(c) The local board shall conduct a hearing under section 12.7 of this chapter to determine the matters raised in the petition for review. The local board's determination shall be submitted to the system board, and the procedures specified in section 13.1 of this chapter apply.

(d) The costs of a medical examination required by the local board shall be paid by the party who filed the petition for review.


IC 36-8-8-13.8
Members dying other than in line of duty after August 31, 1982

Sec. 13.8. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter) after August 31, 1982.

(b) If a fund member dies while receiving retirement or disability benefits, the following apply:

   (1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:
       (A) until the child becomes eighteen (18) years of age; or
       (B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or
university;
whichever period is longer. However, if the board finds upon
the submission of satisfactory proof that a child who is at least
eighteen (18) years of age is mentally or physically
incapacitated, is not a ward of the state, and is not receiving a
benefit under clause (B), the child is entitled to receive an
amount each month that is equal to the greater of thirty percent
(30%) of the monthly pay of a first class patrolman or first class
firefighter or fifty-five percent (55%) of the monthly benefit the
deceased member was receiving or was entitled to receive on the
date of the member's death as long as the mental or physical
incapacity of the child continues. Benefits paid for a child shall
be paid to the surviving parent as long as the child resides with
and is supported by the surviving parent. If the surviving parent
dies, the benefits shall be paid to the legal guardian of the child.
(2) The member's surviving spouse is entitled to a monthly
benefit equal to sixty percent (60%) of the fund member's
monthly benefit during the spouse's lifetime. If the spouse
remarried before September 1, 1983, and benefits ceased on the
date of remarriage, the benefits for the surviving spouse shall be
reinstated on July 1, 1997, and continue during the life of the
surviving spouse.
If a fund member dies while receiving retirement or disability
benefits, there is no surviving eligible child or spouse, and there is
proof satisfactory to the local board, subject to review in the manner
specified in section 13.1(c) of this chapter, that the parent was wholly
dependent on the fund member, the member's surviving parent is
entitled, or both surviving parents if qualified are entitled jointly, to
receive fifty percent (50%) of the fund member's monthly benefit
during the parent's or parents' lifetime. As used in this subsection, a
parent is wholly dependent on a fund member if the fund member
claimed the parent as a dependent on the federal income tax return
filed by the fund member in the year before the year in which the
fund member died.
(c) Except as otherwise provided in this subsection, if a fund
member dies while on active duty or while retired and not receiving
benefits, the member's children and the member's spouse, or the
member's parent or parents are entitled to receive a monthly benefit
determined under subsection (b). If the fund member did not have at
least twenty (20) years of service or was not at least fifty-two (52)
years of age, the benefit is computed as if the member:
(1) did have twenty (20) years of service; and
(2) was fifty-two (52) years of age.
As added by P.L.118-2000, SEC.26. Amended by P.L.1-2007,
SEC.242; P.L.62-2010, SEC.1; P.L.23-2010, SEC.1.

IC 36-8-8-13.9
Members dying in line of duty before September 1, 1982
Sec. 13.9. (a) This section applies to an active member who died
in the line of duty (as defined in section 14.1 of this chapter) before
September 1, 1982.

(b) Except as otherwise provided in this subsection, if a fund member dies in the line of duty, the following apply:

(1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or
(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.

(c) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit under subsection (b) is computed as if the member:

(1) did have twenty (20) years of service; and
(2) was fifty-two (52) years of age.

(d) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for
health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

1. until the child becomes eighteen (18) years of age;
2. until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
3. during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).


IC 36-8-8-14
Repealed
(Repealed by P.L.50-1984, SEC.13.)

IC 36-8-8-14.1
Members dying in line of duty after August 31, 1982
Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

1. until the child reaches eighteen (18) years of age; or
2. until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2),
the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.

(f) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

1. did have twenty (20) years of service; and
2. was fifty-two (52) years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

1. any action that the member, in the member's capacity as a police officer:
   A. is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
   B. performs in the course of controlling or reducing crime or enforcing the criminal law; or
2. any action that the member, in the member's capacity as a firefighter:
   A. is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
   B. performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

1. until the child becomes eighteen (18) years of age;
2. until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).


IC 36-8-8-15
Cost of living adjustment

Sec. 15. Each year the system board shall determine if there has been an increase or decrease in the consumer price index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the consumer price index for January, February, and March of that year with the arithmetic mean for the same three (3) months of the preceding year. If there has been an increase, or a decrease, it shall be stated as a percentage of the arithmetic mean for the preceding three (3) month period. The percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%). If there is a percentage increase of the arithmetic mean for the preceding three (3) month period, a fund member's or survivor's monthly benefit, beginning with the July payment, shall be increased by an amount equal to the June payment times the percentage increase. However, a fund member's or survivor's monthly benefit may not be increased under this section until July of the year following the year of the first monthly benefit payment to the fund member or survivor. In computing a fund member's benefit, the increase is based only on those years for which the fund member was eligible for benefit payments under this chapter. A monthly benefit may not be reduced if there is a percentage decrease of the arithmetic mean for the preceding three (3) month period.


IC 36-8-8-16
Lump sum death benefit

Sec. 16. (a) Benefits paid under this section are subject to section 2.5 of this chapter.
(b) The heirs or estate of a fund member is entitled to receive at least twelve thousand dollars ($12,000) upon the fund member's death.


IC 36-8-8-17
Benefits exempt from judicial process; transfer prohibited; rollover to eligible retirement plan

Sec. 17. (a) The benefits of this chapter are exempt from attachment and garnishment and may not be seized, taken, or levied upon by any execution or process.

(b) Except as provided in subsection (c) and section 17.2 of this chapter, a person receiving a benefit under this chapter may not transfer, assign, or sell the benefit.

(c) Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the 1977 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.


IC 36-8-8-17.2
Voluntary benefit deductions

Sec. 17.2. (a) Notwithstanding any other provision of this chapter, a person receiving a disability, retirement, or survivor monthly benefit under this chapter may, after June 30, 2004, authorize the system board to make a deduction from the benefit.

(b) An authorization for a deduction from a disability, retirement, or survivor monthly benefit paid under this chapter is valid only if all the following requirements are met:

(1) The authorization is:
   (A) in writing;
   (B) signed personally by the person receiving the benefit;
   (C) revocable at any time by the person receiving the benefit upon written notice to the system board; and
   (D) agreed to in writing by the system board.

(2) An executed copy of the authorization is delivered to the system board within ten (10) days after its execution.

(3) The deduction is made for a purpose described in subsection (c).

(c) A deduction under this section may be made for the purpose of paying any of the following:

(1) A premium on a policy of insurance for medical, surgical, hospitalization, dental, vision, long term care, or Medicare supplement coverage offered to retired fund members by the
fund member's former employer, the state, or the system board.
(2) A pledge or contribution to a charitable or nonprofit organization.
(3) Dues payable by the person receiving the benefit to a labor organization of which the person is a member.


IC 36-8-8-18
Credit for service prior to participation in 1977 fund; rollover distributions; trustee to trustee transfers

Sec. 18. (a) Except as provided in subsection (b), if a unit becomes a participant in the 1977 fund, credit for prior service by police officers (including prior service as a full-time, fully paid town marshal or full-time, fully paid deputy town marshal by a police officer employed by a metropolitan board of police commissioners) or by firefighters before the date of participation may be given by the system board only if:

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

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

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

(1) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.
(2) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, such prior service shall be given only if:

(A) The unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a period of not more than ten (10) years. The amount of contributions must be based on the actual salary earned by a
first class firefighter at the time the unit becomes a participant in the 1977 fund, or the firefighter becomes a member of the 1977 fund, or if no such salary designation exists, the actual salary earned by the firefighter. The limit on credit for prior service does not apply if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter.

(B) The amount the firefighter would have contributed if the firefighter had been a member of the 1977 fund during the firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the system board.

(3) If, at the time a unit entered the 1977 fund, the unit contributed the amount required by subdivision (2) so that a fund member received the maximum prior service credit allowed by subdivision (2) and, at a later date, the earliest retirement age was lowered, the unit may contribute to the 1977 fund on the fund member's behalf an additional amount that is determined in the same manner as under subdivision (2) with respect to the additional prior service, if any, available as a result of the lower retirement age. If the unit pays the additional amount described in this subdivision in accordance with the requirements of subdivision (2), the fund member shall receive the additional service credit necessary for the fund member to retire at the lower earliest retirement age.

(c) This subsection applies to a unit that:

(1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and

(2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes
fifty-two (52) years of age, whichever is less.

(d) The unit shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection (c), amortized over a period not to exceed ten (10) years with interest at a rate determined by the system board.

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

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

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

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

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.


IC 36-8-8-18.1
1977 fund participants previously covered in PERF or firefighters participating in 1977 fund; minimum benefit; transfer of contributions; reduction of contributions; credit for prior service

Sec. 18.1. (a) As used in this section, "police officer" includes a former full-time, fully paid town marshal or full-time, fully paid deputy town marshal who is employed as a police officer by a metropolitan board of police commissioners.

(b) If a unit becomes a participant in the 1977 fund and the unit previously covered police officers, firefighters, or emergency medical technicians in PERF, or if the employees of the unit become members of the 1977 fund under section 7(g) of this chapter, the following provisions apply:
(1) A minimum benefit applies to members electing to transfer or being transferred to the 1977 fund from PERF. The minimum benefit, payable at age fifty-two (52), for such a member equals the actuarial equivalent of the vested retirement benefit payable to the member upon normal retirement under IC 5-10.2-4-1 as of the day before the transfer, based solely on:
   (A) creditable service;
   (B) the average of the annual compensation; and
   (C) the amount credited to the annuity savings account;
   of the transferring member as of the day before the transfer under IC 5-10.2 and IC 5-10.3.
(2) The system board shall transfer from PERF to the 1977 fund the amount credited to the annuity savings accounts and the present value of the retirement benefits payable at age sixty-five (65) attributable to the transferring members.
(3) The amount the unit and the member must contribute to the 1977 fund under section 18 of this chapter, if any service credit is to be given under that section, will be reduced by the amounts transferred to the 1977 fund by the system board under subdivision (2).
(4) Credit for prior service in PERF of a member as a police officer, a firefighter, or an emergency medical technician is waived in PERF. Any credit for that service under the 1977 fund shall only be given in accordance with section 18 of this chapter.
(5) Credit for prior service in PERF of a member, other than as a police officer, a firefighter, or an emergency medical technician, remains in PERF and may not be credited under the 1977 fund.


IC 36-8-8-19
Baseline statewide physical and mental examinations
Sec. 19. (a) The baseline statewide physical examination required by section 7(a) of this chapter shall be prescribed by the system board and shall be administered by the appointing authority, as determined by the local board, after the appointing authority extends a conditional offer for employment. The baseline statewide physical examination shall be administered by a licensed physician and must include all of the following:
   (1) A general medical history.
   (2) The tests identified in rules that shall be adopted by the system board.
   (b) The system board shall adopt minimum standards by rule that a police officer or firefighter must meet for the baseline statewide physical examination described in subsection (a). The baseline statewide physical examination and related standards must:
   (1) reflect the essential functions of the job;
   (2) be consistent with business necessity; and
(3) be evaluated by the system board one (1) time before January 1, 2015, and every five (5) years thereafter.

(c) The system board shall, in consultation with the commissioner of mental health, select the baseline statewide mental examination described in section 7(a) of this chapter. The standards for passing the baseline statewide mental examination shall be determined by the local board. The baseline statewide mental examination and related standards must:

(1) reflect the essential functions of the job;
(2) be consistent with business necessity; and
(3) be evaluated by the system board one (1) time before January 1, 2015, and every five (5) years thereafter.

The purpose of the baseline statewide mental examination is to determine if the police officer or firefighter is mentally suitable to be a member of the department. The local board may designate a community mental health center or a managed care provider (as defined in IC 12-7-2-127(b)), a hospital, a licensed physician, or a licensed psychologist to administer the examination. However, the results of a baseline statewide mental examination shall be interpreted by a licensed physician or a licensed psychologist.

(d) The employer shall pay for no less than one-half (1/2) the cost of the examinations.

(e) Each local board shall name the physicians who will conduct the examinations under this section.

(f) If a local board determines that a candidate passes the local physical and mental standards, if any, established under IC 36-8-3.2-6, the baseline statewide physical examination described in subsection (a), and the baseline statewide mental examination described in subsection (c), the local board shall send the following to the Indiana public retirement system:

(1) Copies and certification of the results of the baseline statewide physical examination described in subsection (a).
(2) Certification of the results of the physical agility examination required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5.
(3) Certification of the results of the baseline statewide mental examination described in subsection (c).

(g) The system board or the system board's designee shall then determine whether the candidate passes the baseline statewide physical standards adopted under subsection (b). If the candidate passes the baseline statewide standards, the system board or the system board's designee shall also determine whether the candidate has a Class 3 excludable condition under section 13.6 of this chapter. The system board or the system board's designee shall retain the results of the examinations and all documents related to the examination until the police officer or firefighter retires or separates from the department.

(h) To the extent required by the federal Americans with Disabilities Act, the system board shall do the following:

(1) Treat the medical transcripts, reports, records, and other material compiled under this section as confidential medical
records.
(2) Keep the transcripts, reports, records, and material described in subdivision (1) in separate medical files for each member.

(i) A local board may, at the request of an appointing authority or on the local board's own motion, issue subpoenas, discovery orders, and protective orders in accordance with the Indiana Rules of Trial Procedure to facilitate the receipt of accurate and original documents necessary for the proper administration of this chapter. A subpoena or order issued under this subsection:

(1) must be served in accordance with the Indiana Rules of Trial Procedure; and

(2) may be enforced in the circuit or superior court with jurisdiction for the county in which the subpoena or order is served.


IC 36-8-8-20
Special lump sum death benefit in addition to other benefits

Sec. 20. (a) As used in this section, "dies in the line of duty" has the meaning set forth in section 14.1 of this chapter.

(b) Benefits paid under this section are subject to section 2.5 of this chapter.

(c) A special death benefit of seventy-five thousand dollars ($75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars ($150,000) for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the Indiana public retirement system from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving children (to be shared equally).

(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(d) The benefit provided by this section is in addition to any other benefits provided under this chapter.


IC 36-8-8-21
1977 fund members; age limitation; aptitude, physical agility, and physical and mental standards; credit for prior service

Sec. 21. (a) This section applies to firefighters who:

(1) are employed by units that become participants in the 1977 fund under section 3(c) of this chapter; or
(2) become members of the 1977 fund under section 7(g) of this chapter.

(b) A firefighter may become a member of the 1977 fund without meeting the age limitation under section 7(a) of this chapter if the firefighter 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 firefighter becomes a member of the 1977 fund.

(c) Credit for prior service of a firefighter who becomes a member of the 1977 fund under this section 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.


IC 36-8-8-22
Selection of administrative law judge
Sec. 22. Nothing in this chapter limits the discretion of the system board to select an administrative law judge under IC 4-21.5-3-9.

IC 36-8-8-23
Disability retiree supplemental benefit
Sec. 23. (a) This section applies to a fund member who:
1. after June 30, 2009, receives a benefit based on a determination that the member has a Class 1 or Class 2 impairment, regardless of whether the determination was made before, on, or after June 30, 2009; and
2. before July 1, 2009, has not had the member's disability benefit recalculated under section 13.5 of this chapter.

(b) Upon becoming fifty-two (52) years of age, a fund member receiving a Class 1 impairment benefit or Class 2 impairment benefit under section 13.5(h)(2) of this chapter is entitled to receive a monthly supplemental benefit determined in STEP THREE of the following formula:

STEP ONE: Determine the greater of:
A. the monthly retirement benefit payable to a fund member with twenty (20) years of service; or
B. the monthly retirement benefit payable to a fund member with 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 fund 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.

STEP TWO: Subtract from the amount determined under STEP ONE the amount of any monthly benefit determined under section 13.5 of this chapter that the fund member is entitled to receive for the remainder of the fund member's life.

STEP THREE: Determine the greater of the following:
(A) The remainder determined under STEP TWO.
(B) Zero (0).
(c) A monthly supplemental benefit determined under this section is payable for the remainder of the fund member's life.


IC 36-8-8-24
Beneficiary designation
Sec. 24. (a) A fund member may designate one (1) or more beneficiaries to receive in a lump sum the fund member's contributions plus interest at a rate determined by the system board if the fund member dies:
(1) without receiving a retirement benefit under sections 10 and 11 of this chapter;
(2) without receiving a disability benefit under section 13.3 or 13.5 of this chapter;
(3) without a survivor entitled to receive a benefit under section 13.8, 13.9, or 14.1 of this chapter; and
(4) without the system board returning the fund member's contributions under section 8 of this chapter.

(b) A fund member who chooses to designate one (1) or more beneficiaries under this section shall file the fund member's designation with the system board on a form prescribed by the system board.

(c) The system board shall adopt rules to allow a fund member who designates more than one (1) beneficiary to allocate the contributions and interest paid in percentage increments.

(d) Whenever a fund member does not designate a beneficiary under this section and has no survivors entitled to receive a benefit under section 13.8, 13.9, or 14.1 of this chapter, the system board shall refund to the fund member's estate:
(1) the fund member's contributions; plus
(2) interest at a rate determined by the system board.


IC 36-8-8-24.8
Expired
(Expired 7-1-2012 by P.L.177-2011, SEC.3.)
IC 36-8-8.5
Chapter 8.5. Deferred Retirement Option Plan (DROP)

IC 36-8-8.5-1
Repealed
(Repealed by P.L.51-2006, SEC.5.)

IC 36-8-8.5-1.5
DROP expiration date
Sec. 1.5. This chapter expires for members of the 1925 fund, the 1937 fund, or the 1953 fund on the date the authority of the board of trustees of the Indiana public retirement system to distribute from the pension relief fund established under IC 5-10.3-11-1 to units of local government (described in IC 5-10.3-11-3) amounts determined under IC 5-10.3-11-4.7 expires.

IC 36-8-8.5-2
Applicability
Sec. 2. Except as provided in section 1.5 of this chapter, this chapter applies to a person who is a member of any of the following funds:

(1) 1925 Police Pension Fund (IC 36-8-6) (referred to in this chapter as the 1925 fund).
(2) 1937 Firefighters' Pension Fund (IC 36-8-7) (referred to in this chapter as the 1937 fund).
(3) 1953 Police Pension Fund (Indianapolis) (IC 36-8-7.5) (referred to in this chapter as the 1953 fund).
(4) 1977 Police Officers' and Firefighters' Pension and Disability Fund (IC 36-8-8) (referred to in this chapter as the 1977 fund).

IC 36-8-8.5-3
"Applicable fund"
Sec. 3. As used in this chapter, "applicable fund" means the following:

(1) For members of the 1925 fund, the 1925 fund.
(2) For members of the 1937 fund, the 1937 fund.
(3) For members of the 1953 fund, the 1953 fund.
(4) For members of the 1977 fund, the 1977 fund.

IC 36-8-8.5-4
"DROP"
Sec. 4. As used in this chapter, "DROP" means the deferred retirement option plan established by this chapter.
IC 36-8-8.5-5
"DROP election"
Sec. 5. As used in this chapter, "DROP election" means a member's election to enter the DROP.

IC 36-8-8.5-6
"DROP entry date"
Sec. 6. As used in this chapter, "DROP entry date" means the date that a member's DROP election becomes effective.

IC 36-8-8.5-7
"DROP frozen benefit"
Sec. 7. As used in this chapter, "DROP frozen benefit" means a member's monthly retirement benefit calculated under the provisions of the applicable fund and based on:
(1) the salary of a first class officer or firefighter that is in effect on the member's DROP entry date; and
(2) the member's years of service accrued on the member's DROP entry date.

IC 36-8-8.5-8
"DROP retirement date"
Sec. 8. As used in this chapter, "DROP retirement date" means the future retirement date selected by a member at the time the member makes a DROP election.

IC 36-8-8.5-9
Eligibility
Sec. 9. A member may make a DROP election as provided in this chapter only if the member is eligible to receive an unreduced benefit under the provisions of the applicable fund on the member's DROP entry date.

IC 36-8-8.5-10
DROP election requirements
Sec. 10. A member who elects to enter the DROP shall agree to the following:
(1) The member shall execute an irrevocable election to retire on the DROP retirement date and shall remain in active service until that date.
(2) While in the DROP, the member shall continue to make contributions to the applicable fund under the provisions of that fund.
(3) The member shall elect a DROP retirement date not less than twelve (12) months and not more than thirty-six (36) months
after the member's DROP entry date.

(4) The member may not remain in the DROP after the date the member reaches any mandatory retirement age that may apply to the member.

(5) The member may make an election to enter the DROP only once in the member's lifetime.


IC 36-8-8.5-11
Employer contributions
Sec. 11. The employer of a 1977 fund member who elects to enter the DROP shall continue to make the employer contributions to the 1977 fund on behalf of that member under the provisions of the 1977 fund.


IC 36-8-8.5-12
Calculation of retirement benefit
Sec. 12. (a) The retirement benefit for a member who enters the DROP and retires on:

(1) the member's DROP retirement date; or
(2) the date the member retires because of a disability as provided under section 16.5(d) of this chapter; is determined under this chapter rather than under the provisions of the applicable fund.

(b) A member who retires on the member's DROP retirement date or on the date the member retires because of a disability as provided under section 16.5(d) of this chapter may elect to receive a retirement benefit in one of the following forms:

(1) A retirement benefit paid by and calculated under the provisions of the applicable fund as if the member had never entered the DROP.
(2) A retirement benefit paid by the applicable fund and consisting of:
   (A) the DROP frozen benefit; plus
   (B) an additional amount, paid as the member elects under subsection (c), calculated by multiplying:
   (i) the amount of the DROP frozen benefit; by
   (ii) the number of months that the member was in the DROP.

(c) A member who chooses the retirement benefit described in subdivision (b)(2) must elect to receive the additional amount described in subdivision (b)(2)(B) as:

(1) a lump sum paid on:
   (A) the member's DROP retirement date; or
   (B) the date the member retires because of a disability as provided under section 16.5(d) of this chapter; or
(2) three (3) equal annual payments:
   (A) commencing on:
   (i) the member's DROP retirement date; or
(ii) the date the member retires because of a disability as provided under section 16.5(d) of this chapter; and

(B) thereafter paid on the anniversary of:

(i) the member's DROP retirement date; or

(ii) the date the member retires because of a disability as provided under section 16.5(d) of this chapter.

(d) In calculating a member's retirement benefit under this chapter, the applicable fund must use the lesser of:

(1) the member's actual years of service; or

(2) thirty-two (32) years of service.

(e) Except as provided under section 16.5(d) of this chapter, the retirement benefits for a member who exits the DROP for any reason other than retirement on the member's DROP retirement date are calculated under the provisions of the applicable fund as if the member had never entered the DROP.


**IC 36-8-8.5-13**

**Cost of living adjustment**

Sec. 13. (a) A cost of living adjustment to the monthly benefit of a member of the 1925 fund, 1937 fund, or 1953 fund is determined in STEP FOUR of the following formula:

**STEP ONE:** Calculate a percentage by dividing:

(A) the amount of any increase in the salary of a first class officer or firefighter, whichever is applicable; by

(B) the prior year's salary of a first class officer or firefighter, whichever is applicable.

**STEP TWO:** Add:

(A) the member's DROP frozen benefit; and

(B) the amount of any prior cost of living adjustments calculated under this section.

**STEP THREE:** Multiply the percentage determined under STEP ONE by the sum determined under STEP TWO.

**STEP FOUR:** Add the product determined under STEP THREE to the sum determined under STEP TWO.

(b) A cost of living adjustment to the monthly benefit of a member of the 1977 fund is determined under the provisions of IC 36-8-8, as applied after:

(1) the member's DROP retirement date; or

(2) the date the member retires because of a disability as provided under section 16.5(d) of this chapter.


**IC 36-8-8.5-14**

**DROP exit date**

Sec. 14. (a) Subject to subsection (b), a member who enters the DROP established by this chapter shall exit the DROP at the earliest of:

(1) the member's DROP retirement date;

(2) thirty-six (36) months after the member's DROP entry date;
(3) the mandatory retirement age applicable to the member, if any;
(4) the date the member retires because of a disability as provided under section 16.5(d) of this chapter; or
(5) the date determined under IC 36-8-8-24.8.

(b) A member of the 1925 fund, the 1937 fund, or the 1953 fund who enters the DROP established by this chapter must exit the DROP on the date the authority of the board of trustees of the Indiana public retirement system to distribute from the pension relief fund established under IC 5-10.3-11-1 to units of local government (described in IC 5-10.3-11-3) amounts determined under IC 5-10.3-11-4.7 expires.


IC 36-8-8.5-15
Survivor benefits
Sec. 15. If a member dies:
(1) in the line of duty; or
(2) other than in the line of duty;
while the member is in the DROP, benefits for the member's survivors are calculated under the provisions of the applicable fund as if the member had never entered the DROP.


IC 36-8-8.5-16
Repealed
(Repealed by P.L.148-2007, SEC.11.)

IC 36-8-8.5-16.5
Disability benefit
Sec. 16.5. (a) This section applies to a member of the 1977 fund who becomes disabled after June 1, 2005, while the member is in the DROP, because of a disability that arose either in the line of duty or other than in the line of duty.

(b) The retirement benefit for a member who retires because of a disability while in the DROP is determined under this chapter rather than under the provisions of the applicable fund. Determinations as to whether:
(1) the member is disabled; and
(2) a disability is in the line of duty;
under this chapter are made under the provisions of the applicable fund.

(c) If the member retires because of a disability less than twelve (12) months after the date the member enters the DROP, the benefits for the member are calculated under the provisions of the applicable fund as if the member had never entered the DROP.

(d) If the member retires because of a disability at least twelve (12) months after the date the member enters the DROP, the benefits for the member are calculated under section 12 of this chapter, and
the member's retirement date is the date the member retires because of a disability rather than the member's DROP retirement date.


IC 36-8-8.5-17
Exemption from levy limits; taxes of civil taxing unit for pension benefits

Sec. 17. (a) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5 do not apply to ad valorem property taxes imposed by a civil taxing unit for a calendar year to pay pension benefits under section 12(c) of this chapter to the extent provided in subsection (b).

(b) For purposes of determining the property tax levy limit imposed on a civil taxing unit under IC 6-1.1-18.5, the civil taxing unit's ad valorem property tax levy for a calendar year does not include an amount equal to the amounts paid by the civil taxing unit for pension benefits in that calendar year under section 12(c) of this chapter, minus:

(1) the amount of pension relief distributions under IC 5-10.3-11-4, IC 5-10.3-11-4.5 (repealed effective January 1, 2009), and IC 5-10.3-11-4.7 to be received by the civil taxing unit in that calendar year that is attributable to pension benefits paid under section 12(c) of this chapter for that calendar year; and

(2) an amount equal to the percentage of the civil taxing unit's pension distributions that were relieved under IC 5-13-12-4 in the preceding calendar year, multiplied by the amount of pension benefits paid under section 12(c) of this chapter in that calendar year.

IC 36-8-9  
Chapter 9. Town Board of Metropolitan Police Commissioners

IC 36-8-9-1  
Application of chapter  
Sec. 1. This chapter applies to all towns.  

IC 36-8-9-2  
Establishment of board  
Sec. 2. The legislative body of a town may by ordinance:
   (1) abolish the office of town marshal; and
   (2) establish a board of metropolitan police commissioners (referred to as "the board" in this chapter).  

IC 36-8-9-3  
Repealed  
(Repealed by P.L.12-2001, SEC.2.)

IC 36-8-9-3.1  
Membership  
Sec. 3.1. (a) An ordinance adopted under section 2 of this chapter must provide as follows:
   (1) The board must consist of either of the following number of members:
      (A) Three (3) members. If the ordinance provides for a three (3) member board, not more than two (2) board members may be members of the same political party, if individuals who satisfy this requirement can be found to serve on the board.
      (B) Five (5) members. If the ordinance provides for a five (5) member board, not more than three (3) board members may be members of the same political party, if individuals who satisfy this requirement can be found to serve on the board.
   (2) Each board member must be a resident of the town.
   (3) The town legislative body shall appoint each board member.
   (4) Except as provided in subdivision (5), the term of each board member expires January 1 of the third year after the member's appointment.
   (5) The ordinance must provide for staggered terms of the board members and the method for staggering the terms. If the board has three (3) members, the term of one (1) board member must expire each year. If the board has five (5) members, the terms of not more than two (2) board members may expire each year.
   (6) The town legislative body may remove a board member for any cause that the legislative body considers sufficient.
   (7) The town legislative body may not appoint a police officer employed by the town to serve on the board.
(b) The ordinance may provide that a member of the town legislative body may serve as an ex officio member of the board. If the ordinance permits members of the town legislative body to serve as members of the board, the following apply:

1. The ordinance must state the maximum number of board members that may also be members of the town legislative body.
2. The ordinance must provide either of the following:
   A. That a board member vacates the member's position on the board when the member is no longer a member of the town legislative body.
   B. That a board member may continue to serve until the end of the board member's term even if the board member vacates the member's position on the town legislative body.
3. A board member who is also a member of the town legislative body may not receive compensation as a board member provided under subsection (g).
4. A board member who is also a member of the town legislative body is not required to post the bond required by subsection (f).

(c) This subsection does not apply to a board member who is a member of the town legislative body. Before performing any function of a board member, an individual shall take and subscribe an oath or affirmation of office before the circuit court clerk of the county in which the town is located.

(d) This subsection applies to all board members. Before performing any function of a board member, an individual shall take and subscribe an oath or affirmation before the circuit court clerk of the county in which the town is located that, in each appointment or removal made by the board to or from the town police department under this chapter, the board member will not appoint or remove a member of the town police department because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person.

(e) The circuit court clerk shall file oaths and affirmations required by this section among the circuit court clerk's records.

(f) This subsection does not apply to a board member who is a member of the town legislative body. A board member shall give bond in the penal sum of five thousand dollars ($5,000), payable to the state and conditioned upon the faithful and honest discharge of the member's duties. The bond must be approved by the town legislative body.

(g) The town legislative body shall fix the salary of board members who are not members of the town legislative body. A board member's salary is payable monthly out of the town treasury.

(h) If the board has three (3) members, the town legislative body may amend the ordinance at any time to increase the number of board members to five (5). The amended ordinance and the appointment of board members must satisfy all the requirements of subsection (a).

(i) A board established in compliance with section 3 of this
chapter (before its repeal) is considered a board established under this section. A town legislative body may amend an ordinance adopted in compliance with section 3 of this chapter (before its repeal) as provided in this section.


IC 36-8-9-4
Powers and duties of board

Sec. 4. (a) The board may appoint, subject to the qualifications for employment determined by the board and approved by the town legislative body, as many persons as necessary to serve in the police department of the town. One (1) person shall be appointed to serve as the police chief. The board may also appoint other employees that are necessary to carry on the work of the police department.

(b) The board may recommend and the town legislative body shall determine the compensation to be paid to members of the police department in amounts that are just and reasonable.

(c) All persons appointed must be of good moral character and serve only during good behavior. The board constitutes the safety board of the town for purposes of the suspension, demotion, or dismissal of any member of the police department. Proceedings for the suspension, demotion, or dismissal of any member of the police department shall be conducted in the manner prescribed by IC 36-8-3-4. The disciplinary provisions of IC 36-8-3-4.1 also apply to the safety board and the police chief.

(d) The board may make general and special rules for the government and discipline of the police department and may make special and general orders to the department through the police chief, who is the executive head of the department.


IC 36-8-9-5
Appropriations

Sec. 5. The town legislative body shall appropriate a sum sufficient to pay the salaries of the members of the town police department.


IC 36-8-9-6
Statutes governing police departments

Sec. 6. (a) The operation, management, and control of a police department under this chapter is governed by statutes applicable to the management and control of other municipal police departments if those statutes are consistent with this chapter.

(b) The members of the police department may exercise all powers granted to members of police departments by other statutes. The members of the police department are entitled to all the rights, powers, and privileges granted by statute to members of police
departments.

IC 36-8-9-7
Probationary appointments
Sec. 7. (a) The board may provide that all appointments to the police department are probationary for a period not to exceed one (1) year.
(b) If the board finds, upon the recommendation of the chief of the department during the probationary period, that the conduct or capacity of a member is not satisfactory, the board shall notify the member in writing that the member is being suspended or that the member will not receive a permanent appointment.
(c) If a member is notified that the member will not receive a permanent appointment, the member's employment immediately ceases. Otherwise, at the expiration of the probationary period, the member is considered regularly employed.

IC 36-8-9-8
Payment of line of duty health care expenses for police
Sec. 8. (a) A town shall pay for the care of a full-time, paid police officer who:
(1) suffers an injury; or
(2) contracts an illness;
during the performance of the officer's duty.
(b) The town shall pay for the following expenses incurred by a police officer described in subsection (a):
(1) Medical and surgical care.
(2) Medicines and laboratory, curative, and palliative agents and means.
(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.
(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.
(c) Expenditures required by subsection (a) shall be paid from the general fund of the town.
(d) A town that has paid for the care of a police officer under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the police officer has a cause of action for an injury sustained because of, or an illness caused by, the third party. The town's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the police officer against the third party.

IC 36-8-9-9
Body armor
Sec. 9. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).
(b) After December 31, 2010, a town shall provide an active member of the police department of the town with body armor for the torso. The town shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the police department of a town shall not be required to pay for maintenance of the body armor for the torso furnished under this section.

(d) Body armor for the torso provided by a town under this section remains the property of the town. The town may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the town.

As added by P.L.34-2010, SEC.7.
IC 36-8-10  
Chapter 10. Sheriff's Department; Merit Board; Pensions

IC 36-8-10-0.1  
Application of certain amendments to chapter  
Sec. 0.1. The following amendments to this chapter apply as follows:  
(1) The addition of section 11.5 of this chapter by P.L.228-1991 applies only to county police officers and jail employees who suffer an injury or contract an illness after June 30, 1991.  
(2) The amendments made to section 12 of this chapter by P.L.40-1997 apply only to monthly benefits paid after June 30, 1997, unless the fiscal body determines that section 12 of this chapter, as amended by P.L.40-1997, applies to earlier monthly benefits as determined by the fiscal body.  
(3) The amendments made to section 12.2 of this chapter by P.L.51-2006 apply to an employee beneficiary of a county retirement plan established under section 12 of this chapter who dies in the line of duty after December 31, 2005.

As added by P.L.220-2011, SEC.672.

IC 36-8-10-0.3  
Legalization of certain county fiscal body actions taken before July 1, 1994  
Sec. 0.3. A county fiscal body action taken before July 1, 1994, to directly appropriate money from the appropriate source to a sheriff's pension trust plan is legalized and validated to the same extent as if P.L.152-1994 had been enacted.

As added by P.L.220-2011, SEC.673.

IC 36-8-10-1  
Application of chapter  
Sec. 1. This chapter applies to all counties.


IC 36-8-10-2  
Definitions  
Sec. 2. As used in this chapter:  
"Board" refers to the sheriff's merit board established under this chapter.  
"Department" refers to the sheriff's department of a county.  
"Eligible employee" means the sheriff of a county or a county police officer.  
"Employee beneficiary" means an eligible employee who has completed an application to become an employee beneficiary and who has had the proper deductions made from his wages as required in the pension trust agreement.  
"Net amount paid into the trust fund from wages of an employee beneficiary" means the amount of money actually paid in from the wages of the employee beneficiary, plus interest at the rate of three
percent (3%) compounded annually and less a sum including interest at the same rate, paid from the trust fund to the employee beneficiary or to a governmental fund for the credit or benefit of the employee beneficiary.

"Pension engineers" means technical consultants qualified to supervise and assist in the establishment, maintenance, and operation of a pension trust on an actuarially sound basis.

"Trust fund" means the assets of the pension trust and consists of voluntary contributions from the department, money paid from the wages of employee beneficiaries, and other payments or contributions made to the pension trust, including the income and proceeds derived from the investment of them.

"Trustee" refers to the trustee of the pension trust, who may be one (1) or more corporate trustees or the treasurer of the county serving under bond.


IC 36-8-10-3
Sheriff's merit board

Sec. 3. (a) The fiscal body of each county shall, by ordinance, establish a sheriff's merit board to be known as the ____________ county sheriff's merit board (inserting the name of the county).

(b) The board consists of five (5) members. Three (3) members shall be appointed by the sheriff, and two (2) members shall be elected by a majority vote of the members of the county police force under procedures established by the sheriff's merit board. However, no active county police officer may serve on the board. Appointments are for terms of four (4) years or for the remainder of an unexpired term. Not more than two (2) of the members appointed by the sheriff nor more than one (1) of the members elected by the officers may belong to the same political party. All members must reside in the county. All members serve during their respective terms and until their successors have been appointed and qualified. A member may be removed for cause duly adjudicated by declaratory judgment of the circuit court of the county.

(c) As compensation for service, each member of the board is entitled to receive from the county a minimum of fifteen dollars ($15) per day for each day, or fraction of a day, that the member is engaged in transacting the business of the board.

(d) As soon as practicable after the members of the board have been appointed, they shall meet upon the call of the sheriff and organize by electing a president and a secretary from among their membership. Three (3) members of the board constitute a quorum for the transaction of business. The board shall hold regular monthly meetings throughout the year as is necessary to transact the business of the sheriff's department.


IC 36-8-10-4
**County police force; creation; membership; budget and salaries**

Sec. 4. (a) A county police force is established in each county. The members are employees of the county, and the sheriff of the county shall assign their duties according to law.

(b) The expenses of the county police force are a part of the sheriff's department budget. The board may recommend the number and salary of the personnel, but the county fiscal body shall determine the budget and salaries.

(c) The county shall furnish to the sheriff and his full-time paid county police officers the uniforms or other clothing they need to perform their duties. However, after one (1) year of service in the sheriff's department, a sheriff or county police officer may be required by the county to furnish and maintain his own uniform clothing upon payment to him by the county of an annual cash allowance of at least two hundred dollars ($200).


**IC 36-8-10-4.5**

**Body armor**

Sec. 4.5. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).

(b) After December 31, 2010, a county shall provide an active member of the department with body armor for the torso. The county shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the department shall not be required to maintain the body armor for the torso furnished under this section from any annual cash allowance paid to the member under section 4(c) of this chapter.

(d) Body armor for the torso provided by a county under this section remains the property of the county. The county may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the county.

*As added by P.L.34-2010, SEC.8.*

**IC 36-8-10-5**

**Prison matron; appointment; powers and duties**

Sec. 5. (a) Each sheriff shall appoint a prison matron for the county. The sheriff shall set the qualifications for that position. Except as provided in subsection (b), the sheriff has complete hiring authority over the position of prison matron.

(b) A prison matron who was a county police officer appointed under section 10(b) of this chapter immediately before being hired as prison matron is entitled to the discipline and removal procedures under section 11 of this chapter before:

1. being reduced in grade to a rank below the rank that the person held before being hired as prison matron; or
2. removal from the department.

(c) The sheriff may employ assistant prison matrons if necessary.
(d) The prison matron or the prison matron's assistants shall receive, search, and care for all female prisoners and all boys under fourteen (14) years of age who are committed to or detained in the county jail, municipal lockup, or other detention center in the county.

(e) The prison matron and assistant matrons:
   (1) are members of the department;
   (2) have the powers and duties of members of the department; and
   (3) are entitled to the same salary that other members of the department of the same rank, grade, or position are paid.


IC 36-8-10-5.5
Chief deputy
Sec. 5.5. (a) Except as provided in subsection (b), the sheriff has complete hiring authority over the position of chief deputy.

(b) A chief deputy who was a county police officer appointed under section 10(b) of this chapter immediately before being hired as chief deputy is entitled to the discipline and removal procedures under section 11 of this chapter before:
   (1) being reduced in grade to a rank below the rank that the person held before being hired as chief deputy; or
   (2) removal from the department.


IC 36-8-10-6
Emergencies; appointment of additional deputies and assistants
Sec. 6. (a) A sheriff may appoint additional deputy sheriffs or assistants if an emergency arises that requires them for:
   (1) promoting public safety and conserving the peace;
   (2) repressing, preventing, and detecting crime; and
   (3) apprehending criminals.

(b) The county executive shall determine the number and salaries of deputy sheriffs or assistants to be appointed in an emergency. The executive shall provide compensation and necessary expenses for them from the general fund of the county without a specific appropriation. Expenses shall be paid after the appointed persons file sworn vouchers with the executive detailing their expenses.

(c) The deputies or assistants have the same powers that sheriffs have under statute.

(d) The deputy sheriffs or assistants must have been bona fide residents of the county for at least one (1) year before their appointment. This subsection does not apply to a county having a consolidated city.

(e) When the emergency ends, the county executive may reduce the number of deputy sheriffs or assistants to the number that the circumstances require for the public welfare.


IC 36-8-10-7
Prisoner meal allowances

Sec. 7. (a) The state examiner of the state board of accounts shall fix the exact amount per meal that the sheriff of each county receives for feeding the prisoners in the sheriff's custody. Subject to the maximum meal allowance provided in this section, the state examiner shall increase the amount per meal that a sheriff receives as follows:

(1) Increase the amount per meal by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

(2) Increase the amount per meal above the amount determined under subdivision (1) if the sheriff furnishes to the state examiner sufficient documentation to prove that the sheriff cannot provide meals at the amount per meal that is determined under subdivision (1).

The amount must be fixed by April 15 each year and takes effect immediately upon approval. The allowance may not exceed two dollars ($2) per person per meal. The allowance shall be paid out of the general fund of the county after the sheriff submits to the county executive an itemized statement, under oath, showing the names of the prisoners, the date that each was imprisoned in the county jail, and the number of meals served to each prisoner.

(b) Notwithstanding subsection (a), IC 36-2-13-2.5(b)(4) through IC 36-2-13-2.5(b)(5), and IC 36-2-13-2.8(b), this subsection applies to a county having a population of:

(1) more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000); or

(2) more than three hundred thousand (300,000).

A county shall feed the county prisoners through an appropriation in the usual manner by the county fiscal body. The appropriation shall be expended by the sheriff under the direction of the county executive. If a county has a population of less than four hundred thousand (400,000), an accounting of the expenditures must be filed monthly with the county auditor by the fifth day of the month following the expenditure. If a county has a population of four hundred thousand (400,000) or more, an accounting of the expenditures must be filed with the county auditor on the first Monday of January and the first Monday of July of each year. Neither the sheriff nor the sheriff's officers, deputies, and employees may make a profit as a result of the appropriation.


IC 36-8-10-8
Reinstatement of sheriff following expiration of term of office

Sec. 8. A member of the department who becomes sheriff either by election or by appointment shall, upon the expiration of his term and upon his written application, be appointed by the board to the rank in the department that he held at the time of his election or
appointment as sheriff, if there is a vacancy in the department. However, if the sheriff during his tenure of office has qualified in accordance with the promotion procedure prescribed by the board in its rules for a rank in the department that is higher than the rank he previously held, the board shall, upon the expiration of his term as sheriff, appoint him to the rank for which he has qualified under the promotion procedure if there is a vacancy in that rank.


IC 36-8-10-9
Powers and duties of members of department
Sec. 9. (a) Each member of the department:
   (1) has general police powers;
   (2) shall arrest, without process, all persons who commit an offense within his view, take them before the court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;
   (3) shall suppress all breaches of the peace within his knowledge, with authority to call to his aid the power of the county;
   (4) shall pursue and commit to the jail of the county all felons;
   (5) may execute all process directed to the sheriff by legal authority;
   (6) shall attend upon and preserve order in all courts of the county;
   (7) shall guard prisoners in the county jail;
   (8) shall serve all process directed to the sheriff from a court or from the county executive according to law; and
   (9) shall take photographs, fingerprints, and other identification data as shall be prescribed by the sheriff of persons taken into custody for felonies or misdemeanors.

(b) A person who:
   (1) refuses to be photographed;
   (2) refuses to be fingerprinted;
   (3) withholds information; or
   (4) gives false information;

as prescribed in subsection (a)(9), commits a Class C misdemeanor.

IC 36-8-10-10
Police officers; classification of ranks, grades, and positions; appointments
Sec. 10. (a) Except for the position of chief deputy, the position of prison matron, and in a county with a population of more than fifty thousand (50,000), temporary administrative ranks or positions established and appointed by the sheriff, the sheriff, with the approval of the board, shall establish a classification of ranks, grades, and positions for county police officers in the department. For each rank, grade, and position established, the sheriff, with the approval of the board, shall:
(1) set reasonable standards of qualifications; and
(2) fix the prerequisites of:
   (A) training;
   (B) education; and
   (C) experience.

(b) The sheriff, with the approval of the board, shall devise and
administer examinations designed to test applicants for the
qualifications required for the respective ranks, grades, or positions.
After these examinations, the sheriff and the board shall jointly
prepare a list naming only those applicants who, in the opinion of
both the sheriff and the board, best meet the prescribed standards and
prerequisites. The sheriff appoints county police officers but only
from among the persons whose names appear on this list. All county
police officers appointed to the department under this chapter are on
probation for a period of one (1) year from the date of appointment.

(c) In a county with a population of more than fifty thousand
(50,000), the sheriff may:
   (1) establish a temporary administrative rank or position within
       the county police department; and
   (2) appoint a county police officer that has served as a county
       police officer for at least five (5) years to and remove a county
       police officer from a temporary administrative rank or position;
       without the approval of the board. Any temporary administrative rank
       or position established pursuant to this section shall not diminish or
       reduce the number and classifications of the existing merit ranks
       within the county police department. A county police officer
       appointed under this subsection must have served as a county police
       officer in the county police department for at least five (5) years
       before the appointment. A county police officer retains the rank,
       grade, or position awarded under subsection (b) while serving in a
       temporary administrative rank or position. This subsection may not
       be construed to limit, modify, annul, or otherwise affect a collective
       bargaining agreement.

(d) In a county with a population of more than fifty thousand
(50,000), the sheriff, with the approval of the board, shall establish
written rules and regulations governing the discipline of county
police officers. Rules and regulations established by a sheriff under
this subsection must conform to the disciplinary procedure required
by section 11 of this chapter.

SEC.1; P.L.14-2000, SEC.83.

IC 36-8-10-10.4
County police force; preference for employment

Sec. 10.4. (a) Subject to subsection (c), the board shall give a
preference for employment according to the following priority:
   (1) A war veteran who has been honorably discharged from the
       United States armed forces.
   (2) A person whose mother or father was a:
       (A) firefighter of a unit;
(B) municipal police officer; or
(C) county police officer;
who died in the line of duty (as defined in IC 5-10-10-2).
(b) Subject to subsection (c), the board may give a preference for employment to any of the following:
   (1) A member of another department laid off under section 11.1 of this chapter.
   (2) A police officer laid off by a city under IC 36-8-4-11.
(c) A person described in subsection (a) or (b) may not receive a preference for employment unless the person:
   (1) applies; and
   (2) meets all employment requirements prescribed:
       (A) by law, including physical and age requirements; and
       (B) by the department.

IC 36-8-10-10.5
Repealed
   (Repealed by P.L.311-1983, SEC.49.)

IC 36-8-10-10.6
Special deputies with powers of law enforcement officer; appointment; qualifications; duties
Sec. 10.6. (a) The sheriff may appoint as a special deputy any person who is employed by a governmental entity as defined in IC 35-31.5-2-144 or private employer, the nature of which employment necessitates that the person have the powers of a law enforcement officer. During the term of the special deputy's appointment and while the special deputy is fulfilling the specific responsibilities for which the appointment is made, a special deputy has the powers, privileges, and duties of a county police officer under this chapter, subject to any written limitations and specific requirements imposed by the sheriff and signed by the special deputy. A special deputy is subject to the direction of the sheriff and shall obey the rules and orders of the department. A special deputy may be removed by the sheriff at any time, without notice and without assigning any cause.
(b) The sheriff shall fix the prerequisites of training, education, and experience for special deputies, subject to the minimum requirements prescribed by this subsection. Applicants must:
   (1) be twenty-one (21) years of age or older;
   (2) never have been convicted of a felony, or a misdemeanor involving moral turpitude;
   (3) be of good moral character; and
   (4) have sufficient training to insure the proper performance of their authorized duties.
(c) Except as provided in subsection (d), a special deputy shall wear a uniform the design and color of which is easily distinguishable from the uniforms of the Indiana state police, the regular county police force, and all municipal police and fire forces
located in the county.

(d) The sheriff may permit a special deputy to wear the uniform of the regular county police force if the special deputy:

1. has successfully completed the minimum basic training requirements under IC 5-2-1;
2. is periodically assigned by the sheriff to duties of a regular county police officer; and
3. is an employee of the department.

The sheriff may revoke permission for the special deputy to wear the uniform of the regular county police force at any time without cause or notice.

(e) The sheriff may also appoint one (1) legal deputy, who must be a member of the Indiana bar. The legal deputy does not have police powers. The legal deputy may continue to practice law. However, neither the legal deputy nor any attorney in partnership with the legal deputy may represent a defendant in a criminal case.

(f) The sheriff, for the purpose of guarding prisoners in the county jail:

1. in counties not having a consolidated city, may appoint special deputies to serve as county jail guards; and
2. in counties having a consolidated city, shall appoint only special deputies to serve as county jail guards.

This subsection does not affect the rights or liabilities accrued by any county police officer assigned to guard the jail before August 31, 1982.


IC 36-8-10-11
Police officers; discipline and removal; hearings; notice; appeal; specific findings; final judgment; venue

Sec. 11. (a) The sheriff may dismiss, demote, or temporarily suspend a county police officer for cause after preferring charges in writing and after a fair public hearing before the board, which is reviewable in the circuit court. Written notice of the charges and hearing must be delivered by certified mail to the officer to be disciplined at least fourteen (14) days before the date set for the hearing. The officer may be represented by counsel. The board shall make specific findings of fact in writing to support its decision.

(b) The sheriff may temporarily suspend an officer with or without pay for a period not exceeding fifteen (15) days, without a hearing before the board, after preferring charges of misconduct in writing delivered to the officer.

(c) A county police officer may not be dismissed, demoted, or temporarily suspended because of political affiliation nor after the officer's probationary period, except as provided in this section. Subject to IC 3-5-9, an officer may:

1. be a candidate for elective office and serve in that office if elected;
2. be appointed to an office and serve in that office if appointed; and
(3) except when in uniform or on duty, solicit votes or campaign funds for the officer or others.

(d) The board has subpoena powers enforceable by the circuit court for hearings under this section. An officer on probation may be dismissed by the sheriff without a right to a hearing.

(e) An appeal under subsection (a) must be taken by filing in court, within thirty (30) days after the date the decision is rendered, a verified complaint stating in a concise manner the general nature of the charges against the officer, the decision of the board, and a demand for the relief asserted by the officer. A bond must also be filed that guarantees the appeal will be prosecuted to a final determination and that the plaintiff will pay all costs only if the court finds that the board's decision should be affirmed. The bond must be approved as bonds for costs are approved in other cases. The county must be named as the sole defendant and the plaintiff shall have a summons issued as in other cases against the county. Neither the board nor the members of it may be made parties defendant to the complaint, but all are bound by service upon the county and the judgment rendered by the court.

(f) All appeals shall be tried by the court. The appeal shall be heard de novo only upon any new issues related to the charges upon which the decision of the board was made. Within ten (10) days after the service of summons, the board shall file in court a complete written transcript of all papers, entries, and other parts of the record relating to the particular case. Inspection of these documents by the person affected, or by the person's agent, must be permitted by the board before the appeal is filed, if requested. The court shall review the record and decision of the board on appeal.

(g) The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the board appealed from should in all things be affirmed, its judgment should so state. If the court finds that the decision of the board appealed from should not be affirmed in all things, then the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision on it. The court shall either:

1. reverse the decision of the board;
2. order the decision of the board to be modified.

(h) The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify and file a copy of the final judgment of the court to the board, which shall conform its decisions and records to the order and judgment of the court. If the decision is reversed or modified, then the board shall pay to the party entitled to it any salary or wages withheld from the party pending the appeal and to which the party is entitled under the judgment of the court.

(i) Either party shall be allowed a change of venue from the court or a change of judge in the same manner as such changes are allowed in civil cases. The rules of trial procedure govern in all matters of procedure upon the appeal that are not otherwise provided for by this section.
(j) An appeal takes precedence over other pending litigation and shall be tried and determined by the court as soon as practical.


IC 36-8-10-11.1
Reinstatement following layoffs

Sec. 11.1. (a) As used in this section, "appointing authority" means the sheriff and the board.

(b) If it is necessary for the appointing authority to reduce the number of members of the department by layoff for financial reasons, the last member appointed to the department must be the first to be laid off. Additional members must be laid off in reverse hiring order until the desired level of employment is achieved.

(c) If department membership is increased, the members of the department who have been laid off under this section must be reinstated before any new member is appointed to the department. The last member to be laid off from the department must be the first to be reinstated. Additional members must be reinstated in reverse of the order in which the members were laid off.

(d) A member who is laid off shall keep the appointing authority advised of the member's current address. The appointing authority shall inform a member of the member's reinstatement by written notice sent by certified mail to the member's last known address.

(e) Not later than twenty (20) calendar days after the date notice of reinstatement is sent under subsection (d), the member must advise the appointing authority whether the member:

1. accepts reinstatement; and
2. will be able to commence employment on the date specified in the notice.

(f) All reinstatement rights granted to a member under this section terminate on the earlier of:

1. the date the member fails to accept reinstatement within the time specified in subsection (e); or
2. five (5) years after the date on which a member's layoff begins.


IC 36-8-10-11.5
"Care" defined; payments for care

Sec. 11.5. (a) As used in this section, "care" includes:

1. medical and surgical care;
2. medicines and laboratory, curative, and palliative agents and means;
3. X-ray, diagnostic, and therapeutic service, including service during the recovery period; and
4. hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) After deducting expenditures paid by an insurance or worker's compensation program, a county shall pay for the care of the
following persons:

1. A county police officer who:
   A. suffers an injury; or
   B. contracts an illness;
   while the officer is on duty or while the officer is off duty and is responding to an offense or a reported offense.

2. A jail employee who:
   A. suffers an injury; or
   B. contracts an illness;
   while the employee is on duty.

(c) Expenditures required by subsection (b) shall be paid from the general fund of the county.


IC 36-8-10-12

Pension trust

Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's duties.

(c) Joint contributions shall be made to the trust fund:

1. either by:
   A. the department through a general appropriation provided to the department;
   B. a line item appropriation directly to the trust fund; or
   C. both; and

2. by an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for plans established or modifications adopted after June 30, 1989, unless the establishment or modification is approved by the county fiscal body.

(d) For a county not having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed six percent (6%) of the employee beneficiary's average monthly wages. For a county having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

(e) The minimum annual contribution by the department must be sufficient, as determined by the pension engineers, to prevent
deterioration in the actuarial status of the trust fund during that year. If the department fails to make minimum contributions for three (3) successive years, the pension trust terminates and the trust fund shall be liquidated.

(f) If during liquidation all expenses of the pension trust are paid, adequate provision must be made for continuing pension payments to retired persons. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages, and any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

(g) If a person ceases to be an employee beneficiary because of death, disability, unemployment, retirement, or other reason, the person, the person's beneficiary, or the person's estate is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or monthly installments not less than the person's pension amount.

(h) If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a monthly income in the proper amount of the employee beneficiary's pension during the employee beneficiary's lifetime.

(i) To be entitled to the full amount of the employee beneficiary's pension classification, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) This subsection does not apply to a county that adopts an ordinance under section 12.1 of this chapter. For an employee beneficiary who retires before January 1, 1985, a monthly pension may not exceed by more than twenty dollars ($20) one-half (1/2) the amount of the average monthly wage received during the highest paid five (5) years before retirement. However, in counties where the fiscal body approves the increases, the maximum monthly pension for an employee beneficiary who retires after December 31, 1984, may be increased by no more or no less than two percent (2%) of that average monthly wage for each year of service over twenty (20) years to a maximum of seventy-four percent (74%) of that average monthly wage plus twenty dollars ($20). For the purposes of determining the amount of an increase in the maximum monthly pension approved by the fiscal body for an employee beneficiary who retires after December 31, 1984, the fiscal body may determine that the employee beneficiary's years of service include the years of service with the sheriff's department that occurred before the effective date of the pension trust. For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary that a full-time prosecuting attorney was entitled to be paid by the state at the time the employee beneficiary retires.

(k) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in
accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(l) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(m) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

(n) Within ninety (90) days after the close of each fiscal year, the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department. The report must include the following:

(1) Schedule 1. Receipts and disbursements.
(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.
(3) Schedule 3. List of terminations, showing the cause and amount of refund.
(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.
(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(o) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.


IC 36-8-10-12.1
Maximum monthly pension

Sec. 12.1. (a) This section applies to an employee beneficiary who:

(1) retires after June 30, 1997; and
(2) served in a county that has adopted an ordinance stating that the maximum monthly pension for an employee beneficiary who retires after June 30, 1997, shall be determined under this section instead of section 12(j) of this chapter.

(b) As used in this section, "average monthly wage" means the lesser of:

(1) the average monthly wage received by the employee beneficiary during the highest paid three (3) years before retirement; or
(2) the monthly minimum salary that a full-time prosecuting attorney is entitled to be paid by the state at the time the
employee beneficiary retires.
(c) Except as provided in subsection (d), an employee beneficiary's monthly pension may not exceed twenty dollars ($20) plus one-half (1/2) the amount of the average monthly wage.
(d) The fiscal body of a county may approve an increase in the maximum monthly pension for an employee beneficiary. The maximum monthly pension may:
   (1) be increased by one percent (1%) of the average monthly wage for each six (6) months of service after twenty (20) years; and
   (2) not exceed seventy-four percent (74%) of the average monthly wage plus twenty dollars ($20).


IC 36-8-10-12.2
Deferred retirement option plan (DROP)
Sec. 12.2. (a) This section applies to a county that adopts a deferred retirement option plan as part of its retirement plan under this chapter.
   (b) As used in this section, "DROP" refers to a deferred retirement option plan established under this section.
   (c) As used in this section, "DROP frozen benefit" refers to a monthly pension benefit calculated under the provisions of a retirement plan established under this chapter based on the employee beneficiary's:
      (1) salary; and
      (2) years of service;
on the date the employee beneficiary enters the DROP.
   (d) As used in this section, "maximum years of service" refers to the maximum number of years of service included in the monthly pension benefit calculation under a department's retirement plan.
   (e) An employee beneficiary who:
      (1) is not yet credited with the maximum number of years of service; and
      (2) is eligible to receive an unreduced benefit immediately upon termination of employment;
may elect to enter a DROP. The employee beneficiary's election is irrevocable.
   (f) The employee beneficiary exits a DROP on the earliest of the following:
      (1) The date that the employee beneficiary is credited with the maximum years of service under the retirement plan.
      (2) The employee beneficiary's retirement date.
      (3) The date any required benefit begins.
   (g) The retirement benefit paid to the employee beneficiary who participated in a DROP consists of:
      (1) the DROP frozen benefit; plus
      (2) an additional amount, paid as the employee beneficiary elects under subsection (h), determined in STEP THREE of the following formula:

STEP ONE: Multiply:
(A) the DROP frozen benefit; by
(B) the number of months the employee beneficiary participated in the DROP.

STEP TWO: Multiply the product determined in STEP ONE by an interest rate that does not exceed three percent (3%) annually.

STEP THREE: Add the product determined under STEP ONE and the product determined under STEP TWO.

(h) The employee beneficiary shall elect, at the employee beneficiary's retirement, to receive the additional amount calculated under subsection (g)(2) in one (1) of the following ways:

(1) A lump sum.

(2) An actuarially equivalent increase in the monthly pension benefit payable to the employee beneficiary.

(3) A combination of (1) and (2).

(i) The cost of living payment determined under section 23 of this chapter does not apply to the additional amount calculated under subsection (g)(2). No cost of living payment is applied to a DROP frozen benefit while the employee beneficiary is participating in a DROP.

(j) If an employee beneficiary becomes disabled:

(1) in the line of duty; or

(2) other than in the line of duty;

benefits for the employee beneficiary are calculated as if the employee beneficiary had never entered the DROP.

(k) Except as provided in subsection (m), if, before the employee beneficiary's monthly pension benefit begins, an employee beneficiary dies, in the line of duty or other than in the line of duty, death benefits are payable as follows:

(1) The benefit under subsection (g)(2) is paid in a lump sum to the employee beneficiary's surviving spouse. If there is no surviving spouse, the lump sum must be divided equally among the employee beneficiary's surviving children. If there are no surviving children, the lump sum is paid to the employee beneficiary's parents. If there are no surviving parents, the lump sum is paid to the employee beneficiary's estate.

(2) A benefit is paid on the DROP frozen benefit under the terms of the county's retirement plan.

(l) A DROP under this section must be designed to be actuarially cost neutral to the county's retirement plan.

(m) This subsection applies if:

(1) an employee beneficiary dies in the line of duty before payment of the employee beneficiary's monthly pension benefit begins; and

(2) the calculation of a death benefit under the provisions of the county's retirement plan depends upon whether an employee beneficiary dies in the line of duty or other than in the line of duty.

Death benefits for an employee beneficiary who dies in the line of duty are calculated under the provisions of the county's retirement plan as if the employee beneficiary had never entered the DROP and shall be adjusted as necessary to ensure compliance with subsection
IC 36-8-10-12.5
Purchase of service credit earned in certain Indiana public retirement funds

Sec. 12.5. (a) This section applies after June 30, 2009, to active employee beneficiaries in a retirement plan established under this chapter.

(b) As used in this section, "public retirement fund" refers to any of the following, either singly or collectively:
   (1) The public employees' retirement fund (IC 5-10.3).
   (2) The Indiana state teachers' retirement fund (IC 5-10.4).
   (3) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund (IC 5-10-5.5).
   (4) The state police pension trust (IC 10-12).
   (5) The 1977 police officers' and firefighters' pension and disability fund (IC 36-8-8).
   (6) A retirement plan established under this chapter by a department other than the department that employs the employee beneficiary who desires to purchase service credit under this section.

(c) Subject to subsection (j), if an employee beneficiary:
   (1) has not attained vested status in; and
   (2) is not an active participant in;
   a public retirement fund other than the retirement plan established under this chapter by the department that employs the employee beneficiary, the employee beneficiary may make a transfer described in subsection (d) for the amount in the public retirement fund that is attributable to contributions made by or on behalf of the employee beneficiary (plus credited earnings).

(d) An employee beneficiary described in subsection (c) may transfer the amount described in subsection (c) to a retirement plan established under this chapter by the department that employs the employee beneficiary in order to purchase service credit in the retirement plan for the employee beneficiary's prior service in a public retirement fund.

(e) A transfer under subsection (d) is irrevocable. A transfer cannot exceed the amount necessary to fund the service purchase under subsection (d). Any amounts in the public retirement fund after the transfer shall remain subject to the public retirement fund's provisions.

(f) If an employee beneficiary makes a transfer under subsection (d), the employee beneficiary is entitled to receive service credit for the transferred amount equal to the service credit that would be purchased by a contribution of the same amount computed at the actuarial present value for an individual whose salary or wages and age would be the same as the salary or wages and age of the employee beneficiary on the transfer date.

(g) Before a transfer is made under this section, the employee
beneficiary must complete any forms required by:

(1) the public retirement fund from which the employee beneficiary is requesting a transfer; and
(2) the retirement plan established under this chapter to which the transfer is being made.

(h) An employee beneficiary who makes a transfer under subsection (d) must have at least the number of years of credited service necessary to receive an unreduced pension benefit in a retirement plan established under this chapter by the department that employs the employee beneficiary before the employee beneficiary may receive a benefit based on the amount transferred under this section.

(i) An employee beneficiary who:

(1) makes a transfer under subsection (d); and
(2) terminates employment before satisfying the eligibility requirements necessary to receive a monthly pension;

may withdraw the transferred amount, plus accumulated interest, from the retirement plan established under this chapter by the department that employs the employee beneficiary after submitting to the retirement plan established under this chapter a properly completed application for a refund. If a withdrawal of the transferred amount occurs under this subsection, the benefit payable to the employee beneficiary from the retirement plan established under this chapter shall be adjusted as necessary to ensure that the plan remains actuarially cost neutral to the county.

(j) The department may deny an application to transfer an amount under this section if the transfer would exceed the limitations under Section 415 of the Internal Revenue Code.

(k) If an employee beneficiary makes a transfer under subsection (d), the employee beneficiary waives all credit for the employee beneficiary's service in the public retirement fund from which the amount is transferred or paid.

(l) To the extent permitted by the Internal Revenue Code and applicable regulations, a retirement plan established under this chapter may accept, on behalf of an employee beneficiary who is purchasing permissive service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(m) To the extent permitted by the Internal Revenue Code and applicable regulations, a retirement plan established under this chapter may accept, on behalf of an employee beneficiary who is purchasing permissive service credit under this section, a trustee to
trustee transfer from any of the following:
   (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
   (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.


IC 36-8-10-13
Pension trust; participation by sheriff

Sec. 13. Except as provided in section 19 of this chapter, a sheriff may participate in the pension trust in the same manner as a county police officer. In addition, a sheriff who is not participating in the pension trust after the creation of the pension trust in the sheriff's county may make a payment to the pension trust in the amount of contributions the sheriff would have made had the sheriff been participating while a sheriff, plus interest at three percent (3%) compounded annually. The sheriff is entitled to credit for the years of service as a sheriff for all purposes of the pension trust if the sheriff makes this payment.


IC 36-8-10-14
Death benefit program

Sec. 14. (a) The department may establish and operate a death benefit program for the payment of death benefits to deceased employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining group life insurance, or both. However, the department may not establish or modify a death benefit program after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any death benefits set forth in any death benefit program that was in effect on January 1, 1989.

(b) Benefits payable under a group life insurance policy established under subsection (a) must be in reasonable amounts. Benefits payable from a reserve account established under subsection (a) may not exceed twenty-five thousand dollars ($25,000).


IC 36-8-10-15
Disability benefit program

Sec. 15. (a) The department may establish and operate a disability benefit program for the payment of disability expense reimbursement and pensions to employee beneficiaries with a disability. The department may provide these benefits by the creation of a reserve account, by obtaining disability insurance coverage, or both. However, the department may not establish or modify a disability benefit program after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any disability benefits set forth in any disability program that was in effect on
January 1, 1989.

(b) Benefits payable as a result of line of duty activities, including a disability presumed incurred in the line of duty under IC 5-10-13, must be in reasonable amounts. Monthly benefits payable as a result of other activities may not exceed the amount of pension to which that employee beneficiary employed until normal retirement age would have been entitled.


IC 36-8-10-16
Dependent's pension benefit; establishment and operation; maximum monthly pension payable; eligibility

Sec. 16. (a) The department may establish and operate a dependent's pension benefit for the payment of pensions to dependent parents, surviving spouses, and dependent children under eighteen (18) years of age of former employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining appropriate insurance coverage, or both. However, the department may not establish or modify a dependent's pension benefit after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any dependent's pension benefits that were in effect on January 1, 1989.

(b) This subsection applies to survivors of employee beneficiaries who:

(1) died before January 1, 1990; and
(2) were covered by a benefit plan established under this section.

The maximum monthly pension payable to dependent parents or surviving spouses may not exceed two hundred dollars ($200) per month during the parent's or the spouse's lifetime if the spouse did not remarry before September 1, 1984. If the surviving spouse remarried before September 1, 1984, benefits ceased on the date of remarriage. The maximum monthly pension payable to dependent children is thirty dollars ($30) per child and ceases with the last payment before attaining eighteen (18) years of age.

(c) This subsection applies to survivors of employee beneficiaries who:

(1) died after December 31, 1989; and
(2) were covered by a benefit plan established under this section.

The monthly pension payable to dependent parents or surviving spouses must be not less than two hundred dollars ($200) for each month during the parent's or the spouse's lifetime. The monthly pension payable to each dependent child must be not less than thirty dollars ($30) for each child and ceases with the last payment before attaining eighteen (18) years of age.

(d) The county fiscal body may by ordinance provide an increase in the monthly pension of survivors of employee beneficiaries who die before January 1, 1990. However, the monthly pension that is
provided under this subsection may not exceed the monthly pension that is provided to survivors whose monthly pensions are determined under subsection (c).

(e) In order to be eligible for a benefit under this section, the surviving spouse of an employee beneficiary who dies after August 31, 1984, must have been married to the employee beneficiary at the time of the employee's retirement or death in service.

(f) In addition to, or instead of, a modification of a surviving spouse's monthly pension under this section, a county fiscal body may approve a cost of living payment to a surviving spouse under section 23 of this chapter.


IC 36-8-10-16.3
Treatment of certain payments as proper; reinstatement of monthly pension of certain surviving spouses

Sec. 16.3. (a) This section applies to a surviving spouse of an employee beneficiary who:

(1) died before July 1, 2005; and

(2) was a member of a retirement plan established under section 12 of this chapter.

(b) A monthly pension paid under section 16(c) of this chapter, before its amendment by P.L.97-2005, to a surviving spouse after the date the surviving spouse remarried and before July 1, 2005, shall be treated as properly paid.

(c) The monthly pension of a surviving spouse:

(1) who remarried after December 31, 1989; and

(2) whose monthly pension paid under section 16(c) of this chapter, before its amendment by P.L.97-2005, ceased on the date of remarriage;

shall be reinstated on July 1, 2005, under section 16 of this chapter, as amended by P.L.97-2005, and continue during the life of the surviving spouse.

As added by P.L.220-2011, SEC.674.

IC 36-8-10-16.5
Health insurance for surviving spouse and children

Sec. 16.5. (a) As used in this section, "dies in the line of duty" has the meaning set forth in IC 5-10-10-2.

(b) This section applies to the survivors of an eligible employee who dies in the line of duty.

(c) After December 31, 2003, the department that employed the eligible employee who died in the line of duty shall offer to provide and pay for health insurance coverage for the eligible employee's surviving spouse and for each natural child, stepchild, or adopted child of the eligible employee:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school.
or is a full-time student at an accredited college or university; or
(3) during the entire period of the child's physical or mental
disability;
whichever period is longest. If health insurance coverage is offered
by the unit to an eligible employee, the health insurance provided to
a surviving spouse or child under this subsection must be equal in
coverage to that offered to an eligible employee. The offer to provide
and pay for health insurance coverage shall remain open for as long
as there is a surviving spouse or as long as a natural child, stepchild,
or adopted child of the eligible employee is eligible for coverage
under subdivision (1), (2), or (3).
As added by P.L.86-2003, SEC.10. Amended by P.L.97-2004,
SEC.130.

IC 36-8-10-17
Police benefit fund
Sec. 17. (a) The death benefit, the disability benefit, and the
dependents' pension may be operated as one (1) fund, known as the
police benefit fund, under the terms of a supplementary trust
agreement between the department and the trustee for the exclusive
benefit of employee beneficiaries and their dependents.
(b) The trustee receives and holds as trustee for the uses and
purposes set out in the supplementary trust agreement all money paid
to it as trustee by the department or by other persons.
(c) The trustee may, under the terms of the supplementary trust
agreement, pay the necessary premiums for insurance, pay benefits,
or pay both as provided by this chapter.
(d) The trustee shall hold, invest, and reinvest the police benefit
fund in investments that are permitted by statute for the investment
of trust funds and other investments that are specifically designated
in the supplementary trust agreement.
(e) Within ninety (90) days after the close of the fiscal year, the
trustee, with the assistance of the pension engineers, shall prepare and
file with the department and the state insurance department a detailed
annual report showing receipts, disbursements, and case histories, and
making recommendations regarding the necessary contributions
required to keep the program in operation. Contributions by the
department shall be provided in the general appropriations to the
department. However, these contributions are not required for plans
established or modifications adopted after June 30, 1989, under
sections 14 through 16 of this chapter unless the establishment or
modification is approved by the county fiscal body.
SEC.8.

IC 36-8-10-18
Repealed
(Repealed by P.L.185-1996, SEC.18.)

IC 36-8-10-19
Restrictions on alienation of benefits; fund expenses; payment of
insurance premiums

Sec. 19. (a) Except as provided in subsection (c), a person entitled to an interest in or share of a pension or benefit from the trust funds may not, before the actual payment, anticipate it or sell, assign, pledge, mortgage, or otherwise dispose of or encumber it. In addition, the interest, share, pension, or benefit is not, before the actual payment, liable for the debts or liabilities of the person entitled to it, nor is it subject to attachment, garnishment, execution, levy, or sale on judicial proceedings, or transferable, voluntarily or involuntarily.

(b) The trustee may expend the sums from the fund that it considers proper for necessary expenses.

(c) This subsection does not apply to the sheriff of a county. Notwithstanding any other provision of this chapter, an employee beneficiary who is receiving a normal or disability monthly pension benefit under this chapter may, after June 30, 2007, authorize the trustee to pay a portion of the employee beneficiary's monthly pension benefit to an insurance provider for the purpose of paying a premium on a policy of insurance for accident, health, or long term care coverage for:

1. the employee beneficiary;
2. the employee beneficiary's spouse; or
3. the employee beneficiary's dependents (as defined in Section 152 of the Internal Revenue Code).


IC 36-8-10-20
Repealed

(Repealed by P.L.22-1984, SEC.2.)

IC 36-8-10-20.1
County sheriffs' standard vehicle marking and uniform commission; establishment; adoption of rules; limitation of authority

Sec. 20.1. (a) A county sheriffs' standard vehicle marking and uniform commission is established. The commission consists of three (3) members, not more than two (2) of whom may be of the same political party. Members of the commission shall be appointed by the governor for four (4) year terms. Each member must be an elected and acting county sheriff. The governor shall fill a vacancy on the commission for the unexpired term. Members serve without compensation.

(b) The commission shall, by rules adopted under IC 4-22-2, establish the following for sheriffs and their full-time paid deputies:

1. A uniform of standard design and color.
2. A standard design and color of vehicle marking for all county owned vehicles used by the sheriff's department.

The rules adopted under this subsection must provide exceptions for unmarked cars and plainclothes deputies.

(c) All vehicles and uniforms purchased after the effective date of the rules adopted under subsection (b) must meet the standards
established by the rules. The commission's authority is limited to establishing standards for:

1. uniforms worn by county sheriffs and their full-time paid deputies; and
2. vehicles used by the sheriff's department.

As added by P.L.224-1986, SEC.1.

IC 36-8-10-21
Application to certain counties; jail commissary fund; disposition of money from commissary sales; record of receipts and disbursements

Sec. 21. (a) This section applies to any county that has a jail commissary that sells merchandise to inmates.

(b) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(c) The sheriff, or the sheriff's designee, shall deposit all money from commissary sales into the fund, which the sheriff or the sheriff's designee shall keep in a depository designated under IC 5-13-8.

(d) The sheriff, or the sheriff's designee, at the sheriff's or the sheriff's designee's discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

1. merchandise for resale to inmates through the commissary;
2. expenses of operating the commissary, including, but not limited to, facilities and personnel;
3. special training in law enforcement for employees of the sheriff's department;
4. equipment installed in the county jail;
5. equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, cameras and photographic equipment, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of the employee's official duties;
6. an activity provided to maintain order and discipline among the inmates of the county jail;
7. an activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the following:
   A. Substance abuse.
   B. Child abuse.
   C. Domestic violence.
   D. Drinking and driving.
   E. Juvenile delinquency;
8. expenses related to the establishment, operation, or maintenance of the sex and violent offender registry web site under IC 36-2-13-5.5; or
9. any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff.

Money disbursed from the fund under this subsection must be
supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).


IC 36-8-10-22
Application to certain counties; inmates' money to be held in trust; disbursements from trust; payments upon discharge or release of inmates; reimbursement for destroyed or lost property; record of trust receipts and disbursements

Sec. 22. (a) This section applies to any county that operates a county jail.

(b) The sheriff shall hold in trust separately for each inmate any money received from that inmate or from another person on behalf of that inmate.

(c) If the inmate or his legal guardian requests a disbursement from the inmate's trust fund, the sheriff may make a disbursement for the personal benefit of the inmate, including but not limited to a disbursement to the county jail commissary.

(d) Upon discharge or release of an inmate from the county jail, the sheriff shall pay to that inmate or his legal guardian any balance remaining in his trust fund.

(e) If an inmate is found guilty of intentionally destroying or losing county property after a hearing conducted under IC 11-11-5-5, the sheriff may disburse from the inmate's trust fund or commissary account sums of money as reimbursement to the county for the inmate's intentional destruction or loss of county property, including but not limited to clothing, bedding, and other nondisposable items issued by the county to the inmate. Before disbursing money under this subsection, the sheriff shall adopt rules to administer this procedure.


IC 36-8-10-23
Cost of living payments; ordinances and collective bargaining

Sec. 23. (a) This section applies to a county that adopts the provisions of this section by an ordinance of the county fiscal body.

(b) The county fiscal body may provide for:

(1) an annual cost of living payment to employee beneficiaries who are retired or have a disability, or both; or
(2) an ad hoc cost of living payment to employee beneficiaries who are retired or have a disability, or both. The amount of the ad hoc cost of living payment under this subdivision is not an increase in the base pension benefit calculated under section 12 or 12.1 of this chapter.

(c) In addition to, or instead of, a modification of a surviving spouse's monthly pension under section 16 of this chapter, the county fiscal body may provide for:

(1) an annual cost of living payment to a surviving spouse; or
(2) an ad hoc cost of living payment to a surviving spouse.

(d) In the case of an annual cost of living payment granted under subsection (b)(1) or (c)(1), the amount of the cost of living payment shall be determined each year by the pension engineers under this subsection. The pension engineers shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three (3) month period of the preceding year. If there has been an increase, the increase shall be stated as a percentage of the arithmetic mean for the three (3) month period for the year preceding the payment year (the adjustment percentage). The adjustment percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%).

(e) In the case of a cost of living payment granted under subsection (b)(2) or (c)(2), the amount of the cost of living payment shall be determined by the county fiscal body and may be:

(1) a percentage increase, not to exceed the percentage determined under subsection (d); or
(2) a fixed dollar amount.

(f) A payment authorized under this section shall be made to each:

(1) authorized employee beneficiary who is retired or has a disability; or
(2) surviving spouse;

and may be made annually, semiannually, quarterly, or monthly.

(g) A cost of living payment granted under this section shall be funded by a direct appropriation or by maintaining a fully funded actuarially sound trust fund.

(h) A cost of living payment granted under this section is applicable only to the following:

(1) Employee beneficiaries who:
   (A) are retired or have a disability; and
   (B) are at least fifty-five (55) years of age.

(2) A surviving spouse.

(i) No provision of this section shall be made part of any ordinance or agreement concerning collective bargaining. No provision of this section shall be subject to bargaining under any statute, ordinance, or agreement.

IC 36-8-10.5
Chapter 10.5. Minimum Training Requirements for Firefighters

IC 36-8-10.5-1
Application of chapter
Sec. 1. This chapter applies to:
(1) all full-time firefighters hired or rehired after January 1, 1988; and
(2) all volunteer firefighters elected or appointed to membership in a volunteer fire department after January 1, 1988.

IC 36-8-10.5-2
"Education board" defined
Sec. 2. As used in this chapter, "education board" refers to the board of firefighting personnel standards and education.
As added by P.L.49-1987, SEC.2.

IC 36-8-10.5-3
"Full-time firefighter" defined
Sec. 3. As used in this chapter, "full-time firefighter" means a full-time, fully paid firefighter employed by a political subdivision.
As added by P.L.49-1987, SEC.2.

IC 36-8-10.5-4
"Volunteer fire department" defined
Sec. 4. As used in this chapter, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.

IC 36-8-10.5-5
"Volunteer firefighter" defined
Sec. 5. As used in this chapter, "volunteer firefighter" has the meaning set forth in IC 36-8-12-2.
As added by P.L.49-1987, SEC.2.

IC 36-8-10.5-6
Minimum training requirements
Sec. 6. (a) A full-time firefighter must successfully complete the minimum basic training requirements established by this chapter before the firefighter may perform the duties of a full-time firefighter for the political subdivision.
(b) A volunteer firefighter who has successfully completed the minimum basic training requirements established by this chapter may be elected or appointed to membership in more than one (1) volunteer fire department.
IC 36-8-10.5-7
Training subject matter

Sec. 7. (a) The education board shall adopt rules under IC 4-22-2 establishing minimum basic training requirements for full-time firefighters and volunteer firefighters, subject to subsection (b) and section 7.5 of this chapter. The requirements must include training in the following areas:

1. Orientation.
2. Personal safety.
3. Forcible entry.
4. Ventilation.
5. Apparatus.
7. Self-contained breathing apparatus.
8. Hose loads.
9. Streams.
10. Basic recognition of special hazards.

(b) A person who fulfills the certification requirements for:

1. Firefighter I, as described in 655 IAC 1-2.1-4; or
2. Firefighter II, as described in 655 IAC 1-2.1-5;

is considered to comply with the requirements established under subsection (a).

(c) In addition to the requirements of subsections (a) and (d), the minimum basic training requirements for full-time firefighters and volunteer firefighters must include successful completion of a basic or in-service course of education and training on sudden infant death syndrome that is certified by the Indiana emergency medical services commission (created under IC 16-31-2-1) in conjunction with the state health commissioner.

(d) In addition to the requirements of subsections (a) and (c), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of an instruction course on vehicle emergency response driving safety. The education board shall adopt rules under IC 4-22-2 to operate this course.

(e) In addition to the requirements of subsections (a), (c), and (d), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of a basic or in-service course of education and training in interacting with individuals with autism that is certified by the Indiana emergency medical services commission (created under IC 16-31-2-1).

(f) The education board may adopt emergency rules in the manner provided under IC 4-22-2-37.1 concerning the adoption of the most current edition of the following National Fire Protection Association standards, subject to amendment by the board:

1. NFPA 472.
2. NFPA 1001.
3. NFPA 1002.
4. NFPA 1003.
5. NFPA 1021.
6. NFPA 1031.
(7) NFPA 1033.
(8) NFPA 1035.
(9) NFPA 1041.
(10) NFPA 1521.
(11) NFPA 1670.

(g) Notwithstanding any provision in IC 4-22-2-37.1 to the contrary, an emergency rule described in subsection (f) expires on the earlier of the following dates:

(1) Two (2) years after the date on which the emergency rule is accepted for filing with the publisher of the Indiana Register.
(2) The date a permanent rule is adopted under this chapter.

(h) At least sixty (60) days before the education board adopts an emergency rule under subsection (f), the education board shall:

(1) notify the public of its intention to adopt an emergency rule by publishing a notice of intent to adopt an emergency rule in the Indiana Register; and
(2) provide a period for public hearing and comment for the proposed rule.

The publication notice described in subdivision (1) must include an overview of the intent and scope of the proposed emergency rule and the statutory authority for the rule.


IC 36-8-10.5-7.5
Time to complete training requirements; extensions

Sec. 7.5. (a) Except as provided in subsection (b), an individual whose employment by a fire department as a full-time firefighter begins after December 31, 2009, must complete the training for Firefighter I (as described in 655 IAC 1-2.1-4) and Firefighter II (as described in 655 IAC 1-2.1-5) during the firefighter's first year of employment. The fire department that employs a firefighter shall report to the education board when the firefighter has completed the training requirements established by this subsection.

(b) The education board may grant a firefighter any number of extensions of six (6) months to complete the training required under subsection (a). An extension must be requested by the fire department that employs the firefighter. An extension may be requested for any reason, including the following:

(1) The firefighter has been attending training in accordance with section 8 of this chapter in any of the following:
   (A) Hazardous materials.
   (B) Paramedic training.
   (C) Emergency medical technician training.
   (D) Technical training.

(2) The firefighter was unable to complete the training due to economic reasons.

(c) The education board shall determine whether a firefighter receives an extension under this section.
IC 36-8-10.5-8
Training location and personnel
Sec. 8. (a) The training may be conducted at:
   (1) a location within the political subdivision employing a full-time firefighter;
   (2) the headquarters of the volunteer fire department where a volunteer firefighter is seeking membership; or
   (3) any other facility where the training is offered.
   (b) The training must be conducted by personnel certified as instructors by the education board.

IC 36-8-10.5-9
Certification
Sec. 9. The education board shall certify fire personnel who successfully complete the minimum basic training requirements.
As added by P.L.49-1987, SEC.2.

IC 36-8-10.5-10
Tests for certification
Sec. 10. (a) This section applies to the following certifications:
   (1) Mandatory training (as described in 655 IAC 1-4-2).
   (2) Basic firefighter (as described in 655 IAC 1-2.1-3).
   (3) Firefighter I (as described in 655 IAC 1-2.1-4).
   (4) Firefighter II (as described in 655 IAC 1-2.1-5).
   (b) Before January 2, 2012, the board may not mandate that the written tests for the certifications listed in subsection (a) be taken solely using a computer, the Internet, or another online arrangement.
As added by P.L.56-2011, SEC.1.
IC 36-8-11
Chapter 11. Fire Protection Districts

IC 36-8-11-0.1
Application of certain amendments to chapter
Sec. 0.1. The addition of section 26 of this chapter by P.L.83-1998 applies only to purchases that occur after June 30, 1998.
As added by P.L.220-2011, SEC.675.

IC 36-8-11-1
Repealed
(Repealed by P.L.36-2000, SEC.11.)

IC 36-8-11-2
Definitions
Sec. 2. As used in this chapter:
"Board" refers to the board of fire trustees of a fire protection district.
"Fiscal officer" means a bonded employee of the fire protection district charged with the faithful receipt and disbursement of the funds of the district.
"Freeholder" means an individual who holds land in fee, for life, or for some indeterminate period of time, whether or not in joint title.
"Interested person" includes a freeholder or corporation owning lands within the proposed or established fire protection district, a person whose property may be condemned or injured by the district, the proper officer of a municipality, an affected state agency, and all local plan commissions.
"Joint title" means joint tenancy, tenancy in common, or tenancy by the entireties.
"Primary county" refers to the county where the largest portion of a municipality is located if the municipality is located in two (2) counties.
"Secondary county" refers to the county where the smallest portion of a municipality is located if the municipality is located in two (2) counties.

IC 36-8-11-3
Repealed
(Repealed by P.L.213-1986, SEC.12.)

IC 36-8-11-4
Districts; establishment; authorized purposes
Sec. 4. (a) A county legislative body may establish fire protection districts for any of the following purposes:
(1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the
boundaries of the district.
(2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.
(3) Other purposes or functions related to fire protection and fire prevention.

(b) Any area may be established as a fire protection district, but one (1) part of a district may not be completely separate from another part. A municipality may be included in a district, but only if it consents by ordinance, unless a majority of the freeholders of the municipality have petitioned to be included in the district.

(c) Except as provided in subsection (d), the territory of a district may consist of:
   (1) one (1) or more townships and parts of one (1) or more townships in the same county; or
   (2) all of the townships in the same county.

The boundaries of a district need not coincide with those of other political subdivisions.

(d) The territory of a district may consist of a municipality that is located in more than one (1) county.


IC 36-8-11-5
Establishment of district by freeholders; procedure

Sec. 5. (a) Freeholders who desire the establishment of a fire protection district must initiate proceedings by filing a petition in the office of the county auditor of the county where the freeholder's land is located. The petition may also be filed by a municipality under an ordinance adopted by its legislative body in each county where the municipality is located.

(b) The petition must be signed:
   (1) by at least twenty percent (20%), with a minimum of five hundred (500), of the freeholders owning land within the proposed district; or
   (2) by a majority of those freeholders owning land within the proposed district;

whichever number is less.

(c) This subsection applies to a district that consists of a municipality located in two (2) counties. The petitions filed in each county as set forth in section 5.1 of this chapter shall be considered parts of one (1) petition. The signature requirement of subsection (b) applies to the sum of the signatures on all parts of the petition.


IC 36-8-11-5.1
Multiple county district; establishment of district

Sec. 5.1. (a) This section applies to a district that consists of a municipality located in two (2) counties.

(b) This section does not apply to a merged district under section
23 of this chapter.

(c) Freeholders within the proposed district who desire the establishment of a fire protection district must initiate proceedings by filing a petition to establish the district with the county auditor of the county where the freeholder's land is located. Sections 6 and 7 of this chapter apply to a petition filed under this section. The number of freeholders who signed a petition shall be certified by the county auditor of the county that is the subject of the petition. If a petition is filed in both counties, the county auditor of the secondary county shall forward the petition to the primary county.

(d) The county auditor of the primary county shall present the petition to the legislative body of the primary county at its next regularly scheduled meeting or at a special meeting called for that purpose. Before or at the meeting, the legislative body shall determine whether the petition bears the necessary signatures and complies with requirements as to form and content. The legislative body may not dismiss a petition with the requisite signatures because of alleged defects without permitting amendments to correct errors in form or content.

(e) In determining whether the signers of a petition are freeholders, the names as they appear on the tax duplicates are prima facie evidence of the ownership of land.

(f) If the legislative body of the primary county determines that the petition conforms to the requirements of this chapter, the primary county or the secondary county, or both, may set a date for a public hearing on whether a fire protection district should, as a matter of public policy, be established in the area proposed in the petition. The district is established when both legislative bodies adopt an identical ordinance or resolution establishing the district.

As added by P.L.36-2000, SEC.5.

IC 36-8-11-6
Petitions; signatures of joint owners and corporations; circulation in counterparts

Sec. 6. (a) This section applies to petitions filed under either section 5 or section 9 of this chapter.

(b) If two (2) or more freeholders own the same land in joint title, they may be counted as only one (1) freeholder for the purpose of determining what constitutes twenty percent (20%) or a majority of the freeholders.

(c) A freeholder owning land in joint title may sign the petition and the signature shall be counted. However, if two (2) or more freeholders who own the same land in joint title sign the petition, their combined signatures count only as one (1) signature for the purposes of subsections (a) and (b).

(d) Any officer authorized by the corporation may sign the petition for a private corporation owning land within the proposed district. His signature is prima facie evidence of his authorization.

(e) The petition may be circulated in several counterparts and still be considered a single petition.
IC 36-8-11-7  
Contents of petition to establish district  
Sec. 7. A petition filed under section 5 of this chapter must state the following:  
(1) A name for the proposed district that distinguishes the district from all other political subdivisions within or contiguous to the area included within the district.  
(2) A description of the territory to be included, not necessarily by metes and bounds, but sufficiently accurate to inform the county legislative body and to apprise landowners of the possibility of the inclusion of their land within the district.  
(3) A statement of the purposes for which the district is proposed to be established.  
(4) A statement of the necessity and urgency of accomplishing the purposes.  
(5) A statement that the creation of the district will be conducive to the public health, safety, or welfare, including a summary of the advantages to be derived from the creation of the district.  
(6) A statement that the costs and damages of the district will probably be less than the benefits to be derived.  
(7) Whether the petition is conditioned upon a grant of federal or state monies, and whether the conditions that are attached to the grant or grants are acceptable if the monies should be offered.


IC 36-8-11-8  
Petition to establish district; examination of signatures by legislative body; hearing; ordinance or resolution  
Sec. 8. (a) After a petition is filed under section 5 of this chapter, the county auditor shall present it to the county legislative body at its next regularly scheduled meeting or at a special meeting called for that purpose. Before or at the meeting, the legislative body shall determine whether the petition bears the necessary signatures and complies with requirements as to form and content. The legislative body may not dismiss a petition with the requisite signatures because of alleged defects without permitting amendments to correct errors in form or content.  
(b) In determining whether the signers of a petition are freeholders, the names as they appear on the tax duplicates are prima facie evidence of the ownership of land.  
(c) If the legislative body determines that the petition conforms to the requirements of this chapter, it may set a date for a public hearing on whether a fire protection district should, as a matter of public policy, be established in the area proposed in the petition. The legislative body may also prepare an ordinance or resolution to establish the district for its consideration, in accordance with
applicable laws.


**IC 36-8-11-9**

**Petition against establishment of district**

Sec. 9. (a) A petition against the establishment of the fire protection district may be presented to the county legislative body at or after a hearing on the petition to establish a district and before the adoption of an ordinance or resolution establishing the district.

(b) If the legislative body finds that it contains the signatures of fifty-one percent (51%) of the freeholders within the proposed district or of the freeholders who own two-thirds (2/3) of the real property within the proposed district, determined by assessed valuation, the legislative body shall dismiss the petition for the establishment of the district.


**IC 36-8-11-9.5**

**Multiple county district; petition against establishment of district**

Sec. 9.5. (a) This section applies to a district that contains a municipality located in two (2) counties.

(b) This section does not apply to a merged district under section 23 of this chapter.

(c) The freeholders owning land within the proposed district may file a petition opposing the establishment of the district with the county auditor of the county where the freeholder's land is located. If a petition is filed in both counties, the county auditor of the secondary county shall forward the petition to the primary county and certify to the primary county the number of freeholders who signed the petition. A petition against the establishment of the fire protection district must be presented to the legislative body of the primary county at or after a hearing on the petition to establish a district and before the adoption of an ordinance or resolution establishing the district.

(d) If the legislative body of the primary county finds that the petition contains the signatures of fifty-one percent (51%) of the freeholders within the proposed district or of the freeholders who own two-thirds (2/3) of the real property within the proposed district, determined by assessed valuation, the legislative body shall dismiss the petition for the establishment of the district.


**IC 36-8-11-10**

**Limitation on filing new petition after dismissal**

Sec. 10. If the petition is dismissed because the county legislative body finds the evidence does not support it, a new petition to establish a district under this chapter in essentially the same area may not be addressed to the legislative body for a period of two (2) years after the date of the order dismissing the original petition.

IC 36-8-11-11
Addition of area to district; procedure
Sec. 11. To add area to a fire protection district already established, the same procedure must be followed as is provided for the establishment of a district. The petition must be addressed to the legislative body of each county in which the district is located.

IC 36-8-11-12
Board of fire trustees; appointment; terms of office; vacancies
Sec. 12. (a) Within thirty (30) days after the ordinance or resolution establishing the district becomes final, the county legislative body shall appoint a board of fire trustees. The trustees must be qualified by knowledge and experience in matters pertaining to fire protection and related activities in the district. A person who:
(1) is a party to a contract with the district; or
(2) is a member, an employee, a director, or a shareholder of any corporation or association that has a contract with the district;
may not be appointed or serve as a trustee. The legislative body shall appoint one (1) trustee from each township or part of a township contained in the district and one (1) trustee from each municipality contained in the district. If the number of trustees selected by this method is an even number, the legislative body shall appoint one (1) additional trustee so that the number of trustees is always an odd number. If the requirements of this section do not provide at least three (3) trustees, the legislative body shall make additional appointments so that there is a minimum of three (3) trustees.
(b) The original trustees shall be appointed as follows:
(1) One (1) for a term of one (1) year.
(2) One (1) for a term of two (2) years.
(3) One (1) for a term of three (3) years.
(4) All others for a term of four (4) years.
The terms expire on the first Monday of January of the year their appointments expire. As the terms expire, each new appointment is for a term of four (4) years.
(c) If a vacancy occurs on the board, the county legislative body shall appoint a trustee with the qualifications specified in subsection (a) for the unexpired term.

IC 36-8-11-13
Trustees; meetings
Sec. 13. (a) The board shall fix the time for holding regular meetings, but it shall meet at least once in the months of January, April, July, and October. The county legislative body may order that regular meetings be held more frequently.
(b) Special meetings of the board may be called by the chairman or by two (2) trustees, upon written request to the secretary. At least
three (3) days before a special meeting, the secretary shall send to all
trustees a written notice fixing the time and place of the meeting.
Written notice of a special meeting is not required if:
   (1) the time of the special meeting has been fixed in a regular
       meeting; or
   (2) all trustees were present at a meeting at which a special
       meeting was called.

IC 36-8-11-14
Trustees; officers; quorum; approval of actions; compensation;
offices; records
Sec. 14. (a) At the first regular meeting each year, the trustees of
the board shall elect a chairman and vice chairman from their
number. The vice chairman shall act as chairman during the absence
or disability of the chairman.
   (b) A majority of the trustees constitutes a quorum. An action of
the board is official, however, only if it is authorized by a majority of
the trustees at a regular or properly called special meeting.
   (c) Each trustee may receive not more than twenty dollars ($20)
a day for each day devoted to the work of the district. In addition,
each trustee may be reimbursed for actual expenses, including
traveling expense at a rate equivalent to that provided by statute for
state employees. Claims for expense reimbursement must be
accompanied by an itemized written statement and approved by a
recorded motion of the board.
   (d) At the time the county legislative body initially appoints the
board, it shall order where the board will maintain its offices. The
offices may not be changed without approval of the legislative body.
The board shall arrange for office space and keep a record of all
transactions and minutes of all meetings in the office. All records and
minutes shall be kept available for public inspection.

IC 36-8-11-15
Trustees; powers and duties
Sec. 15. (a) The board:
   (1) has the same powers and duties as a township executive with
respect to fire protection functions, including those duties and
powers prescribed by IC 36-8-13, although all cooperative and
joint actions permitted by that chapter must be undertaken
according to this chapter;
   (2) has the same powers and duties as a township executive
relative to contracting with volunteer firefighting companies, as
prescribed by IC 36-8-12 and IC 36-8-13;
   (3) shall appoint, fix the compensation, and prescribe the duties
of a fiscal officer, secretarial staff, persons performing special
and temporary services or providing legal counsel, and other
personnel considered necessary for the proper functioning of the
district; however, a person appointed as fiscal officer must be
bonded by good and sufficient sureties in an amount ordered by the county legislative body to protect the district from financial loss;
(4) shall exercise general supervision of and make regulations for the administration of the district's affairs;
(5) shall prescribe uniform rules pertaining to investigations and hearings;
(6) shall supervise the fiscal affairs and responsibilities of the district;
(7) may delegate to employees of the district the authority to perform ministerial acts, except in cases in which final action of the board is necessary;
(8) shall keep accurate and complete records of all departmental proceedings, record and file all bonds and contracts, and assume responsibility for the custody and preservation of all papers and documents of the district;
(9) shall make an annual report to the executive and the fiscal body of the county that at least lists the financial transactions of the district and a statement of the progress in accomplishing the purposes for which the district has been established;
(10) shall adopt a seal and certify all official acts;
(11) may sue and be sued collectively by its legal name ("Board of Fire Trustees, __________ Fire Protection District"), with service of process made on the chairman of the board, but costs may not be taxed against the members individually in an action;
(12) may invoke any legal, equitable, or special remedy for the enforcement of this chapter or of proper action of the board taken in a court;
(13) shall prepare and submit to the fiscal body of the county an annual budget for operation and maintenance expenses and for the retirement of obligations of the district, subject to review and approval by the fiscal body;
(14) may, if advisable, establish one (1) or more advisory committees;
(15) may enter into agreements with and accept money from a federal or state agency and enter into agreements with a municipality located within or outside the district, whether or not the municipality is a part of the district, for a purpose compatible with the purposes for which the district exists and with the interests of the municipality;
(16) may accept gifts of money or other property to be used for the purposes for which the district is established;
(17) may levy taxes at a uniform rate on the real and personal property within the district;
(18) may issue bonds and tax anticipation warrants;
(19) may incur other debts and liabilities;
(20) may purchase or rent property;
(21) may sell services or property that are produced incident to the operations of the district making a fair and reasonable charge for it;
(22) may make contracts or otherwise enter into agreements with public or private persons and federal or state agencies for construction, maintenance, or operations of or in part of the district;
(23) may receive and disburse money; and
(24) may impose a false alarm fee or service charge under IC 36-8-13-4.

(b) Powers granted by this chapter may be used only to accomplish the purpose or purposes as stated in the ordinance or resolution establishing the district. However, an act of the board necessary and proper to accomplish the purposes for which the district is established is not invalid because it incidentally accomplishes a purpose other than one for which the district is established.


IC 36-8-11-16
Taxing district; district considered municipal corporation

Sec. 16. All the real property within a fire protection district constitutes a taxing district for the purpose of levying taxes to pay for the construction, operation, and maintenance of district programs and facilities. A tax levied must be levied at a uniform rate upon all taxable property within the district. A fire protection district is a municipal corporation within the meaning of the Constitution of Indiana and all general statutes.


IC 36-8-11-17
Bonds; authorization

Sec. 17. Bonds may be issued only against the taxable property of a fire protection district and may be paid in part by revenues derived from reasonable charges for services or property produced incident to the operation of the district. Bonds shall be issued in the same manner as conservancy district bonds are issued under IC 14-33-11.


IC 36-8-11-18
Annual budget; tax levy

Sec. 18. (a) The board shall annually budget the necessary money to meet the expenses of operation and maintenance of the district, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, bond redemption, and all other expenses lawfully incurred by the district. After estimating expenses and receipts of money, the board shall establish the tax levy required to fund the estimated budget.

(b) The budget must be approved by the fiscal body of the county, the county board of tax adjustment, and the department of local government finance.
(c) Upon approval by the department of local government finance, the board shall certify the approved tax levy to the auditor of the county having land within the district. The auditor shall have the levy entered on the county treasurer's tax records for collection. After collection of the taxes the auditor shall issue a warrant on the treasurer to transfer the revenues collected to the board, as provided by statute.


IC 36-8-11-19
No duplicate tax levies
Sec. 19. The department of local government finance, when approving a rate and levy fixed by the board, shall verify that a duplication of tax levies does not exist between a fire protection district and a municipality or township within the boundaries of the district, so that taxpayers do not bear two (2) levies for the same service, except as provided by section 20 of this chapter.


IC 36-8-11-20
Indebtedness incurred before establishment of district
Sec. 20. A unit that incurred indebtedness for fire protection services before the establishment of a fire protection district under this chapter shall continue to repay that indebtedness by levies within the boundaries of the unit until the indebtedness is paid in full.


IC 36-8-11-21
Disbanding fire department not required
Sec. 21. This chapter does not require a municipality or township to disband its fire department unless its legislative body consents by ordinance.


IC 36-8-11-22
Areas annexed by municipalities
Sec. 22. Any area that is part of a fire protection district and is annexed by a municipality that is not a part of the district ceases to be a part of the fire protection district when the municipality begins to provide fire protection services to the area.

As added by P.L.341-1987, SEC.4.

IC 36-8-11-22.1
Multiple county district; board of fire trustees
Sec. 22.1. (a) This section applies to a district that consists of a municipality that is located in two (2) counties.

(b) This section does not apply to a merged district under section 23 of this chapter.
(c) Sections 6 and 7 of this chapter apply to the petition.

(d) The board of fire trustees for the district shall be appointed as prescribed by section 12 of this chapter. However, the legislative body of each county within which the district is located shall jointly appoint one (1) trustee from each township or part of a township contained in the district and one (1) trustee from the municipality contained in the district. The legislative body of each county shall jointly appoint a member to fill a vacancy.

(e) Sections 13, 14, and 15 of this chapter relating to the board of fire trustees apply to the board of the district. However, the county legislative bodies serving the district shall jointly decide where the board shall locate (or approve location of) its office.

(f) Sections 16, 17, 18, 19, and 21 of this chapter relating to the taxing district, bonds, annual budget, tax levies, and disbanding of fire departments apply to the district. However, the budget must be approved by the county fiscal body and county board of tax adjustment in each county in the district. In addition, the auditor of each county in the district shall perform the duties described in section 18(c) of this chapter.


IC 36-8-11-23
Merger of districts

Sec. 23. (a) Any fire protection district may merge with one (1) or more protection districts to form a single district if at least one-eighth (1/8) of the aggregate external boundaries of the districts coincide.

(b) The legislative body of the county where at least two (2) districts are located (or if the districts are located in more than one (1) county, the legislative body of each county) shall, if petitioned by freeholders in the two (2) districts, adopt an ordinance merging the districts into a single fire protection district.

(c) Freeholders who desire the merger of at least two (2) fire protection districts must initiate proceedings by filing a petition in the office of the county auditor of each county where a district is located. The petition must be signed:

(1) by at least twenty percent (20%), with a minimum of five hundred (500) from each district, of the freeholders owning land within the district; or

(2) by a majority of the freeholders from the districts; whichever is less.

(d) The petition described in subsection (c) must state the same items listed in section 7 of this chapter. Sections 6, 8, and 9 of this chapter apply to the petition and to the legislative body of each county in the proposed district.

(e) The board of fire trustees for each district shall form a single board, which shall continue to be appointed as prescribed by section 12 of this chapter. In addition, sections 13, 14, and 15 of this chapter relating to the board of fire trustees apply to the board of the merged district, except that if the merged district lies in more than one (1)
county, the county legislative bodies serving the combined district shall jointly decide where the board shall locate (or approve relocation of) its office.

(f) Sections 16, 17, 18, 19, and 21 of this chapter relating to the taxing district, bonds, annual budget, tax levies, and disbanding of fire departments apply to a merged district. However, the budget must be approved by the county fiscal body and county board of tax adjustment in each county in the merged district. In addition, the auditor of each county in the district shall perform the duties described in section 18(c) of this chapter.


IC 36-8-11-24
Dissolution of districts

Sec. 24. (a) Proceedings to dissolve a fire protection district may be instituted by the filing of a petition with the county legislative body that formed the district. If the proceedings are for dissolution of a district to which section 5.1 of this chapter applies, the proceedings may be instituted by the filing of a petition with the primary county or the secondary county, or both.

(b) The petition must be signed:

1. by at least twenty percent (20%), with a minimum of five hundred (500), of the freeholders owning land within the district; or
2. by a majority of those freeholders owning land within the district;

whichever is less.

(c) Except as provided in subsection (d), the provisions of section 8 of this chapter concerning a petition to establish a district apply to a dissolution petition.

(d) If the district is established under section 5.1 of this chapter, the provisions of section 5.1 of this chapter apply to a petition to dissolve the district.

(e) Except as provided in subsection (f), a petition against the dissolution of the fire protection district may be presented to the county legislative body at or after a hearing on the petition to dissolve a district and before the adoption of an ordinance or resolution dissolving the district. If the legislative body finds that it contains the signatures of fifty-one percent (51%) of the freeholders within the district or of the freeholders who own two-thirds (2/3) of the real property within the district, determined by assessed valuation, the legislative body shall dismiss the petition for the dissolution of the district.

(f) If a district is established under section 5.1 of this chapter, the provisions of section 9.5 of this chapter apply to a petition to dissolve the district.

(g) If, after the public hearing, the legislative body determines that dissolution should occur, it shall adopt an ordinance dissolving the district. If the district is established under section 5.1 of this chapter,
both legislative bodies of the counties containing the district must adopt ordinances dissolving the district after determining in a public hearing that the district should be dissolved.

(h) A dissolution takes effect three (3) months after the later of the adoption of the ordinance under subsection (g) or the payment of the district’s debts and liabilities, including its liabilities under IC 34-13-2 and IC 34-13-3. The property owned by the district after payment of debts and liabilities shall be disposed of in the manner chosen by the county legislative body or county legislative bodies. Dissolution of a district does not affect the validity of any contract to which the district is a party.

(i) A person aggrieved by a decision made by the county legislative body or county legislative bodies under this section may, within thirty (30) days, appeal the decision to the circuit court for any county in which the district is located. The appeal is instituted by giving written notice to each county legislative body within which the district is located and filing with the circuit court clerk a bond in the sum of five hundred dollars ($500), with surety approved by the legislative body or legislative bodies. The bond must provide that the appeal will be duly prosecuted and that the appellants will pay all costs if the appeal is decided against them. When an appeal is instituted, the county legislative body or county legislative bodies shall file with the circuit court clerk a transcript of all proceedings in the case, together with all papers filed in the case. The county legislative body or county legislative bodies may not take further action in the case until the appeal is heard and determined. An appeal under this subsection shall be heard by the circuit court without a jury. Change of venue from the judge may be granted, but change of venue from the county may not be granted.


IC 36-8-11-25
Repealed
(Repealed by P.L.394-1987(ss), SEC.3.)

IC 36-8-11-26
Purchase of firefighting equipment on installment conditional sale or mortgage contract

Sec. 26. After a sufficient appropriation for the purchase of firefighting apparatus and equipment, including housing, is made and is available, the district's fiscal officer, with the approval of the board and the county fiscal body, may purchase the firefighting apparatus and equipment for the district on an installment conditional sale or mortgage contract running for a period not exceeding fifteen (15) years. The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.

IC 36-8-11-27
Payment of line of duty health care expenses for firefighters

Sec. 27. (a) A fire protection district shall pay for the care of a full-time, paid firefighter who suffers:
(1) an injury; or
(2) contracts an illness;
during the performance of the firefighter's duties.
(b) The fire protection district shall pay for the following expenses incurred by a firefighter described in subsection (a):
(1) Medical and surgical care.
(2) Medicines and laboratory, curative, and palliative agents and means.
(3) X-ray, diagnostic, and therapeutic service, including service provided during the recovery period.
(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.
(c) Expenditures required by subsection (a) shall be paid from the fund used by the fire protection district for payment of the costs attributable to providing fire protection services in the fire protection district.
(d) A fire protection district that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for:
(1) an injury sustained because of; or
(2) an illness caused by;
the third party. The fire protection district's cause of action under this subsection is in addition to, and not instead of, the cause of action of the firefighter against the third party.

IC 36-8-12
Chapter 12. Volunteer Fire Departments

IC 36-8-12-0.1
Application of certain amendments to chapter
Sec. 0.1. The formula added to section 6 of this chapter by P.L.70-1995 applies to insurance policies that are entered into or renewed after December 31, 1995.
As added by P.L.220-2011, SEC.676.

IC 36-8-12-1
Application of chapter
Sec. 1. Except as provided in section 10 of this chapter, this chapter applies to all units except counties.

IC 36-8-12-2
Definitions
Sec. 2. As used in this chapter:
"Emergency medical services personnel" means individuals certified by the emergency medical services commission established by IC 16-31-2-1 who:
(1) as a result of a written application, have been elected or appointed to membership in a volunteer fire department; and
(2) have executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the individuals by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training.
"Employee" means a person in the service of another person under a written or implied contract of hire or apprenticeship.
"Employer" means:
(1) a political subdivision;
(2) an individual or the legal representative of a deceased individual;
(3) a firm;
(4) an association;
(5) a limited liability company;
(6) an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5(a); or
(7) a corporation or its receiver or trustee;
that uses the services of another person for pay.
"Essential employee" means an employee:
(1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and
(2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee.
"Nominal compensation" means annual compensation of not more
than twenty thousand dollars ($20,000).

"Public servant" has the meaning set forth in IC 35-31.5-2-261.

"Responsible party" has the meaning set forth in IC 13-11-2-191(e).

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:
(1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;
(2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and
(3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

"Volunteer member" means a member of a volunteer emergency medical services association connected with a unit as set forth in IC 16-31-5-1(6).


IC 36-8-12-3
Agreements with units; authorization

Sec. 3. A unit may enter into an agreement with one (1) or more volunteer fire departments that maintain adequate firefighting service for the use and operation of firefighting apparatus and equipment owned by the volunteer fire department, including the service of the operators of the apparatus and equipment, so that the private and public property of the unit is saved from destruction by fire.


IC 36-8-12-4
Agreements with units; consideration

Sec. 4. The contract between a unit and a volunteer fire department must provide that the unit pay to the department, as consideration for the contract, an amount of money that is determined by negotiation between them. This consideration must include the amounts that the unit is required to pay under this chapter for insurance premiums and clothing, automobile, and other allowances.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.1-1999,
IC 36-8-12-5
Clothing and automobile allowances; fees for membership in firefighters' association

Sec. 5. (a) Unless otherwise provided by contract, a unit served by a volunteer fire department shall pay to each active and participating member of the department:

1. a clothing allowance of not less than one hundred dollars ($100) per year; and
2. an automobile allowance of not less than one hundred dollars ($100) per year for the use of the member's automobile in the line of duty.

(b) A contract may also provide that fees for membership in a regularly organized volunteer firefighters' association be paid by the unit on behalf of the firefighters in the volunteer fire department.


IC 36-8-12-6
Units required to insure members of department; liability for failure to insure

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 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.


IC 36-8-12-7
Insurance; disability and medical expense coverage

Sec. 7. Each policy of insurance must provide for payment to a member of a volunteer fire department, for accidental injury or smoke inhalation caused by or occurring in the course of the performance of the duties of a volunteer firefighter or member of the emergency medical services personnel and for a cardiac disease event proximately caused within forty-eight (48) hours by or occurring in the course of the performance of the duties of a volunteer firefighter or member of the emergency medical services personnel while in an emergency situation, as follows:

(1) For total disability that prevents the member from pursuing the member's usual vocation:
(A) after June 30, 2009, and before July 24, 2009, a weekly indemnity of not less than two hundred sixty-two dollars ($262); and
(B) after July 23, 2009, a weekly indemnity of not less than two hundred ninety dollars ($290);
up to a maximum of two hundred sixty (260) weeks. After July 23, 2009, the weekly indemnity may not be less than the Indiana minimum wage computed on the basis of a forty (40) hour week.

(2) For medical expenses, coverage for incurred expenses. However, the policy may not have medical expense limits of less than seventy-five thousand dollars ($75,000).


IC 36-8-12-8
Insurance; death benefits; permanent disability; liability coverage; limitations on liability

Sec. 8. (a) The policy of insurance required by section 6 of this chapter must provide for the payment of a sum not less than one hundred fifty thousand dollars ($150,000) to the beneficiary, beneficiaries, or estate of a volunteer firefighter or member of the emergency medical services personnel if the firefighter or member of the emergency medical services personnel dies from an injury or smoke inhalation occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel or from a cardiac disease event proximately caused within forty-eight (48) hours by or occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

(b) The policy of insurance must provide for the payment of a sum not less than one hundred fifty thousand dollars ($150,000) to the volunteer firefighter or member of the emergency medical services personnel if the firefighter or member of the emergency medical services personnel becomes totally and permanently disabled for a continuous period of not less than two hundred sixty (260) weeks as a result of an injury or smoke inhalation occurring in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

(c) The policy of insurance must also provide for indemnification to a member of a volunteer fire department who becomes partially and permanently disabled or impaired as a result of an injury or smoke inhalation occurring in the performance of the firefighter's or member of the emergency medical services personnel's duties.

(d) For the purposes of this section, partial and permanent disability or impairment shall be indemnified as a percentage factor
of a whole person.

(e) In addition to other insurance provided volunteer firefighters or emergency medical services personnel under this chapter, each unit shall be covered by an insurance policy that provides a minimum of three hundred thousand dollars ($300,000) of insurance coverage for the liability of all of the unit's volunteer firefighters or emergency medical services personnel for bodily injury or property damage caused by the firefighters or emergency medical services personnel acting in the scope of their duties while on the scene of a fire or other emergency. The civil liability of a volunteer firefighter or member of the emergency medical services personnel for:

(1) an act that is within the scope of a volunteer firefighter's duties; or

(2) the failure to do an act that is within the scope of a volunteer firefighter's duties;

while performing emergency services at the scene of a fire or other emergency or while traveling in an emergency vehicle from the fire station to the scene of the fire or emergency or from the scene of a fire or emergency back to the fire station is limited to the coverage provided by the insurance policy purchased under this subsection. A volunteer firefighter or member of the emergency medical services personnel is not liable for punitive damages for any act that is within the scope of a volunteer firefighter's or member of the emergency medical services personnel's duties. However, if insurance as required under this subsection is not in effect to provide liability coverage for a volunteer firefighter or member of the emergency medical services personnel, the firefighter or member of the emergency medical services personnel is not subject to civil liability for an act or a failure to act as described in this subsection.


IC 36-8-12-9
Insurance premiums; payment from general fund

Sec. 9. All expenses incurred for premiums of the insurance required by this chapter shall be paid out of the general fund of the unit in the same manner as other expenses in the unit are paid.

As added by Acts 1981, P.L.309, SEC.64.

IC 36-8-12-10
Volunteers; medical treatment and burial expense coverage; determinations; premium expenses

Sec. 10. (a) A:

(1) volunteer firefighter, a member of the emergency medical services personnel, or an emergency medical technician working in a volunteer capacity for a volunteer fire department or ambulance company is covered; and

(2) volunteer working for a hazardous materials response team
may be covered;
by the medical treatment and burial expense provisions of the
worker's compensation law (IC 22-3-2 through IC 22-3-6) and the
worker's occupational diseases law (IC 22-3-7).

(b) If compensability of the injury is an issue, the administrative
procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be
used to determine the issue.

(c) This subsection applies to all units, including counties. All
expenses incurred for premiums of the insurance allowed under this
section may be paid from the unit's general fund in the same manner
as other expenses in the unit are paid.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.198-1988,
SEC.1; P.L.3-1989, SEC.230; P.L.172-1990, SEC.2; P.L.72-1992,

IC 36-8-12-10.5
Employees of political subdivisions; volunteer firefighting or
volunteer member activity

Sec. 10.5. (a) This section does not apply to an employee of the
state subject to IC 4-15-10-7.

(b) This section applies to an employee of a political subdivision
who:

(1) is a volunteer firefighter or volunteer member; and
(2) has notified the employee's employer in writing that the
employee is a volunteer firefighter or volunteer member.

(c) The political subdivision employer may not discipline an
employee:

(1) for being absent from employment by reason of responding
to a fire or emergency call that was received before the time that
the employee was to report to employment;
(2) for leaving the employee's duty station to respond to a fire
or an emergency call if the employee has secured authorization
from the employee's supervisor to leave the duty station in
response to a fire or an emergency call received after the
employee has reported to work; or
(3) for:

(A) an injury; or

(B) an absence from work because of an injury;
that occurs while the employee is engaged in emergency
firefighting or other emergency response.

However, for each instance of emergency firefighting activity or
other emergency response that results in an injury to an employee,
subdivision (3) applies only to the period of the employee's absence
from work that does not exceed six (6) months from the date of the
injury.

(d) The political subdivision employer may require an employee
who has been absent from employment as set forth in subsection (c)
to present a written statement from the fire chief or other officer in
charge of the volunteer fire department, or officer in charge of the
volunteer emergency medical services association, at the time of the
absence or injury indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence or injury.

(e) The political subdivision employer may require an employee who is injured or absent from work as described in subsection (c)(3) to provide evidence from a physician or other medical authority showing:

1. treatment for the injury at the time of the absence; and
2. a connection between the injury and the employee's emergency firefighting or other emergency response activities.

(f) To the extent required by federal or state law, information obtained under subsection (e) by a political subdivision employer must be:

1. retained in a separate medical file created for the employee; and
2. treated as a confidential medical record.

(g) An employee who is disciplined by the employer in violation of subsection (c) may bring a civil action against the employer in the county of employment. In the action, the employee may seek the following:

1. Payment of back wages.
2. Reinstatement to the employee's former position.
3. Fringe benefits wrongly denied or withdrawn.
4. Seniority rights wrongly denied or withdrawn.

An action brought under this subsection must be filed within one (1) year after the date of the disciplinary action.

(h) A public servant who permits or authorizes an employee of a political subdivision under the supervision of the public servant to be absent from employment as set forth in subsection (c) is not considered to have committed a violation of IC 35-44.1-1-3(b).


IC 36-8-12-10.7

Employees of private employers; volunteer firefighting or volunteer member activity

Sec. 10.7. (a) This section applies to an employee of a private employer who:

1. is a volunteer firefighter or volunteer member; and
2. has notified the employee's employer in writing that the employee is a volunteer firefighter or volunteer member.

(b) Except as provided in subsection (c), the employer may not discipline an employee:

1. for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment;
2. for leaving the employee's duty station to respond to a fire or emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the
employee has reported to work; or
(3) for:
   (A) an injury; or
   (B) an absence from work because of an injury;
that occurs while the employee is engaged in emergency firefighting or other emergency response.
However, for each instance of emergency firefighting activity or other emergency response that results in an injury to an employee, subdivision (3) applies only to the period of the employee's absence from work that does not exceed six (6) months from the date of the injury.

(c) After the employer has received the notice required under subsection (a)(2), the employer may reject the notification from the employee on the grounds that the employee is an essential employee to the employer. If the employer has rejected the notification of the employee:
   (1) subsection (b) does not apply to the employee; and
   (2) the employee must promptly notify the:
       (A) fire chief or other officer in charge of the volunteer fire department; or
       (B) the officer in charge of the volunteer emergency medical services association;
       of the rejection of the notice of the employee who is a volunteer firefighter or a volunteer member.

(d) The employer may require an employee who has been absent from employment as set forth in subsection (b) to present a written statement from the fire chief or other officer in charge of the volunteer fire department, or officer in charge of the emergency medical services association, at the time of the absence or injury indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence or injury.

(e) The employer may require an employee who is injured or absent from work as described in subsection (b)(3) to provide evidence from a physician or other medical authority showing:
   (1) treatment for the injury at the time of the absence; and
   (2) a connection between the injury and the employee's emergency firefighting or other emergency response activities.

(f) To the extent required by federal or state law, information obtained under subsection (e) by an employer must be:
   (1) retained in a separate medical file created for the employee; and
   (2) treated as a confidential medical record.


IC 36-8-12-10.9
Notice of absence; remuneration
Sec. 10.9. (a) The employer may require an employee who will be absent from employment as set forth in:
   (1) section 10.5(c)(1); or
   (2) section 10.7(b)(1);
of this chapter to notify the employer before the scheduled start time for the absence from employment to be excused by the employer.

(b) The employer is not required to pay salary or wages to an employee who has been absent from employment as set forth in section 10.5(c) or 10.7(b) of this chapter for the time away from the employee's duty station. The employee may seek remuneration for the absence from employment by the use of:

1. vacation leave;
2. personal time;
3. compensatory time off; or
4. in the case of an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) of this chapter, sick leave.

(c) An employer shall administer an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) of this chapter in a manner consistent with the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), as amended and in effect on January 1, 2009.


IC 36-8-12-11
Blue lights on private vehicles; authorization; violations

Sec. 11. (a) Members of volunteer fire departments may display blue lights on their privately owned vehicles while en route to scenes of emergencies or to the fire station in the line of duty subject to the following conditions:

1. A light must have a light source of at least thirty-five (35) watts.
2. All lights must be placed on the:
   A. top of the vehicle;
   B. dashboard inside a vehicle, shielded to prevent distracting the driver; or
   C. front of the vehicle upon the bumper or at bumper level.
3. No more than four (4) blue light assemblies may be displayed on one (1) vehicle, and each blue light assembly must be of the flashing or revolving type.
4. A blue light assembly may contain multiple bulbs.
5. A blue light may not be a part of the regular head lamps displayed on the vehicles. Alternately flashing head lamps may be used as a supplemental warning device. Strobe lights or flashers may be installed into the light fixtures on the vehicle other than the alternating head lamps. The strobe lights or flashers may be either white or blue, with the exception of red to the rear.

(b) In order for a volunteer firefighter to display a blue light on a vehicle, the volunteer firefighter must secure a written permit from the chief of the volunteer fire department to use the blue light and must carry the permit at all times when the blue light is displayed.

(c) A person who is not a member of a volunteer fire department may not display an illuminated blue light on a vehicle.
(d) A permittee of the owner of a vehicle lawfully equipped with a blue light may operate the vehicle only if the blue light is not illuminated.

(e) A person who violates subsection (a), (b), (c), or (d) commits a Class C infraction. If the violator is a member of a volunteer fire department, the chief of the department shall discipline the violator under fire department rules and regulations.

(f) This section does not grant a vehicle displaying blue lights the right-of-way under IC 9-21-8-35 or exemption from traffic rules under IC 9-21-1-8. A driver of a vehicle displaying a blue light shall obey all traffic rules.

(g) This section shall not be construed to include a vehicle displaying a blue light and driven by a member of a volunteer fire department as an authorized emergency vehicle (as defined in IC 9-13-2-6).


**IC 36-8-12-12**

**Nonfire emergency activities; duties of fire chief**

Sec. 12. When a volunteer fire department is responding to a fire call and there is no other fire department with overriding jurisdiction present, the fire chief, or in his absence the ranking officer, shall direct all nonfire emergency activities at the scene until a law enforcement officer arrives on the scene.


**IC 36-8-12-13**

**Charges; owners of property or vehicle involved in fire or spill; failure to pay; administrative fees**

Sec. 13. (a) Except as provided in subsection (b), the volunteer fire department that responds first to an incident may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in IC 13-11-2-191(e)) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)):

1. that is responded to by the volunteer fire department; and
2. that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

A second or subsequently responding volunteer fire department may not impose a charge on an owner or responsible party under this section, although it may be entitled to reimbursement from the first responding volunteer fire department in accordance with an interlocal or other agreement.

(b) A volunteer fire department that is funded, in whole or in part:

1. by taxes imposed by a unit; or
2. by a contract with a unit;

may not impose a charge under subsection (a) on a natural person
who resides or pays property taxes within the boundaries of the unit described in subdivision (1) or (2), unless the spill or the chemical or hazardous material fire poses an imminent threat to persons or property.

(c) The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under section 16 of this chapter. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

1. deposited in the township firefighting fund established in IC 36-8-13-4;
2. used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or
3. used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(d) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(e) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(f) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

(g) The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a) and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.


IC 36-8-12-15
Liability limits; punitive damages

Sec. 15. The combined aggregate liability of a volunteer fire department for an act or failure to act that is within the scope of the department’s duties does not exceed three hundred thousand dollars ($300,000) for injury to or death of one (1) person in any one (1) occurrence and does not exceed five million dollars ($5,000,000) for injury to or death of all persons in that occurrence. A volunteer fire department is not liable for punitive damages.

IC 36-8-12-16  
Schedule of charges for service; conditions for collection; reports; failure to pay

Sec. 16. (a) A volunteer fire department that provides service within a jurisdiction served by the department may establish a schedule of charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. The volunteer fire department or its agent may collect a service charge according to this schedule from the owner of property that receives service if the following conditions are met:

1. At the following times, the department gives notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the service charge for each service that the department provides:
   (A) Before the schedule of service charges is initiated.
   (B) When there is a change in the amount of a service charge.
2. The property owner has not sent written notice to the department to refuse service by the department to the owner's property.
3. The bill for payment of the service charge:
   (A) is submitted to the property owner in writing within thirty (30) days after the services are provided;
   (B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report;
   (C) must contain verification that the bill has been approved by the chief of the volunteer fire department; and
   (D) must contain language indicating that correspondence from the property owner and any question from the property owner regarding the bill should be directed to the department.
4. Payment is remitted directly to the governmental unit providing the service.

(b) A volunteer fire department shall use the revenue collected from the fire service charges under this section:
1. for the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services;
2. for deposit in the township firefighting fund established under IC 36-8-13-4; or
3. to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(d) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.
(c) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

(f) If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the schedule of service charges established under subsection (a) before the schedule of service charges is initiated in that political subdivision.

(g) A volunteer fire department that:
(1) has contracted with a political subdivision to provide fire protection or emergency services; and
(2) charges for services under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

(h) The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services.

(i) The volunteer fire department or its agent may maintain a civil action to recover an unpaid service charge under this section and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.


IC 36-8-12-17
False alarm service charges

Sec. 17. (a) If a political subdivision has not imposed its own false alarm fee or service charge, a volunteer fire department that provides service within the jurisdiction may establish a service charge for responding to false alarms. The volunteer fire department may collect the false alarm service charge from the owner of the property if the volunteer fire department dispatches firefighting apparatus or personnel to a building or premises in the township in response to:
(1) an alarm caused by improper installation or improper maintenance; or
(2) a drill or test, if the fire department is not previously notified that the alarm is a drill or test.

However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm company is liable for the payment of the fee or service charge.

(b) Before establishing a false alarm service charge, the volunteer fire department must provide notice under IC 5-3-1-4(d) in each
political subdivision served by the department of the amount of the false alarm service charge. The notice required by this subsection must be given:

(1) before the false alarm service charge is initiated; and
(2) before a change in the amount of the false alarm service charge.

c) A volunteer fire department may not collect a false alarm service charge from a property owner or alarm company unless the department's bill for payment of the service charge:

(1) is submitted to the property owner in writing within thirty (30) days after the false alarm; and
(2) includes a copy of a fire incident report in the form prescribed by the state fire marshal.

d) A volunteer fire department shall use the money collected from the false alarm service charge imposed under this section:

(1) for the purchase of equipment, buildings, and property for fire fighting, fire protection, or other emergency services;
(2) for deposit in the township firefighting fund established under IC 36-8-13-4; or
(3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

e) If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the false alarm service charge established under subsection (a) before the service charge is initiated in that political subdivision.

(f) A volunteer fire department that:

(1) has contracted with a political subdivision to provide fire protection or emergency services; and
(2) imposes a false alarm service charge under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of false alarm charges collected during the previous calendar year and how those funds have been expended.

(g) The volunteer fire department may maintain a civil action to recover unpaid false alarm service charges imposed under this section and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.


IC 36-8-12-18
Confidential information; exceptions

Sec. 18. (a) A volunteer fire department may declare the following records confidential for purposes of IC 5-14-3:

(1) Personnel files of members of the volunteer fire department.
(2) Files of applicants to the volunteer fire department. However, all personnel file information shall be made available to an affected member or the member's representative.

(b) Notwithstanding subsection (a), a volunteer fire department may not declare the following information contained in files described in subsection (a) confidential:

(1) The name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former members of the volunteer fire department.

(2) Information relating to the status of any formal charges against a member.

(3) The factual basis for a disciplinary action in which final action has been taken and that resulted in the member being suspended, demoted, or discharged.

(c) This section does not apply to disclosure of personnel information generally on all members or for groups of members without the request being particularized by member name.

As added by P.L.101-2006, SEC.38.

IC 36-8-12-19 Suspension or termination of EMS personnel; right to hearing and appeal

Sec. 19. (a) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(b) If a medical director takes any of the following actions against a member of the emergency medical services personnel, the medical director shall provide to the member and to the chief of the member's volunteer fire department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the member.

(2) The medical director refuses or fails to attest to the competency of the member to perform emergency medical services.

(3) The medical director suspends the member from performing emergency medical services.

(c) Before a volunteer fire department takes an action that affects the member's appointment with the volunteer fire department as the result of a medical director's action described in subsection (b), the member is entitled to a hearing and appeal concerning the medical director's action as provided in IC 36-8-3-4. The safety board of the unit that entered into an agreement with the volunteer fire department under section 3 of this chapter shall hear the member's appeal provided by this subsection.

(d) If the medical director's action that is the subject of an appeal under subsection (c) is based on a health care decision made by the
member in performing emergency medical services, the safety board conducting the hearing shall consult with an independent medical expert to determine whether the member followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

1. must be a physician trained in emergency medical services;
   and
2. may not be affiliated with the same hospital as the medical director.

As added by P.L.13-2010, SEC.5.
IC 36-8-12.2  
Chapter 12.2. Hazardous Materials Emergency Action Reimbursement

IC 36-8-12.2-1  
"Facility" defined  
Sec. 1. As used in this chapter, "facility" has the meaning set forth in 327 IAC 2-6.1-4(7), as in effect on January 1, 2001.  

IC 36-8-12.2-2  
"Fire department" defined  
Sec. 2. As used in this chapter, "fire department" means a fire department that:  
(1) is established under IC 36-8-2-3 or IC 36-8-13-3(a)(1); and  
(2) employs:  
(A) both full-time paid members and volunteer members; or  
(B) only full-time paid members.  

IC 36-8-12.2-3  
"Hazardous materials emergency" defined  
Sec. 3. As used in this chapter, "hazardous materials emergency" has the meaning set forth in IC 13-11-2-97.  

IC 36-8-12.2-4  
"Mode of transportation" defined  
Sec. 4. As used in this chapter, "mode of transportation" has the meaning set forth in 327 IAC 2-6.1-4(10), as in effect on January 1, 2001.  

IC 36-8-12.2-5  
"Responsible party" defined  
Sec. 5. As used in this chapter, "responsible party" has the meaning set forth in IC 13-11-2-191(e).  

IC 36-8-12.2-6  
Imposition of service charges and administrative fees  
Sec. 6. (a) A fire department may impose a charge on a person that is a responsible party with respect to a hazardous materials emergency that:  
(1) the fire department responded to;  
(2) members of that fire department assisted in containing, controlling, or cleaning up;  
(3) with respect to the release or imminent release of hazardous materials at a facility, involves a quantity of hazardous materials
that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-5, as in effect on January 1, 2001; and
(4) with respect to the release or imminent release of hazardous materials from a mode of transportation, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-6, as in effect on January 1, 2001.
(b) The owner or responsible party shall remit payment directly to the governmental unit providing the service.
(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.
(d) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.
(e) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

IC 36-8-12.2-7
Service charge billed to responsible party
Sec. 7. A fire department imposing a charge under this chapter may bill the responsible party for the total value of the assistance provided, as determined from the state fire marshal's schedule of service charges issued under IC 36-8-12-16(h).

IC 36-8-12.2-8
General fund of unit; hazardous materials response fund
Sec. 8. (a) Money collected under this chapter must be deposited in one (1) of the following:
(1) The general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1).
(2) A hazardous materials response fund established under section 8.1 of this chapter by a city or town having a fire department established under IC 36-8-2-3.
(b) Money collected under this chapter may be used only for the following:
(1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.
(2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter.
(3) Payment to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter.
SEC.37.

IC 36-8-12.2-8.1  
Establishing hazardous materials response fund; fund administration  
Sec. 8.1. (a) The fiscal body of each city or town that establishes a fire department under IC 36-8-2-3 may, by ordinance or resolution, establish a hazardous materials response fund.  
(b) The hazardous materials response fund shall be administered by the unit's fiscal officer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.  
As added by P.L.173-2003, SEC.38.

IC 36-8-12.2-9  
Billing for services of fire department  
Sec. 9. (a) A fire department may not bill under this chapter for services provided that duplicate services provided by another governmental entity.  
(b) The responsible party billed for services under this chapter may elect to reimburse the fire department by providing replacement materials that are of equal or greater value than those expended by the fire department in responding to the emergency.  

IC 36-8-12.2-10  
Actions for reimbursement  
Sec. 10. A fire department that imposes a service charge under this chapter and maintains an action for reimbursement under IC 13-25-6-5 may recover all costs of the action, including attorney's fees.  

IC 36-8-12.2-11  
Penalties  
Sec. 11. A responsible party is subject to a penalty for failure to pay the full amount of a charge made under this chapter within sixty (60) days after the issuance of the bill for payment by the fire department. The amount of the penalty is ten percent (10%) of the amount of the charge that remains unpaid on the due date.  
IC 36-8-12.5
Repealed
(Repealed by P.L.268-1993, SEC.3.)
IC 36-8-13
Chapter 13. Township Fire Protection and Emergency Services

IC 36-8-13-0.1
Application of certain amendments to chapter
Sec. 0.1. The amendments made to section 5 of this chapter by P.L.83-1998 apply only to purchases that occur after June 30, 1998. As added by P.L.220-2011, SEC.677.

IC 36-8-13-1
Application of chapter
Sec. 1. This chapter applies to all townships. However, this chapter does not apply to a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1. As added by Acts 1981, P.L.309, SEC.65. Amended by P.L.227-2005, SEC.49.

IC 36-8-13-2
Establishment of fire protection; procedure
Sec. 2. If a majority of the owners of taxable real property residing within and owning real property within that part of a township located outside the corporate boundaries of a municipality petition the township executive and legislative body to provide fire protection in that part of the township, the executive and legislative body shall grant the petition and proceed without delay to provide for fire protection. The executive and legislative body shall determine which of the methods in section 3 of this chapter for providing fire protection in townships will be followed. As added by Acts 1981, P.L.309, SEC.65.

IC 36-8-13-3
Authorized methods of providing fire protection; preference for employment
Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:
(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. Preference in employment under this section shall be given according to the following priority:
(A) A war veteran who has been honorably discharged from the United States armed forces.
(B) A person whose mother or father was a:
   (i) firefighter of a unit;
   (ii) municipal police officer; or
   (iii) county police officer;
who died in the line of duty (as defined in IC 5-10-10-2). The executive of a township may give a preference for employment under this section to a person who was employed full-time or part-time by another township to provide fire protection and emergency services and has been laid off by the township. The executive of a township may also give a preference for employment to a firefighter laid off by a city under IC 36-8-4-11. A person described in this subdivision may not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have some part of the municipal territory within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.
(2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.
(c) This subsection applies only to a township that:
   (1) is located in a county containing a consolidated city;
   (2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within
       the township on January 1, 1996; and
   (3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township.

A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adopting a resolution before July 1 of a year. A copy of a resolution adopted under this subsection shall be submitted to the executive of each included town covered by the resolution, the county auditor, and the department of local government finance.


IC 36-8-13-4
Township firefighting fund; tax levy; donations

Sec. 4. (a) Each township shall annually establish a township firefighting fund which is to be the exclusive fund used by the township for the payment of costs attributable to providing fire protection or emergency services under the methods prescribed in section 3 of this chapter and for no other purposes. The money in the fund may be paid out by the township executive with the consent of the township legislative body.

(b) Each township may levy, for each year, a tax for the township firefighting fund. Other than a township providing fire protection or emergency services or both to municipalities in the township under section 3(b) or 3(c) of this chapter, the tax levy is on all taxable real and personal property in the township outside the corporate boundaries of municipalities. Subject to the levy limitations contained in IC 6-1.1-18.5, the township levy is to be in an amount sufficient to pay all costs attributable to fire protection and emergency services that are not paid from other revenues available to the fund. The tax rate and levy shall be established in accordance with the procedures set forth in IC 6-1.1-17.

(c) In addition to the tax levy and service charges received under IC 36-8-12-13 and IC 36-8-12-16, the executive may accept
donations to the township for the purpose of firefighting and other emergency services and shall place them in the fund, keeping an accurate record of the sums received. A person may also donate partial payment of any purchase of firefighting or other emergency services equipment made by the township.

(d) If a fire department serving a township dispatches fire apparatus or personnel to a building or premises in the township in response to:

(1) an alarm caused by improper installation or improper maintenance; or
(2) a drill or test, if the fire department is not previously notified that the alarm is a drill or test;

the township may impose a fee or service charge upon the owner of the property. However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm company is liable for the payment of the fee or service charge.

(e) The amount of a fee or service charge imposed under subsection (d) shall be determined by the township legislative body. All money received by the township from the fee or service charge must be deposited in the township's firefighting fund.


IC 36-8-13-4.5
Payment of township provided fire protection or emergency services; sources of funds; sufficiency of levy; donations

Sec. 4.5. (a) This section applies to a township that provides fire protection or emergency services or both to a municipality in the township under section 3(b) or 3(c) of this chapter.

(b) With the consent of the township legislative body, the township executive shall pay the expenses for fire protection and emergency services in the township, both inside and outside the corporate boundaries of participating municipalities, from any combination of the following township funds, regardless of when the funds were established:

(1) The township firefighting fund under section 4 of this chapter.
(2) The cumulative building and equipment fund under IC 36-8-14.
(3) The debt fund under sections 6 and 6.5 of this chapter.

(c) Subject to the levy limitations contained in IC 6-1.1-18.5, the tax rate and levy for the township firefighting fund, the cumulative building and equipment fund, or the debt fund is to be in an amount sufficient to pay all costs attributable to fire protection or emergency services that are provided to the township and the participating municipalities that are not paid from other available revenues. The
tax rate and levy for each fund shall be established in accordance with the procedures set forth in IC 6-1.1-17 and apply both inside and outside the corporate boundaries of participating municipalities.

(d) The township executive may accept donations for the purpose of firefighting and emergency services. The township executive shall place donations in the township firefighting fund. A person may donate partial payment of a purchase of firefighting or emergency services equipment made by the township.


IC 36-8-13-4.6
Maximum permissible property tax levy; adjustment where township imposes levy to pay fire protection and emergency services expenses

Sec. 4.6. (a) For townships and municipalities that elect to have the township provide fire protection and emergency services under section 3(b) of this chapter, the department of local government finance shall adjust each township's and each municipality's maximum permissible levy in the year following the year in which the change is elected, as determined under IC 6-1.1-18.5-3, to reflect the change from providing fire protection under a contract between the municipality and the township to allowing the township to impose a property tax levy on the taxable property located within the corporate boundaries of each municipality. Each municipality's maximum permissible property tax levy shall be reduced by the amount of the municipality's property tax levy that was imposed by the municipality to meet the obligations to the township under the fire protection contract. The township's maximum permissible property tax levy shall be increased by the product of:

(1) one and five-hundredths (1.05); multiplied by

(2) the amount the township received:

(A) in the year in which the change is elected; and

(B) as fire protection contract payments from all municipalities whose levy is decreased under this section.

(b) For purposes of determining a township's or municipality's maximum permissible ad valorem property tax levy under IC 6-1.1-18.5-3 for years following the first year after the year in which the change is elected, a township's or municipality's maximum permissible ad valorem property tax levy is the levy after the adjustment made under subsection (a).


IC 36-8-13-4.7
Township providing fire protection and emergency services; maximum permissible property tax levy

Sec. 4.7. (a) For a township that elects to have the township provide fire protection and emergency services under section 3(c) of
this chapter, the department of local government finance shall adjust the township's maximum permissible levy in the year following the year in which the change is elected, as determined under IC 6-1.1-18.5-3, to reflect the change from providing fire protection or emergency services under a contract between the municipality and the township to allowing the township to impose a property tax levy on the taxable property located within the corporate boundaries of each municipality. For the ensuing calendar year, the township's maximum permissible property tax levy shall be increased by the product of:

1. one and five-hundredths (1.05); multiplied by
2. the amount the township contracted or billed to receive, regardless of whether the amount was collected:
   A. in the year in which the change is elected; and
   B. as fire protection or emergency service payments from the municipalities or residents of the municipalities covered by the election under section 3(c) of this chapter.

The maximum permissible levy for a general fund or other fund of a municipality covered by the election under section 3(c) of this chapter shall be reduced for the ensuing calendar year to reflect the change to allowing the township to impose a property tax levy on the taxable property located within the corporate boundaries of the municipality. The total reduction in the maximum permissible levies for all electing municipalities must equal the amount that the maximum permissible levy for the township is increased under this subsection for contracts or billings, regardless of whether the amount was collected, less the amount actually paid from sources other than property tax revenue.

(b) For purposes of determining a township's and each municipality's maximum permissible ad valorem property tax levy under IC 6-1.1-18.5-3 for years following the first year after the year in which the change is elected, a township's and each municipality's maximum permissible ad valorem property tax levy is the levy after the adjustment made under subsection (a).

(c) The township may use the amount of a maximum permissible property tax levy computed under this section in setting budgets and property tax levies for any year in which the election in section 3(c) of this chapter is in effect. A county board of tax adjustment may not reduce a budget or tax levy solely because the budget or levy is based on the maximum permissible property tax levy computed under this section.

(d) Section 4.6 of this chapter does not apply to a property tax levy or a maximum property tax levy subject to this section.


IC 36-8-13-5
Purchase of firefighting apparatus and equipment; installment contracts

Sec. 5. After a sufficient appropriation has been made and
approved and is available for the purchase of firefighting apparatus and equipment, including housing, the township executive, with the approval of the township legislative body, may purchase it for the township on an installment conditional sale or mortgage contract running for a period not exceeding:

(1) six (6) years; or

(2) fifteen (15) years for a township that:

(A) has a total assessed value of sixty million dollars ($60,000,000) or less, as determined by the department of local government finance; and

(B) is purchasing the firefighting equipment with funding from the:

(i) state or its instrumentalities; or

(ii) federal government or its instrumentalities.

The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.


IC 36-8-13-6
Purchase of firefighting apparatus and equipment; loans; tax levy

Sec. 6. (a) Subject to section 6.5 of this chapter, the executive and legislative body, on behalf of the township, may also borrow the necessary money from a financial institution in Indiana to make the purchase on the same terms. They shall, on behalf of the township, execute and deliver to the institution the negotiable note or bond of the township for the sum borrowed. The note or bond must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding six (6) years.

(b) The first installment of principal and interest on a contract, chattel mortgage, note, or bond is due on the next January 1 or July 1 following the first tax collection for which it is possible for the township to levy a tax. The executive and legislative body shall appropriate and levy a tax each year sufficient to pay the obligation according to its terms. An obligation of the township executed under this chapter is a valid and binding obligation of the township, notwithstanding any tax limitation, debt limitation, bonding, borrowing, or other statute to the contrary.


IC 36-8-13-6.5
Objection by taxpayers; department of local government finance hearing and action; appeal

Sec. 6.5. (a) If the executive and the legislative body determine that money should be borrowed under section 6 of this chapter, not less than ten (10) taxpayers in the township who disagree with the determination may file a petition in the office of the county auditor not more than thirty (30) days after notice of the determination is
given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the county where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing.

(e) A:
   (1) taxpayer who signed a petition filed under subsection (a); or
   (2) township against which a petition under subsection (a) is filed;
may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.


IC 36-8-13-7
Purchase of firefighting apparatus and equipment; procedure

Sec. 7. (a) All purchases of firefighting apparatus and equipment shall be made in the manner provided by statute for the purchase of township supplies. If the amount involved is sufficient to require notice under statutes for bids in connection with the purchase of apparatus or equipment, the notice must offer all bidders the opportunity of proposing to sell the apparatus and equipment to the township upon a conditional sale or mortgage contract.

(b) A bidder proposing to sell on a conditional sale or mortgage contract shall state in his bid the proposed interest rate and terms of it, to be considered by the township executive and legislative body in determining the best bid received.

(c) All bids submitted must specify the cash price at which the bidder proposes to sell the apparatus or equipment to the township so that the executive and legislative body may determine whether it is in the best interest of the township to purchase the apparatus or equipment on the terms of a conditional sale or mortgage contract proposed by the bidder or to purchase it for cash if sufficient funds are available or can be raised by negotiating a loan with a financial institution in accordance with this section.

IC 36-8-13-8
Township fire departments; insurance coverage
Sec. 8. A township having a regularly organized fire department employing full-time firefighters may procure at the township's expense:

(1) an insurance policy for each member of the department insuring the member against the loss of his life or dismemberment while in the performance of his regularly assigned duties; and

(2) group insurance providing supplemental income protection for a member of the department who has been injured during the course of his employment.

The insurance coverage shall be selected with the consent of the members and is supplemental to other benefits provided the injured member by law.

IC 36-8-13-9
Payment of line of duty health care expenses for firefighters
Sec. 9. (a) A township shall pay for the care of a full-time, paid firefighter who suffers:

(1) an injury; or

(2) contracts an illness;
during the performance of the firefighter's duty.

(b) The township shall pay for the following expenses incurred by a firefighter described in subsection (a):

(1) Medical and surgical care.
(2) Medicines and laboratory, curative, and palliative agents and means.
(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.
(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the township firefighting fund established by section 4 of this chapter.

(d) A township that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The township's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the firefighter against the third party.
IC 36-8-13.5
Chapter 13.5. Township Fire Department Employment Policies

IC 36-8-13.5-1
Application
Sec. 1. This chapter applies to all townships except a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1.

IC 36-8-13.5-2
Inapplicable to volunteer fire department
Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.

IC 36-8-13.5-3
"Member of a township fire department"
Sec. 3. As used in this chapter, "member of a township fire department" does not include a volunteer firefighter under IC 36-8-12-2.

IC 36-8-13.5-4
Residency within county or contiguous county
Sec. 4. A member of a township fire department must reside in Indiana within:
(1) the county in which the township is located; or
(2) a county that is contiguous to the county in which the township is located.

IC 36-8-13.5-5
Township with a population of less than 7,500; resolution requiring residency within county or a certain distance from township
Sec. 5. A township with a population of less than seven thousand five hundred (7,500) may adopt a resolution that requires a member of the township fire department to satisfy all of the following:
(1) Reside within:
   (A) the county in which the township is located; or
   (B) a distance from the township stated in the resolution.
(2) Have adequate means of transportation into the township.
(3) Maintain in the member's residence telephone service with the township.

IC 36-8-13.5-6
Township with a population of less than 7,500; resolution requiring residency within the township for five years
Sec. 6. This section applies to a township that:
   (1) has a population of less than seven thousand five hundred
       (7,500); and
   (2) adopted a resolution to establish the requirements described
       in this section before September 1, 1984.

A township may require, in addition to the requirements of section 5
of this chapter, that a member of the township fire department reside
within the township until the member has served in the department
for five (5) years.

IC 36-8-13.5-7
Township with a population of less than 7,500; exemption for
members not in compliance on date resolution adopted

Sec. 7. A resolution adopted under section 5 or 6 of this chapter
may not require a member of a township fire department to comply
with section 5(1) of this chapter if the member resides:
   (1) outside the county; or
   (2) a distance outside the township greater than stated in the
       resolution;

on the date the resolution is adopted.
IC 36-8-14
Chapter 14. Cumulative Firefighting Building and Equipment Fund

IC 36-8-14-1
Application of chapter
Sec. 1. This chapter applies to all units except counties.

IC 36-8-14-2
Purposes of fund; authorization
Sec. 2. (a) As used in this section, "emergency medical services" has the meaning set forth in IC 16-18-2-110.
(b) As used in this section, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.
(c) The legislative body of a unit or the board of fire trustees of a fire protection district may provide a cumulative building and equipment fund under IC 6-1.1-41 for the following purposes:
   (1) The:
      (A) purchase, construction, renovation, or addition to buildings; or
      (B) purchase of land;
      used by the fire department or a volunteer fire department serving the unit.
   (2) The purchase of firefighting equipment for use of the fire department or a volunteer fire department serving the unit, including making the required payments under a lease rental with option to purchase agreement made to acquire the equipment.
   (3) In a municipality, the purchase of police radio equipment.
   (4) The:
      (A) purchase, construction, renovation, or addition to a building;
      (B) purchase of land; or
      (C) purchase of equipment;
      for use of a provider of emergency medical services under IC 16-31-5 to the unit establishing the fund.
   (d) In addition to the requirements of IC 6-1.1-41, before a cumulative fund may be established by a township fire protection district, the county legislative body which appoints the trustees of the fire protection district must approve the establishment of the fund.

IC 36-8-14-3
Repealed
   (Repealed by P.L.17-1995, SEC.45.)

IC 36-8-14-4
Tax levy; deposit of money

Sec. 4. (a) To provide for the cumulative building and equipment fund established under this chapter, the legislative body may levy a tax on all taxable property within the taxing district in compliance with IC 6-1.1-41. The tax rate may not exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of assessed valuation of property in the taxing district.

(b) As the tax is collected, it shall be deposited in a qualified public depository or depositories and held in a special fund to be known as the "building or remodeling, firefighting, and police radio equipment fund" in the case of a municipality or as the "building or remodeling and fire equipment fund" in the case of a township or fire protection district.

IC 36-8-15
Chapter 15. Public Safety Communications Systems and Computer Facilities Districts

IC 36-8-15-1
Application of chapter
Sec. 1. This chapter applies to the following counties:
   (1) A county having a consolidated city.
   (2) A county having a population of more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000).
   (3) A county that adopts an ordinance providing for the county to be governed by this chapter.

However, sections 9.5, 15, 16, 17, and 18 of this chapter apply only to a county having a consolidated city.

IC 36-8-15-2
"Board" defined
Sec. 2. As used in this chapter, "board" means the following:
   (1) In a county having a consolidated city, a board established by and operated as set forth in an ordinance of the city-county legislative body.
   (2) In a county not having a consolidated city, the board of commissioners.

IC 36-8-15-3
"Communications system" defined
Sec. 3. As used in this chapter, "communications system" means any system:
   (1) designed for the transmission of writing, signs, signals, pictures, data, and sounds of all kinds by any means, device, or apparatus; and
   (2) intended for use only by public safety agencies for public purposes.
As added by P.L.82-1985, SEC.3.

IC 36-8-15-4
"Computer" defined
Sec. 4. As used in this chapter, "computer" means computer hardware and computer software.
As added by P.L.82-1985, SEC.3.

IC 36-8-15-5
"District" defined
Sec. 5. As used in this chapter, "district" refers to the public communications systems and computer facilities district created by section 7 of this chapter.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-6
"Facility" defined
Sec. 6. As used in this chapter, "facility" means computers and communication systems or any necessary appurtenances and improvements thereto, including real and personal property required to house such facilities and all equipment, apparatus, devices, and instrumentalities required for the proper operation of the facility or facilities.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-7
Creation of district
Sec. 7. (a) This subsection applies to a county having a consolidated city. The ____________ (name of consolidated city) ____________ public safety communications systems and computer facilities district is created in the county as a special taxing district of the consolidated city. The territory of the district includes the entire county.

(b) This subsection applies to a county not having a consolidated city. The _________________ (name of county) _______________ public safety communications systems district may be created in the county as a special taxing district by an ordinance adopted before July 1 of a year by the county legislative body. The territory of the district includes the unincorporated area of the county, plus any municipality in the county in which the legislative body before July 1 of a year adopts an ordinance to join the district and to have its public safety agencies served by the district.

(c) This subsection applies to a county not having a consolidated city. The legislative body of any township in the county may, by adopting a resolution before July 1 of a year, authorize a township agency to be served by the district.

(d) An ordinance or resolution adopted under subsection (b) or (c) may be rescinded before July 1 of a year.


IC 36-8-15-8
Purposes
Sec. 8. The purposes of the district are the following:

1) To provide and maintain modern, dependable, and efficient public safety communications systems within the district for the purpose of promoting the expeditious delivery of public services to the residents and taxpayers throughout the district in order to assure the public health, safety, morals, and general welfare.

2) In a county having a consolidated city, to provide computers for the efficient functioning of governmental offices for the
benefit of the residents and taxpayers throughout the district. These purposes are public purposes for which public money may be spent and private property may be provided. The general assembly finds and declares that the facilities needed to accomplish these purposes are local public improvements.  

**IC 36-8-15-9**

**Governing body; powers; establishment of a public safety communications commission**

Sec. 9. (a) The board is the governing body of the district.
(b) The board may do the following:
   (1) Finance, purchase, acquire, lease, erect, install, construct, equip, upgrade, operate, and maintain facilities.
   (2) Sue, be sued, plead, and be impleaded.
   (3) Condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with facilities.
   (4) Acquire real or personal property by gift, devise, or bequest, and hold, use, or dispose of that property for purposes authorized by this chapter.
   (5) Design, order, contract for, construct, and equip any facilities.
   (6) Employ architects, engineers, attorneys, auditors, clerks, construction managers, and other employees necessary for the financing, erection, and equipping of facilities.
   (7) Make and enter into all contracts and agreements necessary or incidental to accomplishing the purposes of the district.
(c) In a county not having a consolidated city, the board shall establish a public safety communications commission representing the public safety agencies that are served by the district. The members of this commission are:
   (1) one (1) person appointed by the county executive;
   (2) one (1) person appointed by the county fiscal body;
   (3) one (1) person appointed by the executive of each city in the district; and
   (4) the county sheriff.
Members serve for four (4) year terms. The county legislative body shall provide by ordinance for the length of each initial term so that the result is staggered terms for commission members.
(d) In a county not having a consolidated city, the chief law enforcement and fire safety officers of each participating unit shall constitute a technical advisory committee to advise the board and the public safety communications commission upon request.
(e) In a county not having a consolidated city, the commission established under this section shall operate any public safety communications system established under this chapter. In a county having a consolidated city, the board shall operate any public safety communications system established under this chapter.  
*As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.5;*
IC 36-8-15-9.5
Combined or shared communications systems
Sec. 9.5. (a) This section applies to a county having a consolidated city.
(b) The communications system may be combined or shared with the public service radio system.
(c) The board may do the following for the combined or shared system:
   (1) Authorize expenditures from the district's operational funds.
   (2) Exercise all of the powers listed in section 9 of this chapter.
(d) The board may not do the following for the combined or shared system:
   (1) Authorize expenditures for facilities or services related only to public service radio.
   (2) Have authority over planning or other decisions for public service radio.

IC 36-8-15-10
Resolution stating necessity and purpose; plans and specifications; estimated cost
Sec. 10. Whenever the board determines that:
   (1) it is necessary for the general welfare of the persons residing within the district; and
   (2) it will be of public utility and benefit to the property in the district to undertake and carry out any project of purchasing, acquiring, erecting, installing, constructing, equipping, or upgrading of facilities within the district;
the board shall adopt a resolution stating the necessity of the project and the board's purpose in proceeding with the project. The board, as a part of the resolution, shall adopt the plans and specifications proposed for the entire project and shall determine the estimated cost of all work and all acquisitions necessary to carry out the project.
As added by P.L.82-1985, SEC.3.

IC 36-8-15-11
Resolution; public inspection; notice
Sec. 11. (a) The resolution and all matters included with the resolution shall be filed and open to inspection by the public at the office of the board.
(b) The board shall give notice of:
   (1) the adoption and general purport of the resolution;
   (2) the fact that the resolution and included material have been prepared and are on file in the office of the board and may be inspected; and
   (3) the fact that on a date named, the board will receive and hear objections from any persons interested in or who will be affected by the proposed project.
The notice shall be published in accordance with IC 5-3-1.
As added by P.L.82-1985, SEC.3.

IC 36-8-15-12
Objections; hearing
Sec. 12. At or before the time fixed for the hearing designated in the notice published under section 11 of this chapter, any person interested in or who will be affected by the proposed project may file with the board a written objection against the proposed project, in whole or in part. At the hearing the board:
(1) shall hear all persons who are interested in the proceedings;
(2) shall finally determine whether the proposed project, in whole or in part, is necessary for the general welfare of the persons residing within the district and will be a public utility and benefit to the property in the district; and
(3) may confirm, modify, or rescind the resolution.
The decision shall be entered in the records of the board.
As added by P.L.82-1985, SEC.3.

IC 36-8-15-13
Letting of contracts; modification of projects
Sec. 13. After final approval of the resolution by the board, the board shall proceed with the project, or any part thereof, and shall let all contracts, upon separate plans and specifications, in accordance with IC 5-22, IC 36-1-10, IC 36-1-12, and IC 36-9-13. The projects authorized may be modified by the board if it considers modification necessary to carry out the purpose of the resolution, so long as the modifications do not increase the estimate of the total cost of the project as adopted in the final resolution. All other changes must be processed as new resolutions.

IC 36-8-15-14
Special benefit tax
Sec. 14. All taxable property located within the district is subject to a special benefit tax for the purpose of providing money to pay the total cost of the project, including all necessary incidental expenses of programming, planning, and designing the project. The tax shall constitute the amount of benefits resulting to all of that property from the project and shall be levied as provided in this chapter.
As added by P.L.82-1985, SEC.3.

IC 36-8-15-15
Bonds; issuance; amount
Sec. 15. (a) For the purpose of raising money to pay for any real or personal property to be acquired for a project within the district or to pay for the purchasing, acquiring, erecting, installing, constructing, equipping, or upgrading of a facility within the district, and in anticipation of the special benefit tax, the board may cause bonds to
be issued in the name of the consolidated city (in counties having a consolidated city) for the benefit of the district. In a county having a consolidated city, the bonds shall be issued in accordance with IC 36-3-5-8.

(b) The bonds may be in an amount not to exceed the estimated cost of all real and personal property to be acquired and the estimated cost of the facilities, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction and all costs of programming, planning, and designing the facilities. The expenses to be covered in the amount of the bond issue include all expenses of every kind actually incurred preliminary to the acquisition of property and the installation of the facilities, such as the cost of necessary records, engineering expenses, publication of notices, salaries, the letting of contracts, and the sale of bonds.

(c) The bonds issued may not exceed the estimates for the project as determined in the resolution adopted by the board under section 12 of this chapter.

(d) Any surplus of bond proceeds remaining after all costs and expenses have been fully paid shall be paid into the public communications systems and computer facilities district bond fund. The board may appropriate the proceeds of the bonds.


IC 36-8-15-15.1
Lease of facilities; financing; hearings; notice; objections

Sec. 15.1. (a) A board may enter into a lease of any facility that may be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed fifty (50) years. The lease may provide for payments to be made by the board from special benefits taxes levied under section 14 of this chapter and any other revenue available to the board, or any combination of these sources.

(b) A lease may provide that payments by the board to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the board only after a public hearing by the board at which all interested parties are given the opportunity to be heard. Notice of the hearing must be given by publication in accordance with IC 5-3-1. After the public hearing, the board may adopt a resolution authorizing the execution of the lease on behalf of the unit if the board finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of the unit's residents. A lease approved by a resolution of the board must be approved by an ordinance of the fiscal body of the unit.

(d) Upon execution of a lease providing for payments by the board
in whole or in part from the levy of special benefits taxes under section 14 of this chapter and upon approval of the lease by the fiscal body, the board shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be. Upon the filing of the petition, the county auditor shall immediately certify a copy of it, together with any other data necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing in the district, which must be not less than five (5) or more than thirty (30) days after the time of the hearing is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, the board, and the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease and as to whether the payments under it are fair and reasonable, is final.

(e) A board entering into a lease that is payable from revenues or other available funds of the board may:

1. pledge the revenue to make payments under the lease as provided in IC 5-1-14-4; and
2. establish a special fund to make the payments.

Lease rentals may be limited to money in the special fund so that the obligations of the board to make the lease rental payments are not considered a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, no approvals of a governmental body or an agency are required before the board enters into a lease under this section.

(g) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or to enjoin performance must be brought within thirty (30) days after the decision of the department.
If a board exercises an option to buy a leased facility from a lessor, the board may subsequently sell the leased facility, without regard to any other statutes, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the board through an auction, appraisal, or arms length negotiation. The board shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. An action to contest the sale must be brought within fifteen (15) days after the hearing.


IC 36-8-15-15.2
Persons authorized to lease facilities
Sec. 15.2. (a) Any of the following persons may lease facilities referred to in section 15.1 of this chapter to a board:

(1) A not-for-profit or for-profit corporation organized under Indiana law or admitted to do business in Indiana.

(2) An authority established under IC 36-9-13.

(b) Notwithstanding any other law, a lessor under this section and section 15.1 of this chapter is a qualified entity for purposes of IC 5-1.4-1-10.

As added by P.L.2-1989, SEC.53.

IC 36-8-15-16
Bonds; limitation on total issue; nature of bonds
Sec. 16. (a) The total issue of bonds under section 15 of this chapter, for purposes of the district, including bonds already issued or to be issued, may not exceed one percent (1%) of the adjusted value of the taxable property within the district, as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void.

(b) Bonds issued under section 15 of this chapter are not, in any respect, corporate obligations or indebtedness of the consolidated city but constitute an indebtedness of the district. The bonds and interest on them are payable only out of revenues of the district. Bonds must recite these terms upon their face.


IC 36-8-15-17
Proceeds; disposition; public communications systems and computer facilities district bond fund
Sec. 17. All proceeds from the sale of bonds issued under section 15 of this chapter shall be kept as a separate and specific fund to be known as the public communications systems and computer facilities district bond fund. The bond fund shall be used to pay for the cost of acquisition of real and personal property, the cost of the installation of the facilities, and all costs and expenses incurred in connection therewith, and no part may be used for any other purpose. The bond fund shall be deposited at interest with a depository or depositories
Counties having consolidated cities; special property tax; disposition of revenue; public communications systems and computer facilities district revenue fund

Sec. 18. (a) This section applies to a county having a consolidated city.

(b) For the purpose of raising money to pay off bonds issued under section 15 of this chapter and any interest on them, the county fiscal body may levy each year a special tax upon all of the property located within the district, in such manner as to meet and pay the principal of the bonds as they severally mature, together with all accruing interest on them. Other revenues and funds may be annually allocated by statute or ordinance to be applied to reduction of the bonds and their interest for the next succeeding year, but to the extent that money on hand is insufficient for payments required in the next succeeding year, the special tax shall be levied.

(c) The tax collected and all other allocated money shall be accumulated and kept in a separate fund to be known as the public communications systems and computer facilities district revenue fund, and shall be applied to the payment of the district bonds and interest as they severally mature and fiscal agency charges for making such payments and to no other purposes. All accumulations may be deposited, at interest, with one (1) of the depositories of other funds of the consolidated city, and all interest collected belongs to the fund.


Operational funding; ad valorem property tax; funding by distribution under IC 6-3.5-6-17 in lieu of tax; election by ordinance; adjustment of property tax limits; reduction of tax of units joining or withdrawing from district

Sec. 19. (a) This subsection applies to a county that has a population of more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000). For the purpose of raising money to fund the operation of the district, the county fiscal body may impose, for property taxes first due and payable during each year after the adoption of an ordinance establishing the district, an ad valorem property tax levy on property within the district. The property tax rate for that levy may not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation.

(b) This subsection applies to a county having a consolidated city. The county fiscal body may elect to fund the operation of the district from part of the certified distribution, if any, that the county is to receive during a particular calendar year under IC 6-3.5-6-17. To make such an election, the county fiscal body must adopt an
ordinance before November 1 of the immediately preceding calendar year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to fund the operation of the district. If the county fiscal body adopts such an ordinance, it shall immediately send a copy of the ordinance to the county auditor.

(c) Subject to subsections (d), (e), and (f), if an ordinance or resolution is adopted changing the territory covered by the district or the number of public agencies served by the district, the department of local government finance shall, for property taxes first due and payable during the year after the adoption of the ordinance, adjust the maximum permissible ad valorem property tax levy limits of the district and the units participating in the district.

(d) If a unit by ordinance or resolution joins the district or elects to have its public safety agencies served by the district, the department of local government finance shall reduce the maximum permissible ad valorem property tax levy of the unit for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amount budgeted by the unit for public safety communication services in the year in which the ordinance was adopted. If such an ordinance or resolution is adopted, the district shall refer its proposed budget, ad valorem property tax levy, and property tax rate for the following year to the department of local government finance, which shall review and set the budget, levy, and rate as though the district were covered by IC 6-1.1-18.5-7.

(e) If a unit by ordinance or resolution withdraws from the district or rescinds its election to have its public safety agencies served by the district, the department of local government finance shall reduce the maximum permissible ad valorem property tax levy of the district for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amounts being levied by the district within that unit. If such an ordinance or resolution is adopted, the unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for public safety communication services to the department of local government finance, which shall review and set the budget, levy, and rate as though the unit were covered by IC 6-1.1-18.5-7.

(f) The adjustments provided for in subsections (c), (d), and (e) do not apply to a district or unit located in a particular county if the county fiscal body of that county does not impose an ad valorem property tax levy under subsection (a) to fund the operation of the district.

(g) A county that has adopted an ordinance under section 1(3) of this chapter may not impose an ad valorem property tax levy on property within the district to fund the operation or implementation of the district.

SEC.784; P.L.182-2009(ss), SEC.440; P.L.119-2012, SEC.222;
P.L.137-2012, SEC.122.
IC 36-8-16
Repealed
(Repealed by P.L.132-2012, SEC.11.)
IC 36-8-16.5
Repealed
(Repealed by P.L.132-2012, SEC.12.)
IC 36-8-16.6  
Chapter 16.6. Enhanced Prepaid Wireless Telecommunications Service Charge

IC 36-8-16.6-1  
"Board"
Sec. 1. As used in this chapter, "board" refers to the statewide 911 board established by IC 36-8-16.7-24.

IC 36-8-16.6-2  
"Consumer"
Sec. 2. As used in this chapter, "consumer" means a person that purchases prepaid wireless telecommunications service from a seller. The term includes a prepaid user.
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-3  
"Department"
Sec. 3. As used in this chapter, "department" refers to the department of state revenue.
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-4  
"Enhanced prepaid wireless charge"
Sec. 4. As used in this chapter, "enhanced prepaid wireless charge" means the charge that a seller is required to collect from a consumer under section 12 of this chapter.
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-5  
"Fund"
Sec. 5. As used in this chapter, "fund" refers to the statewide 911 fund established by IC 36-8-16.7-29.

IC 36-8-16.6-6  
"Prepaid user"
Sec. 6. As used in this chapter, "prepaid user" refers to a user of prepaid wireless telecommunications service who:
(1) is issued an Indiana telephone number or an Indiana identification number for the service; or
(2) purchases prepaid wireless telecommunications service in a retail transaction that is sourced to Indiana (as determined under IC 6-2.5-12-16).
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-7
"Prepaid wireless telecommunications service"
Sec. 7. As used in this chapter, "prepaid wireless telecommunications service" means a prepaid wireless calling service (as defined in IC 6-2.5-1-22.4) that allows a user of the service to reach emergency services by dialing the digits nine (9) one (1) one (1).
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-8
"Provider"
Sec. 8. As used in this chapter, "provider" means a person or entity that offers prepaid wireless telecommunications service.
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-9
"Retail transaction"
Sec. 9. As used in this chapter, "retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-10
"Seller"
Sec. 10. As used in this chapter, "seller" means a person that sells prepaid wireless telecommunications service to another person.
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-11
Enhanced prepaid wireless charge; initial charge; increase; federal government exempt
Sec. 11. (a) The board shall impose an enhanced prepaid wireless charge on each retail transaction that occurs after June 30, 2010. The amount of the initial charge imposed under this section may not exceed one-half (1/2) of the monthly wireless emergency enhanced 911 fee assessed under IC 36-8-16.5-25.5 (before its repeal on July 1, 2012). The board shall increase the amount of the charge imposed under this section so that the amount of the charge imposed after June 30, 2012, under this section equals fifty cents ($0.50).

(b) Subject to legislative approval, after the increase described in subsection (a) and after June 30, 2012, the board may increase the enhanced prepaid wireless charge to ensure adequate revenue for the board to fulfill its duties and obligations under this chapter and IC 36-8-16.7.

(c) A consumer that is the federal government or an agency of the federal government is exempt from the enhanced prepaid wireless charge imposed under this section.

(d) This subsection applies to a provider that is designated by the Indiana utility regulatory commission as an eligible telecommunications carrier for purposes of receiving reimbursement from the universal service fund through the administrator designated
by the Federal Communications Commission. A provider:
(1) is not considered an agency of the federal government for
purposes of the exemption set forth in subsection (c); and
(2) is liable for the enhanced prepaid wireless charge imposed
under this section with respect to prepaid wireless
telecommunications service provided by the provider in its
capacity as an eligible telecommunications carrier.
As added by P.L.113-2010, SEC.151. Amended by P.L.132-2012,

IC 36-8-16.6-12
Collection of fee by seller
Sec. 12. (a) A seller shall collect the enhanced prepaid wireless
charge from the consumer with respect to each retail transaction.
(b) The seller shall disclose to the consumer the amount of the
enhanced prepaid wireless charge. The seller may separately state the
amount of the enhanced prepaid wireless charge on an invoice, a
receipt, or a similar document that the seller provides to the consumer
in connection with the retail transaction.
(c) Subject to section 15 of this chapter, a seller shall remit
enhanced prepaid wireless charges to the department at the time and
in the manner prescribed by the department.
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-13
Consumer's liability for charge; seller's obligation to remit charges
collected
Sec. 13. The enhanced prepaid wireless charge is the liability of
the consumer and not of the seller or a provider. However, a seller is
liable to remit to the department all enhanced prepaid wireless
charges that the seller collects from consumers under section 12 of
this chapter, including all charges that the seller is considered to
collect where the amount of the charge has not been separately stated
on an invoice, receipt, or other similar document provided to the
consumer by the seller.
As added by P.L.113-2010, SEC.151. Amended by P.L.132-2012,
SEC.16.

IC 36-8-16.6-14
Exclusion of fee from calculation of certain taxes and other charges
Sec. 14. The amount of the enhanced prepaid wireless charge that
is collected by a seller from a consumer, whether or not separately
stated on an invoice, receipt, or other similar document provided to
the consumer by the seller, may not be included in the base for
determining a tax, fee, surcharge, or other charge that is imposed by
the state, a political subdivision, or any other governmental agency.
As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-15
Seller's allowance for collection
Sec. 15. A seller may deduct and retain one percent (1%) of enhanced prepaid wireless charges that the seller collects from consumers to reimburse the direct costs incurred by the seller in collecting and remitting enhanced prepaid wireless charges.  
*As added by P.L.113-2010, SEC.151.*

IC 36-8-16.6-16  
**Audits of seller records**  
Sec. 16. (a) A seller is subject to the same audit and appeal procedures with respect to the collection and remittance of enhanced prepaid wireless charges as with collection and remittance of the state gross retail tax under IC 6-2.5.  
(b) An audit under subsection (a) must be conducted jointly by the department of state revenue and the board.  
*As added by P.L.113-2010, SEC.151.*

IC 36-8-16.6-17  
**Administrative guidance concerning collection**  
Sec. 17. (a) The department, in conjunction and coordination with the board, shall establish procedures:  
(1) governing the collection and remittance of enhanced prepaid wireless charges in accordance with the procedures established under IC 6-8.1 concerning listed taxes; and  
(2) allowing a seller to document that a sale of prepaid wireless telecommunications service is not a retail transaction.  
(b) A procedure established under subsection (a)(1):  
(1) must take into consideration the differences between large and small sellers, including smaller sales volumes; and  
(2) may establish lower thresholds for the remittance of enhanced prepaid wireless charges by small sellers.  
For purposes of this subsection, a small seller is a seller that sells less than one hundred dollars ($100) of prepaid wireless telecommunications service each month.  
*As added by P.L.113-2010, SEC.151.*

IC 36-8-16.6-18  
**Department's duty to deposit remitted charges in fund; board to administer money in fund**  
Sec. 18. (a) The department shall deposit all remitted enhanced prepaid wireless charges in the fund.  
(b) The board shall administer money deposited in the fund under this section in the same manner as it administers statewide 911 fees assessed under IC 36-8-16.7-32.  

IC 36-8-16.6-19  
**Limitation on liability of seller**  
Sec. 19. A seller of prepaid wireless telecommunications service is not liable for damages to a person resulting from or incurred in
connection with the following:
(1) Providing or failing to provide 911 or wireless 911 services.
(2) Identifying or failing to identify the telephone number, address, location, or name associated with a person or device that accesses or attempts to access 911 or wireless 911 service.
(3) Providing lawful assistance to an investigative or law enforcement officer of the United States, a state, or a political subdivision of a state in connection with a lawful investigation or other law enforcement activity by the law enforcement officer.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-20
Limitation on additional fees
Sec. 20. (a) An additional fee relating to the provision of 911 service with respect to prepaid wireless telecommunications service may not be levied by a state agency or local unit of government.
    (b) The enhanced prepaid wireless charge imposed by section 12 of this chapter is not considered an additional charge relating to the provision of 911 service for purposes of IC 36-8-16.7-32(d).


IC 36-8-16.6-21
Collection of fees directly from purchaser or consumer
Sec. 21. The following are not required to take legal action to enforce the collection of an enhanced prepaid wireless charge that is imposed on a consumer:
    (1) A provider.
    (2) A seller.
However, the department or the board may initiate a collection action. A court finding for the department or the board, as applicable, in an action may award reasonable costs and attorney's fees associated with the collection action.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-22
Repealed
(Repealed by P.L.132-2012, SEC.19.)
IC 36-8-16.7
Chapter 16.7. Statewide 911 Services

IC 36-8-16.7-1
"Affiliate"
Sec. 1. As used in this chapter, "affiliate" has the meaning set forth in IC 23-1-43-1. The term includes a parent company or a subsidiary. 

IC 36-8-16.7-2
"Automatic location information"
Sec. 2. As used in this chapter, "automatic location information" means information that is transmitted while enhanced 911 service is provided and that permits emergency service providers to identify the geographic location of the calling party. 

IC 36-8-16.7-3
"Automatic number identification"
Sec. 3. As used in this chapter, "automatic number identification" has the meaning set forth in 47 CFR 20.3. 

IC 36-8-16.7-4
"Board"
Sec. 4. As used in this chapter, "board" refers to the statewide 911 board established by section 24 of this chapter. 

IC 36-8-16.7-5
"CMRS"
Sec. 5. As used in this chapter, "CMRS" refers to commercial mobile radio service (as defined in 47 CFR 20.3). 

IC 36-8-16.7-6
"CMRS provider"
Sec. 6. As used in this chapter, "CMRS provider" means a person that offers CMRS to users in Indiana. 

IC 36-8-16.7-7
"Communications service"
Sec. 7. (a) As used in this chapter, "communications service" means any service that:
(1) uses telephone numbers or IP addresses or their functional equivalents or successors;
(2) allows access to, or a connection or interface with, a 911 system through the activation or enabling of a device, transmission medium, or technology that is used by a customer
to dial, initialize, or otherwise activate the 911 system, regardless of the particular device, transmission medium, or technology employed;
(3) provides or enables real time or interactive communications, other than machine to machine communications; and
(4) is available to a prepaid user or a standard user.
(b) The term includes the following:
(1) Internet protocol enabled services and applications that are provided through wireline, cable, wireless, or satellite facilities, or any other facility or platform that is capable of connecting a 911 communication to a PSAP.
(2) A multiline telephone system.
(3) CMRS.
(4) Interconnected VOIP service and voice over power lines.
(5) Integrated telecommunications service (as defined in 47 CFR 400.2).

IC 36-8-16.7-8
"Customer"
Sec. 8. (a) As used in this chapter, except as provided in subsection (b), "customer" means:
(1) the person or entity that contracts with a provider for communications service; or
(2) if the end user of communications service is not the contracting party, the end user of the communications service.
However, subdivision (2) applies only for the purpose of determining the place of primary use.
(b) The term does not include:
(1) a reseller of communications service; or
(2) a provider other than the customer's provider that has an arrangement with the customer's provider to serve the customer outside the licensed service area of the customer's provider.

IC 36-8-16.7-9
"Enhanced 911 service"
Sec. 9. (a) As used in this chapter, "enhanced 911 service" means a communications service that uses the three (3) digit number 911 to send:
(1) automatic number identification or its functional equivalent or successor; and
(2) automatic location information or its functional equivalent or successor;
for reporting police, fire, medical, or other emergency situations.
(b) The term includes both Phase I and Phase II enhanced 911 services, as described in 47 CFR 20.18.
"Exchange access facility"
Sec. 10. As used in this chapter, "exchange access facility" means the access from a particular service user's premises to a telephone system.
   (b) The term includes:
   (1) an access line;
   (2) a private branch exchange (PBX) trunk; and
   (3) a centrex line trunk equivalent;
that is provided by the service supplier. The term also includes a mobile telephone system access trunk, whether the trunk is provided by a telephone company or a radio common carrier. In the case of a service user receiving interconnected VoIP service, the term refers to the Internet protocol compatible customer premises equipment that enables the service user to access the interconnected VoIP service.
   (c) The term does not include:
   (1) a service supplier owned and operated telephone pay station line;
   (2) a wide area telecommunications service (WATS) line;
   (3) a foreign exchange (FX) line; or
   (4) an incoming only line.

IC 36-8-16.7-11
"Executive director"
Sec. 11. As used in this chapter, "executive director" refers to the executive director of the board.

IC 36-8-16.7-12
"Fund"
Sec. 12. As used in this chapter, "fund" refers to the statewide 911 fund established by section 29 of this chapter.

IC 36-8-16.7-13
"Interconnected VOIP service"
Sec. 13. As used in this chapter, "interconnected VOIP service" has the meaning set forth in 47 CFR 9.3.

IC 36-8-16.7-14
"Local exchange carrier"
Sec. 14. As used in this chapter, "local exchange carrier" has the meaning set forth in 47 U.S.C. 153.

IC 36-8-16.7-15
"Multiline telephone system"
Sec. 15. As used in this chapter, "multiline telephone system" means a voice communications service system that includes the
following:

(1) Common control units.
(2) Telephone sets.
(3) Control hardware and software.
(4) Adjunct systems.

The term includes network and premises based systems as classified by FCC Part 68 (47 CFR part 68) Requirements.


IC 36-8-16.7-16
"Place of primary use"

Sec. 16. As used in this chapter, "place of primary use" means the street address representative of where a customer's use of communications service primarily occurs, which must be:

(1) the residential street address or the primary business street address of the customer or, in the case of a subscriber of interconnected VOIP service, the subscriber's registered location (as defined in 47 CFR 9.3);
(2) within the licensed service area of the customer's provider; and
(3) in the case of:
   (A) mobile communications service, determined in the manner provided in IC 6-8.1-15; and
   (B) nonmobile communications service, determined in the manner provided in IC 6-2.5-12.


IC 36-8-16.7-17
"Prepaid user"

Sec. 17. As used in this chapter, "prepaid user" has the meaning set forth in IC 36-8-16.6-6.


IC 36-8-16.7-18
"Proprietary information"

Sec. 18. As used in this chapter, "proprietary information" includes the following:

(1) Customer lists and related information, including information subject to protection under 47 U.S.C. 222.
(2) Technology descriptions, technical information, or trade secrets (as defined in IC 24-2-3-2).
(3) Information that:
   (A) concerns the actual or developmental costs of 911 systems; and
   (B) is developed, produced, or received internally by a provider or by a provider's employees, directors, officers, or agents.


IC 36-8-16.7-19
"Provider"

Sec. 19. (a) As used in this chapter, "provider" means a person or entity, or an affiliate of a person or an entity, that:
(1) offers communications service to users in Indiana; and
(2) provides, or is required by the Federal Communications Commission to provide, a user with direct access to a PSAP through the placement of a 911 communication.
(b) The term includes the following:
(1) Facilities based and nonfacilities based resellers of communications service.
(2) Any other provider of communications service through wireline or wireless means, regardless of whether the provider is subject to regulation by the Indiana utility regulatory commission.


"PSAP"

Sec. 20. As used in this chapter, "PSAP" refers to a public safety answering point:
(1) that operates on a twenty-four (24) hour basis; and
(2) whose primary function is to receive incoming requests for emergency assistance and relay those requests to an appropriate responding public safety agency.


"Standard user" or "user"

Sec. 21. As used in this chapter, "standard user" or "user" refers to:
(1) a communications service user who pays retrospectively for the service and has an Indiana billing address for the service; and
(2) in the case of a nonmobile communications service user, an exchange access facility used in Indiana.


"Statewide 911 system"

Sec. 22. (a) As used in this chapter, "statewide 911 system" means a communications system that uses the three (3) digit number 911 to send:
(1) automatic number identification or its functional equivalent or successor; and
(2) automatic location information or its functional equivalent or successor;
for reporting police, fire, medical, or other emergency situations.
(b) The term includes the following:
(1) A wireless 911 emergency telephone system funded under IC 36-8-16.5 (before its repeal on July 1, 2012).
(2) An emergency notification system.
(c) The term does not include a wireline enhanced emergency telephone system funded under IC 36-8-16 (before its repeal on July 1, 2012).


IC 36-8-16.7-23
"VOIP provider"
Sec. 23. As used in this chapter, "VOIP provider" means a provider that offers interconnected VOIP service to users in Indiana.


IC 36-8-16.7-24
Statewide 911 board; establishment; recommendations to governor; membership; state treasurer as chair; terms; residency; proxy voting prohibited
Sec. 24. (a) The statewide 911 board is established to develop, implement, and oversee the statewide 911 system. The board is a body corporate and politic, and though it is separate from the state, the exercise by the board of its powers constitutes an essential governmental function.

(b) The following recommendations must be made to the governor concerning the membership of the board:

(1) The executive committees of:
   (A) the Indiana chapter of the National Emergency Number Association (NENA); and
   (B) the Indiana chapter of the Association of Public Safety Communication Officials International (APCO);
   shall jointly recommend three (3) individuals, at least one (1) of whom must have budget experience at the local level.

(2) The facilities based CMRS providers authorized to provide CMRS in Indiana shall jointly recommend one (1) individual.

(3) The Indiana Association of County Commissioners shall recommend one (1) individual who is a county commissioner in Indiana.

(4) The Indiana Sheriffs' Association shall recommend one (1) individual who is a county sheriff in Indiana.

(5) The Indiana Telecommunications Association shall recommend two (2) individuals as follows:
   (A) One (1) individual representing a local exchange carrier that serves less than fifty thousand (50,000) local exchange access lines in Indiana.
   (B) One (1) individual representing a local exchange carrier that serves at least fifty thousand (50,000) local exchange access lines in Indiana.

(6) The Indiana Cable Telecommunications Association shall recommend one (1) individual representing a VOIP provider.

(7) The Indiana Association of Cities and Towns shall recommend one (1) individual representing municipalities.

(c) The board consists of the following thirteen (13) members:
(1) The treasurer of state or the treasurer's designee. The treasurer of state or the treasurer's designee is chairperson of the board for a term concurrent with the treasurer of state's term of office. However, the treasurer of state's designee serves at the pleasure of the treasurer of state.

(2) Three (3) members for a term of three (3) years who are appointed by the governor after considering the recommendations submitted under subsection (b)(1) by the executive committees of NENA and APCO. At least one (1) member appointed under this subdivision must have budget experience at the local level.

(3) One (1) facilities based CMRS member who is appointed by the governor after considering the recommendation submitted under subsection (b)(2) by the facilities based CMRS providers authorized to provide CMRS in Indiana. A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (6), (7), or (8).

(4) One (1) county commissioner member appointed by the governor after considering the recommendation submitted under subsection (b)(3) by the Indiana Association of County Commissioners.

(5) One (1) county sheriff member appointed by the governor after considering the recommendation submitted under subsection (b)(4) by the Indiana Sheriffs' Association.

(6) One (1) member who represents a local exchange carrier that serves less than fifty thousand (50,000) local exchange access lines in Indiana and who is appointed by the governor after considering the recommendation of the Indiana Telecommunications Association under subsection (b)(5)(A). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (7), or (8).

(7) One (1) member who represents a local exchange carrier that serves at least fifty thousand (50,000) local exchange access lines in Indiana and who is appointed by the governor after considering the recommendation of the Indiana Telecommunications Association under subsection (b)(5)(B). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (6), or (8).

(8) One (1) member who represents a VOIP provider and who is appointed by the governor after considering the recommendation of the Indiana Cable Telecommunications Association under subsection (b)(6). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (6), or (7).

(9) One (1) member who represents municipalities and is appointed by the governor after considering the recommendation of the Indiana Association of Cities and Towns.
submitted under subsection (b)(7).

(10) The state fire marshal or the state fire marshal's designee.

(11) The superintendent of the state police department or the superintendent's designee.

(d) This subsection applies to a member appointed by the governor under subsection (c)(2) through (c)(9). The governor shall ensure that the terms of the initial members appointed by the governor are staggered so that the terms of not more than five (5) members expire in a single calendar year. After the initial appointments, subsequent appointments shall be for three (3) year terms. A vacancy on the board shall be filled for the vacating member's unexpired term in the same manner as the original appointment, and a member of the board is eligible for reappointment. In making an appointment under subsection (c)(2) through (c)(9), the governor shall take into account the various geographical areas of Indiana, including rural and urban areas. A member appointed by the governor serves at the pleasure of the governor.

(e) A member must be a resident of Indiana.

(f) A member may not vote by proxy.


IC 36-8-16.7-25
Board quorum; meetings subject to open door law
Sec. 25. A majority of the members of the board constitutes a quorum for the purposes of taking action. A meeting of the board is subject to IC 5-14-1.5.


IC 36-8-16.7-26
Board members; expense reimbursement
Sec. 26. (a) Each member of the board who is not a state employee is not entitled to receive the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.


IC 36-8-16.7-27
Powers of board; contracts for communications service and equipment; Indiana transparency Internet web site
Sec. 27. (a) The board may do the following to implement this
chapter:
(1) Sue and be sued.
(2) Adopt and alter an official seal.
(3) Adopt and enforce bylaws and rules for:
   (A) the conduct of board business; and
   (B) the use of board services and facilities.
(4) Subject to subsection (c), acquire, hold, use, and otherwise
dispose of the board's income, revenues, funds, and money.
(5) Subject to subsections (b) and (c), enter into contracts,
    including contracts:
    (A) for professional services;
    (B) for purchase of supplies or services; and
    (C) to acquire office space.
(6) Subject to subsection (c), hire staff.
(7) Adopt rules under IC 4-22-2 to implement this chapter.
(8) Develop, maintain, and update a statewide 911 plan.
(9) Subject to subsection (c), administer the statewide 911 fund
    established by section 29 of this chapter.
(10) Administer and distribute the statewide 911 fee in
    accordance with section 37 of this chapter.
(11) Subject to subsection (c), administer statewide 911 grants
    in accordance with state and federal guidelines.
(12) Obtain from each PSAP operating statistics and other
    performance measurements, including call statistics by category
    and emergency medical dispatching (EMD) certifications.
(13) Take other necessary or convenient actions to implement
    this chapter that are not inconsistent with Indiana law.

(b) A contract for the purchase of communications service or
    equipment by the board must be awarded through an invitation for
    bids or a request for proposals as described in IC 5-22. The board
    shall enter into a cooperative agreement with the Indiana department
    of administration for the department to administer the board's
    purchases under this chapter using the department's purchasing
    agents.

(c) The board shall be considered a state agency for purposes of
    IC 5-14-3.5. Subject to IC 5-14-3.5-4, the following shall be posted
    to the Indiana transparency Internet web site in accordance with
    IC 5-14-3.5-2:
    (1) Expenditures by the board, including expenditures for
        contracts, grants, and leases.
    (2) The balance of the statewide 911 fund established by section
        29 of this chapter.
    (3) A listing of the board's real and personal property that has a
        value of more than twenty thousand dollars ($20,000).

The board shall cooperate with and provide information to the auditor
of state as required by IC 5-14-3.5-8.


IC 36-8-16.7-28
Executive director; duties; salary
Sec. 28. (a) The board shall appoint an executive director of the board to do the following:

1. Administer, manage, and direct employees of the board.
2. Approve salaries and allowable expenses for board members, employees, and consultants.
3. Attend board meetings and record all proceedings of the board. However, the executive director is not considered a member of the board for any purpose, including voting or establishing a quorum.
4. Maintain books, documents, and papers filed with the board, including minutes.
5. Perform other duties as directed by the board.

(b) The board shall determine the salary and other compensation of the executive director.


IC 36-8-16.7-29
Statewide 911 fund; investments; money not subject to transfer, reversion, or reassignment; money continuously appropriated

Sec. 29. (a) The statewide 911 fund is established for the purposes of creating and maintaining a uniform statewide 911 system. The board shall administer the fund. The expenses of administering the fund must be paid from money in the fund.

(b) The fund consists of the following:

1. The statewide 911 fee assessed on users under section 32 of this chapter.
2. Appropriations made by the general assembly.
4. Interest, premiums, gains, or other earnings on the fund.
5. Enhanced prepaid wireless charges collected and remitted under IC 36-8-16.6-12.
6. Money from any other source that is deposited in or transferred to the fund.

(c) The treasurer of state may invest money in the fund in the same manner as other funds of the state may be invested under IC 5-13.

(d) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money in the fund:

1. does not revert at the end of any state fiscal year but remains available for the purposes of the fund in subsequent state fiscal years, notwithstanding IC 4-13-2-19 or any other law; and
2. is not subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose by:
   (A) the state board of finance notwithstanding IC 4-9.1-1-7, IC 4-13-2-23, or any other law; or
   (B) the budget agency or any other state agency notwithstanding IC 4-12-1-12 or any other law.

(e) Money in the fund is continuously appropriated for the purposes of the fund.

IC 36-8-16.7-30
Annual audit of fund by state board of accounts; annual review of 911 service by board; reports to budget committee

Sec. 30. (a) The state board of accounts shall audit the fund on an annual basis to determine whether the fund is being managed in accordance with this chapter. For each of the two (2) state fiscal years ending:

(A) June 30, 2013; and
(B) June 30, 2014;
the state board of accounts shall submit, not later than November 1 of each year during which the particular state fiscal year ends, a report of the audit required by this subsection to the budget committee for the budget committee's review. A report submitted under this subsection must be in an electronic format under IC 5-14-6.

(b) On an annual basis, and in conjunction with the board's review under section 38(d) of this chapter of the state board of accounts' annual audit of PSAPs, the board shall review 911 service in Indiana, including the collection, disbursement, and use of the statewide 911 fee assessed under section 32 of this chapter. The purpose of the review is to ensure that the statewide 911 fee:

(1) does not exceed the amount reasonably necessary to provide adequate and efficient 911 service; and
(2) is used only for the purposes set forth in this chapter.

(c) For each of the two (2) calendar years ending:

(A) December 31, 2013; and
(B) December 31, 2014;
the board shall submit, not later than March 1 of the year immediately following the particular calendar year, a summary report of the board's findings under the review required by subsection (b) to the budget committee for the budget committee's review. A report submitted under this subsection must be in an electronic format under IC 5-14-6.


IC 36-8-16.7-31
Use of third party to process checks and distribute funds

Sec. 31. The board may retain an independent, third party accounting firm or fiscal agent for purposes of processing checks and distributing funds as directed by the board and as allowed by this chapter. The board shall pay for these services as an administrative cost of the board.


IC 36-8-16.7-32
Monthly statewide 911 fee; initial fee; adjustments; additional fees prohibited; exemptions

Sec. 32. (a) Except as provided in subsections (c) and (e), and subject to subsection (b) and section 48(e) of this chapter, the board shall assess a monthly statewide 911 fee on each standard user that
is a customer having a place of primary use in Indiana at a rate that:
  (1) ensures full recovery of the amount needed for the board to
      make distributions to county treasurers consistent with this
      chapter; and
  (2) provides for the proper development, operation, and
      maintenance of a statewide 911 system.

The amount of the initial fee assessed under this subsection is ninety
cents ($0.90).

(b) The board may adjust the statewide 911 fee to ensure adequate
revenue for the board to fulfill the board's duties and obligations
under this chapter, subject to the following:
  (1) The fee may not be raised or lowered more than one (1) time
      in a calendar year.
  (2) The fee:
      (A) may not be raised by an amount that is less than or equal
          to ten cents ($0.10) without review by the budget committee;
          and
      (B) may not be raised or lowered by an amount that is more
          than ten cents ($0.10) without legislative approval.

(c) The fee assessed under this section does not apply to a prepaid
user in a retail transaction under IC 36-8-16.6.

(d) An additional fee relating to the provision of 911 service may
not be levied by a state agency or local unit of government. An
enhanced prepaid wireless charge (as defined in IC 36-8-16.6-4) is
not considered an additional fee relating to the provision of wireless
911 service for purposes of this section.

(e) A user is exempt from the fee if the user is any of the
following:
  (1) The federal government or an agency of the federal
      government.
  (2) The state or an agency or instrumentality of the state.
  (3) A political subdivision (as defined in IC 36-1-2-13) or an
      agency of a political subdivision.
  (4) A user that accesses communications service solely through
      a wireless data only service plan.

(f) This subsection applies to a provider that is designated by the
Indiana utility regulatory commission as an eligible
telecommunications carrier for purposes of receiving reimbursement
from the universal service fund through the administrator designated
by the Federal Communications Commission. A provider:
  (1) is not considered an agency of the federal government for
      purposes of the exemption set forth in subsection (e); and
  (2) is liable for the monthly statewide 911 fee assessed under
      subsection (a) with respect to communications service provided
      by the provider in its capacity as an eligible telecommunications
      carrier.

As added by P.L.132-2012, SEC.20. Amended by P.L.107-2014,
SEC.7.

IC 36-8-16.7-33
**Provider's duty to collect and remit fee; report to board; cost reimbursement**

Sec. 33. (a) As part of the provider's normal monthly billing process, a provider:

1. shall collect the fee from each standard user that is a customer having a place of primary use in Indiana; and
2. may list the fee as a separate line item on each bill.

If a provider receives a partial payment for a monthly bill from a standard user, the provider shall apply the payment against the amount the standard user owes to the provider before applying the payment against the fee. A provider may not prorate the monthly 911 fee collected from a user.

(b) Subject to subsection (c), a provider shall remit statewide 911 fees collected under this section to the board at the time and in the manner prescribed by the board. However, the board shall require a provider to report to the board, no less frequently than on an annual basis, the amount of fees collected from all of the provider's customers described in subsection (a)(1) and remitted to the board under this section. The board may require a provider to submit a report required under this subsection at the same time that the provider remits fees to the board under this section. The board shall deposit all remitted statewide 911 fees in the fund.

(c) A provider may deduct and retain an amount not to exceed one percent (1%) of statewide 911 fees that the provider collects from users to reimburse the direct costs incurred by the provider in collecting and remitting statewide 911 fees.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-34**

**User's liability for fee; provider's obligation to remit fees collected**

Sec. 34. The statewide 911 fee is the liability of the user and not of a provider. However, a provider is liable to remit to the board all statewide 911 fees that the provider collects from users.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-35**

**Fee not to be included in base for taxes and other charges**

Sec. 35. The amount of a statewide 911 fee that is collected by a provider from a user, whether separately stated on an invoice, receipt, or other document, may not be included in the base for measuring any tax, surcharge, or other charge that is imposed by the state, a political subdivision, or other government agency.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-36**

**Provider not required to enforce fee collection; collection action by board**

Sec. 36. A provider is not required to take legal action to enforce the collection of the 911 fee for which a user is billed. However, the board may initiate a collection action. A court finding for the board
in the action may award reasonable costs and attorney fees associated with the collection action.


**IC 36-8-16.7-37**

**Board's administration of fund; board's expenses; distribution to counties**

Sec. 37. (a) Subject to subsection (b), the board shall administer the fund in the following manner:

(1) In each state fiscal year, the board may retain the lesser of:
   (A) ten percent (10%) of the statewide 911 fees deposited in the fund in the previous state fiscal year; or
   (B) the amount of fees deposited in the fund in the previous state fiscal year that would provide for the operating expenses of the statewide 911 system during the state fiscal year for which the fees are retained; to pay the board's expenses in administering this chapter and to develop, operate, and maintain a statewide 911 system. The board may decrease the amount of fees retained by the board under this subdivision.

(2) After retaining the amount set forth in subdivision (1), the board shall distribute to the counties, in a manner determined by the board, the remainder of the statewide 911 fees in the fund. However, with respect to any state fiscal year beginning after June 30, 2012, the board shall first ensure a distribution to each county in an amount that is equal to the average annual amount distributed to all PSAPs in the county under IC 36-8-16 (before its repeal on July 1, 2012) and to the county under IC 36-8-16.5 (before its repeal on July 1, 2012) during the three (3) state fiscal years ending:
   (A) June 30, 2009;
   (B) June 30, 2010; and
   (C) June 30, 2011;
   increased by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the twelve (12) months preceding the state fiscal year for which the distribution is made.

(3) If any statewide 911 fees remain in the fund after the distributions ensured under subdivision (2), the board shall distribute the fees as follows:
   (A) Ninety percent (90%) of the fees shall be distributed to the counties based upon each county's percentage of the state's population.
   (B) Ten percent (10%) of the fees shall be distributed equally among the counties.

(b) The board may not distribute money in the fund in a manner that impairs the ability of the board to fulfill its management and administrative obligations under this chapter.

Permitted uses of distribution by PSAPs; annual reports to board by PSAPs; state board of accounts annual audit of PSAP expenditures; review by board; reports to budget committee; county 911 funds

Sec. 38. (a) A PSAP may use a distribution from a county under this chapter only for the following:

1. The lease, purchase, or maintenance of communications service equipment.
2. Necessary system hardware and software and data base equipment.
3. Personnel expenses, including wages, benefits, training, and continuing education, only to the extent reasonable and necessary for the provision and maintenance of:
   A. the statewide 911 system; or
   B. a wireline enhanced emergency telephone system funded under IC 36-8-16 (before its repeal on July 1, 2012).
4. Operational costs, including costs associated with:
   A. utilities;
   B. maintenance;
   C. equipment designed to provide backup power or system redundancy, including generators; and
   D. call logging equipment.
5. An emergency notification system that is approved by the board under section 40 of this chapter.
6. Connectivity to the Indiana data and communications system (IDACS).
7. Rates associated with communications service providers' enhanced emergency communications system network services.
8. Mobile radio equipment used by first responders, other than radio equipment purchased under subdivision (9) as a result of the narrow banding requirements specified by the Federal Communications Commission.
9. Up to fifty percent (50%) of the costs associated with the narrow banding or replacement of radios or other equipment as a result of the narrow banding requirements specified by the Federal Communications Commission.

(b) A PSAP may not use a distribution from a county under this chapter for the following:

1. The construction, purchase, renovation, or furnishing of PSAP buildings.
2. Vehicles.

(c) Not later than January 31 of each year, each PSAP shall submit to the board a report of the following:

1. All expenditures made during the immediately preceding calendar year from distributions under this chapter.
2. Call data and statistics for the immediately preceding calendar year, as specified by the board and collected in accordance with any reporting method established or required by the board.
(d) Beginning in 2013, the state board of accounts annually shall audit the expenditures of distributions under this chapter made during the immediately preceding calendar year by each PSAP that receives distributions under this chapter. In conducting an audit under this subsection, the state board of accounts shall determine, in conjunction with the board, whether the expenditures made by each PSAP are in compliance with subsections (a) and (b). The board shall review and further audit any ineligible expenditure identified by the state board of accounts under this subsection or through any other report. If the board verifies that the expenditure did not comply with this section, the board shall ensure that the fund is reimbursed in the dollar amount of the noncomplying expenditure from any source of funding, other than a fund described in subsection (f), that is available to the PSAP or to a unit in which the PSAP is located.

(e) For each of the two (2) calendar years ending:

(A) December 31, 2013; and
(B) December 31, 2014;

the state board of accounts shall submit, not later than March 1 of the year immediately following the particular calendar year, a summary report of the audits required by subsection (d) for the particular calendar year to the budget committee for the budget committee's review. A report submitted under this subsection must be in an electronic format under IC 5-14-6.

(f) A distribution under section 37(a)(2) of this chapter must be deposited by the treasurer of the county in a separate fund set aside for the purposes allowed by subsections (a) and (b). The fund must be known as the ________ (insert name of county) 911 fund. The county treasurer may invest money in the fund in the same manner that other money of the county may be invested, but income earned from the investment must be deposited in the fund set aside under this subsection.


IC 36-8-16.7-39
Providers' duty to coordinate with board and provide information; board's use of confidential information

Sec. 39. (a) In cooperation with the board, a provider shall designate a person to coordinate with and provide all relevant information to the board to assist the board in carrying out its duties under this chapter.

(b) A provider shall provide the automatic number identification and any other information, including updates, required by the board to the county, the municipality, an authorized agent of a county or municipality, or the board or the board's authorized agent for purposes of establishing and maintaining a 911 system data base. The board may use confidential information received under this subsection solely for the purpose of providing statewide 911 service.

Emergency notification systems; establishment by county; board approval required; provider's duty to provide user data

Sec. 40. (a) As used in this section, "emergency notification system" means an enhanced 911 system capability that provides communications service users within the territory served by a PSAP with a warning, delivered through a device or medium by which users receive communications service from a provider, of an emergency situation through a computerized warning system that uses 911 data base information and technology.

(b) With approval of the board, a county may establish an emergency notification system. If the board approves the establishment of an emergency notification system in a county, a PSAP in the county may use funds distributed to it under this chapter to establish and operate an emergency notification system under this section.

(c) A provider shall provide to a PSAP the necessary user data to enable the PSAP to implement an emergency notification system under this section. The provision of data under this subsection is subject to section 41 of this chapter. In providing data under this subsection, the provider shall provide the following information for each service user in the PSAP's service territory:

1. The service address of the user.
2. The class of service provided to the user.
3. A designation of listed, unlisted, or nonpublished with respect to any telephone number (or other functionally equivalent identification number) associated with the user's service or account.

The provider shall provide this data to the PSAP on a quarterly basis. The provider may charge a reasonable fee to the PSAP for the administrative costs of providing the data.


IC 36-8-16.7-41
Providers' duty to provide user data to PSAPs; permissible uses by PSAP; violations; contracts between providers and users

Sec. 41. (a) A provider shall, upon request, provide to a PSAP the necessary user data to enable the PSAP to implement and operate a 911 system. User data provided to a PSAP for the purpose of implementing or updating a 911 system may be used only to identify:

1. A user;
2. A user's place of primary use; or
3. The information described in both subdivisions (1) and (2); and may not be used or disclosed by the PSAP, or its agents or employees, for any other purpose unless the data is used or disclosed under a court order. A person who recklessly, knowingly, or intentionally violates this subsection commits a Class A misdemeanor.

(b) After May 31, 1988, a contract entered into between a provider and a user who has an unlisted or nonpublished telephone number (or other functionally equivalent identification number) may not include
a provision that prohibits the provider from providing the user's telephone number (or other functionally equivalent identification number) to a PSAP for inclusion in a 911 system data base. A provider (other than a provider who, before June 1, 1988, has contracted to not divulge a subscriber's unlisted or nonpublished telephone number (or other functionally equivalent identification number)) shall provide a requesting PSAP with the name, telephone number (or other functionally equivalent identification number), and place of primary use for each user of the provider. A PSAP may not release a telephone number (or other functionally equivalent identification number) required to be provided under this subsection to any person except as provided in subsection (a).

(c) A provider may amend or terminate a contract with a user if:
(1) the contract contains a provision that prohibits the provider from providing the user's telephone number (or other functionally equivalent identification number) to a PSAP for inclusion in a 911 system data base;
(2) the exclusion of the telephone number (or other functionally equivalent identification number) from the data base would negate the purpose of this chapter; and
(3) the user is notified of the proposed amendment or termination of a contract at least one hundred eighty (180) days before the provider takes action.


IC 36-8-16.7-42
Confidentiality of proprietary information
Sec. 42. (a) All proprietary information submitted to the board or the treasurer of state, or to the budget committee under section 48 of this chapter, is confidential. Notwithstanding any other law, proprietary information submitted under this chapter is not subject to subpoena, and proprietary information submitted under this chapter may not be released to a person other than to the submitting provider without the permission of the submitting provider.

(b) General information collected by the board or the treasurer of state may be released or published only in aggregate amounts that do not identify or allow identification of numbers of users or revenues attributable to an individual provider.


IC 36-8-16.7-43
Immunity from civil or criminal liability
Sec. 43. Notwithstanding any other law:
(1) the board;
(2) a PSAP;
(3) a political subdivision;
(4) a provider;
(5) an employee, director, officer, or agent of a PSAP, a political subdivision, or a provider; or
(6) an employee or member of the board, the board chair, the
executive director, or an employee, agent, or representative of the board chair;
is not liable for damages in a civil action or subject to criminal prosecution resulting from death, injury, or loss to persons or property incurred by any person in connection with establishing, developing, implementing, maintaining, operating, and providing 911 service, except in the case of willful or wanton misconduct.  
_Ass added by P.L.132-2012, SEC.20._

IC 36-8-16.7-44  
Permissible uses of 911 service  
Sec. 44. A person may not use 911 service except to make emergency calls that may result in the dispatch of the appropriate response for fire suppression and rescue, emergency medical or ambulance services, hazardous material, disaster or major emergency occurrences, and law enforcement activities.  
_Ass added by P.L.132-2012, SEC.20._

IC 36-8-16.7-45  
Automatic dialing of 911 prohibited; violations  
Sec. 45. (a) This section does not apply to a person that connects to a 911 network using automatic crash notification technology subject to an established protocol.  
(b) A person may not connect to a 911 network an automatic alarm, automatic dialer, or other automated alerting device that:  
(1) causes the number 911 to be automatically dialed; or  
(2) provides through a prerecorded message information regarding obtaining 911 emergency service.  
(c) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.  
_Ass added by P.L.132-2012, SEC.20._

IC 36-8-16.7-46  
Knowing or intentional placement of 911 calls for prohibited purposes  
Sec. 46. A person who knowingly or intentionally places a 911 call:  
(1) for a purpose other than obtaining public safety assistance or emergency services; or  
(2) to avoid communications service charges or fees;  
commits a Class A misdemeanor.  
_Ass added by P.L.132-2012, SEC.20._

IC 36-8-16.7-47  
Counties prohibited from containing more than two PSAPs after December 31, 2014; exceptions; interlocal agreements; parties; required plans and protocols; noncomplying counties; distributions of fees prohibited  
Sec. 47. (a) For purposes of this section, a PSAP includes a public safety communications system operated and maintained under
(b) As used in this section, "PSAP operator" means:

(1) a political subdivision; or
(2) an agency;

that operates a PSAP. The term does not include any entity described in subsection (c)(1) through (c)(3).

(c) Subject to subsection (d), after December 31, 2014, a county may not contain more than two (2) PSAPs. However, a county may contain one (1) or more PSAPs in addition to the number of PSAPs authorized by this section, as long as any additional PSAPs are operated:

(1) by a state educational institution;
(2) by an airport authority established for a county having a consolidated city; or
(3) in a county having a consolidated city, by an excluded city (as defined in IC 36-3-1-7).

(d) If, on March 15, 2008, a county does not contain more than one (1) PSAP, not including any PSAP operated by an entity described in subsection (c)(1) through (c)(3), an additional PSAP may not be established and operated in the county on or after March 15, 2008, unless the additional PSAP is established and operated by:

(1) a state educational institution;
(2) in the case of a county having a consolidated city, an airport authority established for the county; or
(3) the municipality having the largest population in the county or an agency of that municipality.

(e) Before January 1, 2015, each PSAP operator in a county that contains more than the number of PSAPs authorized by subsection (c) shall enter into an interlocal agreement under IC 36-1-7 with every other PSAP operator in the county to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(f) An interlocal agreement required under subsection (e) may include as parties, in addition to the PSAP operators required to enter into the interlocal agreement under subsection (e), any of the following that seek to be served by a county's authorized PSAPs after December 31, 2014:

(1) Other counties contiguous to the county.
(2) Other political subdivisions in a county contiguous to the county.
(3) Other PSAP operators in a county contiguous to the county.

(g) An interlocal agreement required under subsection (e) must provide for the following:

(1) A plan for the:
    (A) consolidation;
    (B) reorganization; or
    (C) elimination;

of one (1) or more of the county's PSAPs, as necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.
A plan for funding and staffing the PSAP or PSAPs that will serve:

(A) the county; and

(B) any areas contiguous to the county, if additional parties described in subsection (f) participate in the interlocal agreement;

after December 31, 2014.

(3) Subject to any applicable state or federal requirements, protocol to be followed by the county's PSAP or PSAPs in:

(A) receiving incoming 911 calls; and

(B) dispatching appropriate public safety agencies to respond to the calls;

after December 31, 2014.

(4) Any other matters that the participating PSAP operators or parties described in subsection (f), if any, determine are necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(h) This section may not be construed to require a county to contain a PSAP.

(i) After December 31, 2014, if a county contains more than the number of PSAPs authorized by subsection (c), the county may not receive a distribution under section 37 of this chapter until the county complies with subsection (c).


IC 36-8-16.7-48
Budget committee's review of statewide 911 system; considerations; report of findings to legislative council; recommendation on continuation of fee after June 30, 2015; expiration of fee absent recommendation

Sec. 48. (a) The budget committee shall review the statewide 911 system governed by this chapter for the two (2) calendar years ending:

(1) December 31, 2013; and

(2) December 31, 2014.

(b) In conducting the review required by this section, the budget committee may examine the following:

(1) Whether the fund is being administered by the board in accordance with this chapter. In performing a review under this subdivision, the budget committee may consider the audit reports submitted to the budget committee by the state board of accounts under section 30(a) of this chapter.

(2) The collection, disbursement, and use of the statewide 911 fee assessed under section 32 of this chapter. In performing a review under this subdivision, the budget committee may:

(A) examine whether the statewide 911 fee:

(i) is being assessed in an amount that is reasonably necessary to provide adequate and efficient 911 service; and
(ii) is being used only for the purposes set forth in this chapter; and
(B) consider:
(i) the reports submitted to the budget committee by the board under section 30(c) of this chapter; and
(ii) the audit reports submitted to the budget committee by the state board of accounts under section 38(e) of this chapter.

(3) The report submitted to the budget committee by the Indiana advisory commission on intergovernmental relations under IC 4-23-24.2-5(b).

(4) Any other data, reports, or information the budget committee determines is necessary to review the statewide 911 system governed by this chapter.

(c) Subject to section 42 of this chapter, the board, the state board of accounts, political subdivisions, providers, and PSAPs shall provide to the budget committee all relevant data, reports, and information requested by the budget committee to assist the budget committee in carrying out its duties under this section.

(d) After conducting the review required by this section, the budget committee shall, not later than June 1, 2015, report its findings to the legislative council. The budget committee's findings under this subsection:

(1) must include a recommendation as to whether the statewide 911 fee assessed under section 32 of this chapter should continue to be assessed and collected under this chapter after June 30, 2015; and

(2) if the budget committee recommends under subdivision (1) that the statewide 911 fee assessed under section 32 of this chapter should continue to be assessed and collected under this chapter after June 30, 2015, may include recommendations for the introduction in the general assembly of any legislation that the budget committee determines is necessary to ensure that the statewide 911 system governed by this chapter is managed in a fair and fiscally prudent manner.

A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(e) If the budget committee does not recommend in its report under subsection (d) that the statewide 911 fee assessed under section 32 of this chapter should continue to be assessed and collected under this chapter after June 30, 2015, the statewide 911 fee assessed under section 32 of this chapter expires July 1, 2015, and may not be assessed or collected after June 30, 2015.

IC 36-8-17
Chapter 17. Fire Safety Inspections; Arson Investigations

IC 36-8-17-1
"Commission" defined
Sec. 1. As used in this chapter, "commission" refers to the fire prevention and building safety commission.
As added by P.L.245-1987, SEC.21.

IC 36-8-17-2
"Fire department" defined
Sec. 2. As used in this chapter, "fire department" means a paid fire department or a volunteer fire department that renders fire prevention or fire protection services to a political subdivision.

IC 36-8-17-3
"Fire safety law" defined
Sec. 3. As used in this chapter, "fire safety law" means any law, including rules and orders of the commission, safeguarding life or property from the hazards of fire or explosion.
As added by P.L.245-1987, SEC.21.

IC 36-8-17-4
"Division" defined
Sec. 4. As used in this chapter, "division" refers to the division of fire and building safety.

IC 36-8-17-5
Compliance with order directing fire department to assist division of fire and building safety
Sec. 5. (a) The fire chief and the designees of the fire chief in every fire department are assistants to the state fire marshal.
(b) A fire department shall comply with an order issued by the division under IC 22-14-2-4 that directs the fire department to assist the division.
(c) This section also applies to a fire department established by the board of trustees of Purdue University under IC 21-39-7.

IC 36-8-17-6
Enforcement of fire safety laws
Sec. 6. A fire department may enforce under this chapter any fire safety law that is applicable to the jurisdiction served by the fire department.
As added by P.L.245-1987, SEC.21.
IC 36-8-17-7
Fire investigations; notice of crime; report; powers of fire department; subpoenas; discovery orders

Sec. 7. (a) A fire department shall investigate and determine the causes and circumstances surrounding each fire occurring within the territory served by the fire department. The fire department shall begin the investigation when the fire occurs. The fire department shall immediately notify the division if the fire chief believes that a crime may have been committed and shall submit a written report to the division concerning every investigation at the end of each month. The fire department shall submit the report on the form prescribed by the division and shall include the following information in the report:

1. A statement of the facts relating to the cause and origin of the fire.
2. The extent of damage caused by the fire.
3. The amount of insurance on the property affected by the fire.
4. Other information required in the commission's rules.

(b) To carry out this section, a fire department may:

1. enter and inspect any real or personal property at a reasonable hour;
2. cooperate with the prosecuting attorney and assist the prosecuting attorney with any criminal investigation;
3. request that the office subpoena witnesses under IC 22-14-2-8 or order the production of books, documents, and other papers;
4. give oaths and affirmations;
5. take depositions and conduct hearings; and
6. separate witnesses and otherwise regulate the course of proceedings.

(c) Subpoenas, discovery orders, and protective orders issued under this section shall be enforced under IC 4-21.5-6-2.


IC 36-8-17-8
Inspection program; reports

Sec. 8. (a) A fire department serving an area that does not include a city may engage in an inspection program to promote compliance with fire safety laws. Upon the request of an owner or a primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with IC 22-11-18-3.5. The fire department shall maintain a written report for each inspection. These reports shall be made available to the division upon request.

(b) The fire department serving an area that includes a city shall inspect every place and public way within the jurisdiction of the city, except the interiors of private dwellings, for compliance with the fire safety laws. Upon the request of an owner or a primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with
IC 22-11-18-3.5. Except as otherwise provided in the rules adopted by the commission, the fire chief of the fire department shall specify the schedule under which places and public ways are inspected and may exclude a class of places or public ways from inspection under this section, if the fire chief determines that the public interest will be served without inspection. The fire department shall maintain a written report for each inspection. The fire department shall submit monthly reports to the division, on forms prescribed by the division, containing the following information:

1. The total number of inspections made.
2. The total number of defects found, classified as required by the office.
3. The total number of orders issued for correction of each class of defect.
4. The total number of orders complied with.

(c) A volunteer fire department may carry out inspections under this section only through an individual who is certified under IC 22-14-2-6(c).


IC 36-8-17-9
Orders to cease and correct violations; emergency or temporary orders

Sec. 9. (a) A fire department may issue orders under IC 4-21.5-3-6 to require a person to cease and correct a violation of the fire safety laws. The order must grant a reasonable time in which to correct a violation of law covered by the order.

(b) A fire department may issue an emergency or temporary order under IC 4-21.5-4 if the fire department determines that conduct or a condition of property:

1. presents a clear and immediate hazard of death or serious bodily injury to any person other than a trespasser;
2. is prohibited without a permit, registration, certification, release, authorization, variance, exemption, or other license required under IC 22-14 or another statute administered by the division and the license has not been issued; or
3. will conceal a violation of law.

(c) An emergency or other temporary order issued under subsection (b) must be approved by the state fire marshal. The approval may be communicated orally to the fire department. However, the division shall maintain a written record of the approval.

(d) An order under IC 4-21.5-3-6 or IC 4-21.5-4 may include the following, singly or in combination:

1. Require a person who has taken a substantial step toward violating a fire safety law or has violated a fire safety law to cease and correct the violation.
2. Require a person who has control over property that is affected by a violation to take reasonable steps to:
   A) protect persons and property from the hazards of the
violation; and
(B) correct the violation.
(3) Require persons to leave an area that is affected by a
violation and prohibit persons from entering the area until the
violation is corrected.

As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006,
SEC.580.

IC 36-8-17-10
Informal review of order; time to appeal; modification or reversal
of order
Sec. 10. (a) The division shall give a person who:
(1) is aggrieved by an order issued under section 9 of this
chapter; and
(2) requests review of the order in verbal or written form;
an opportunity to informally discuss the order with the division.
Review under this subsection does not suspend the running of the
time period in which a person must petition under IC 4-21.5-3-7 to
appeal the order.

(b) The division may, on its own initiative or at the request of any
person, modify or reverse an order issued under section 9 of this
chapter.
As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006,
SEC.581.

IC 36-8-17-11
Appeal of orders; administrative proceedings
Sec. 11. (a) An order issued under section 9 or 10 of this chapter
may be appealed to the commission under IC 4-21.5-3-7. A decision
to deny a request to modify or reverse an order issued under section
10 of this chapter is not appealable.

(b) If an order issued under section 9 or 10 of this chapter is
appealed, the commission or its designee shall conduct all
administrative proceedings under IC 4-21.5. In its proceedings, the
commission may modify or reverse the order.
As added by P.L.245-1987, SEC.21.

IC 36-8-17-12
Enforcement of orders
Sec. 12. The division may enforce an order issued under this
chapter under IC 4-21.5-6.
As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006,
SEC.582.

IC 36-8-17-13
Rules to implement chapter
Sec. 13. The commission may adopt rules under IC 4-22-2 to
implement this chapter.
As added by P.L.245-1987, SEC.21.
IC 36-8-17.5  
Chapter 17.5. Pre-Planning Inspections

IC 36-8-17.5-1  
"Fire department" defined  
Sec. 1. As used in this chapter, "fire department" has the meaning set forth in IC 36-8-17-2.  

IC 36-8-17.5-2  
"Pre-planning inspection" defined  
Sec. 2. As used in this chapter, "pre-planning inspection" means an inspection of a Class 1 structure (as defined in IC 22-12-1-4) in a place or public way performed by the fire department to determine firefighting strategies necessary to minimize the hazard to firefighters responding to any fire or explosion at the structure, including:  
(1) identifying the structural components, contents, and operations, including:  
(A) floor plans; and  
(B) the location of:  
(i) employees;  
(ii) fire alarm and suppression systems;  
(iii) entrances and exits; and  
(iv) utilities; and  
(2) identifying and locating hazardous materials.  

IC 36-8-17.5-3  
Places subject to inspections  
Sec. 3. A fire department may make a pre-planning inspection of every place and public way within the jurisdiction of the political subdivision that the fire department serves, except the interiors of private dwellings, for the purpose of advising the fire department on issues affecting a fire suppression response.  

IC 36-8-17.5-4  
Access for inspections  
Sec. 4. (a) A fire department shall be allowed entry and access to every place or public way within the jurisdiction of the political subdivision that the fire department serves, except the interiors of private dwellings, for the purpose of making a pre-planning inspection under this chapter.  
(b) A fire department shall notify the occupant or owner of a Class 1 structure seven (7) days in advance of performing a pre-planning inspection. The notification may be oral or in writing.  
IC 36-8-18
Chapter 18. Animal Control Centers

IC 36-8-18-1
Applicability of chapter
Sec. 1. This chapter applies to each county having a consolidated city.
As added by P.L.37-1988, SEC.27.

IC 36-8-18-2
Bonds or notes to relocate animal control center
Sec. 2. The city-county legislative body may issue bonds or notes to relocate, acquire, construct, and equip an animal control center if relocation of an existing center is, in the discretion of the works board, necessary or desirable to operate any existing or planned public works.
As added by P.L.37-1988, SEC.27.

IC 36-8-18-3
Debt service on bonds or notes
Sec. 3. Debt service on bonds or notes issued under this chapter may be paid from any funds of the works board available to pay the debt service, as determined by the city-county legislative body as set forth in IC 5-1-14-4.
As added by P.L.37-1988, SEC.27.
IC 36-8-19
Chapter 19. Fire Protection Territories

IC 36-8-19-0.1
Application of certain amendments to chapter
Sec. 0.1. The addition of section 8.7 of this chapter by P.L.83-1998 applies only to purchases that occur after June 30, 1998.
As added by P.L.220-2011, SEC.678.

IC 36-8-19-0.3
Legalization of certain resolutions adopted before July 1, 2007
Sec. 0.3. A resolution adopted by a township under this chapter before July 1, 2007, that would have been valid under this chapter, as in effect on July 1, 2007, is legalized and validated.

IC 36-8-19-1
Application of chapter
Sec. 1. Except as provided in section 1.5 of this chapter, this chapter applies to any geographic area that is established as a fire protection territory.

IC 36-8-19-1.5
Consolidation of fire departments in county containing consolidated city
Sec. 1.5. (a) If the fire department of a township is consolidated under IC 36-3-1-6.1, after the effective date of the consolidation the township may not establish a fire protection territory under this chapter.
(b) A fire protection territory that is established before the effective date of the consolidation in a township in which the township's fire department is consolidated under IC 36-3-1-6.1 becomes part of the geographic area in which the fire department of a consolidated city provides fire protection services.

IC 36-8-19-2
"Participating unit" defined
Sec. 2. As used in this chapter, "participating unit" refers to a unit that adopts an ordinance or a resolution under section 6 of this chapter.

IC 36-8-19-3
"Provider unit" defined
Sec. 3. As used in this chapter, "provider unit" refers to the participating unit that is responsible for providing the fire protection
services within the territory.

IC 36-8-19-4
"Territory" defined
Sec. 4. As used in this chapter, "territory" refers to a fire protection territory established under this chapter.

IC 36-8-19-5
Fire protection territory of contiguous units; establishment; purposes; boundaries
Sec. 5. (a) Subject to subsections (b) and (c), the legislative bodies of at least two (2) contiguous units may establish a fire protection territory for any of the following purposes:
   (1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the territory.
   (2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.
   (3) Other purposes or functions related to fire protection and fire prevention.
   (b) Not more than one (1) unit within the proposed territory may be designated as the provider unit for the territory.
   (c) The boundaries of a territory need not coincide with those of other political subdivisions.

IC 36-8-19-6
Ordinance or resolution for establishing territory; public hearing requirements
Sec. 6. (a) To establish a fire protection territory, the legislative bodies of each unit desiring to become a part of the proposed territory must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that meets the following requirements:
   (1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other units desiring to become a part of the proposed territory.
   (2) The ordinance or resolution is adopted after January 1 but before April 1.
   (3) The ordinance or resolution authorizes the unit to become a party to an agreement for the establishment of a fire protection territory.
   (4) The ordinance or resolution is adopted after the legislative body holds a public hearing to receive public comment on the proposed ordinance or resolution. The legislative body must give notice of the hearing under IC 5-3-1.
   (b) Before the legislative body of a unit may adopt an ordinance
or a resolution under this section to form a territory, the legislative body must do the following:

1. Hold a public hearing, at least thirty (30) days before adopting the ordinance or resolution, at which the legislative body makes available to the public the following information:
   A. The property tax levy, property tax rate, and budget to be imposed or adopted during the first year of the proposed territory for each of the units that would participate in the proposed territory.
   B. The estimated effect of the proposed reorganization in the following years on taxpayers in each of the units that would participate in the proposed territory, including the expected property tax rates, property tax levies, expenditure levels, service levels, and annual debt service payments.
   C. The estimated effect of the proposed reorganization on other units in the county in the following years and on local option income taxes, excise taxes, and property tax circuit breaker credits.
   D. A description of the planned services and staffing levels to be provided in the proposed territory.
   E. A description of any capital improvements to be provided in the proposed territory.

2. Hold at least one (1) additional public hearing before adopting an ordinance or a resolution to form a territory, to receive public comment on the proposed ordinance or resolution.

The public hearings required under this subsection are in addition to the public hearing required under subsection (a)(4). The legislative body must give notice of the hearings under IC 5-3-1.

(c) The notice required for a hearing under subsection (b)(2) shall include all of the following:

1. A list of the provider unit and all participating units in the proposed territory.
2. The date, time, and location of the hearing.
3. The location where the public can inspect the proposed ordinance or resolution.
4. A statement as to whether the proposed ordinance or resolution requires uniform tax rates or different tax rates within the territory.
5. The name and telephone number of a representative of the unit who may be contacted for further information.
6. The proposed levies and tax rates for each participating unit.

(d) The ordinance or resolution adopted under this section shall include at least the following:

1. The boundaries of the proposed territory.
2. The identity of the provider unit and all other participating units desiring to be included within the territory.
3. An agreement to impose:
   A. a uniform tax rate upon all of the taxable property within the territory for fire protection services; or
(B) different tax rates for fire protection services for the units desiring to be included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.

(4) The contents of the agreement to establish the territory.

(e) An ordinance or a resolution adopted under this section takes effect July 1 of the year the ordinance or resolution is adopted.


IC 36-8-19-6.3
Restrictions on voting on proposed ordinance or resolution

Sec. 6.3. A member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to become a party to an agreement to join or establish a fire protection territory if that member is also an employee of:

(1) another unit that is a participating unit in the fire protection territory; or

(2) another unit that is proposing to become a participating unit in the fire protection territory.

As added by P.L.172-2011, SEC.159.

IC 36-8-19-6.5
Agreement to change provider unit

Sec. 6.5. (a) The legislative bodies of all participating units in a territory may agree to change the provider unit of the territory from one (1) participating unit to another participating unit. To change the provider unit, the legislative body of each participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that agrees to and specifies the new provider unit. The provider unit may not be changed unless all participating units agree on the participating unit that will become the new provider unit. The participating units may not change the provider unit more than one (1) time in any year.

(b) The following apply to an ordinance or a resolution adopted under this section to change the provider unit of the territory:

(1) The ordinance or resolution must be adopted after January 1 but before April 1 of a year.

(2) The ordinance or resolution takes effect January 1 of the year following the year in which the ordinance or resolution is adopted.

As added by P.L.182-2009(ss), SEC.441.

IC 36-8-19-7
Tax levy rate; different tax rates authorized

Sec. 7. (a) A tax levied under this chapter may be levied at:

(1) a uniform rate upon all taxable property within the territory; or

(2) different rates for the participating units included within the territory, so long as a tax rate applies uniformly to all of a unit's
(b) If a uniform tax rate is levied upon all taxable property within a territory upon the formation of the territory, different tax rates may be levied for the participating units included within the territory in subsequent years.


IC 36-8-19-7.5
Local option and excise tax distributions to participating units
Sec. 7.5. (a) This section applies to:
(1) county adjusted gross income tax, county option income tax, and county economic development income tax distributions; and
(2) excise tax distributions;
made after December 31, 2009.
(b) For purposes of allocating any county adjusted gross income tax, county option income tax, and county economic development income tax distributions or excise tax distributions that are distributed based on the amount of a taxing unit's property tax levies, each participating unit in a territory is considered to have imposed a part of the property tax levy imposed for the territory. The part of the property tax levy imposed for the territory for a particular year that shall be attributed to a participating unit is equal to the amount determined in the following STEPS:

STEP ONE: Determine the total amount of all property taxes imposed by the participating unit in the year before the year in which a property tax levy was first imposed for the territory.
STEP TWO: Determine the sum of the STEP ONE amounts for all participating units.
STEP THREE: Divide the STEP ONE result by the STEP TWO result.
STEP FOUR: Multiply the STEP THREE result by the property tax levy imposed for the territory for the particular year.

As added by P.L.182-2009(ss), SEC.442.

IC 36-8-19-8
Fire protection territory fund; establishment; purposes; budget; tax levies
Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.
(b) The fund consists of the following:
   (1) All receipts from the tax imposed under this section.
   (2) Any money transferred to the fund by the provider unit as
       authorized under subsection (d).
   (3) Any receipts from a false alarm fee or service charge
       imposed by the participating units under IC 36-8-13-4.
   (4) Any money transferred to the fund by a participating unit
       under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other
participating units, shall annually budget the necessary money to
meet the expenses of operation and maintenance of the fire protection
services within the territory. The provider unit may maintain a
reasonable balance, not to exceed one hundred twenty percent
(120%) of the budgeted expenses. Except as provided in
IC 6-1.1-18.5-10.5, after estimating expenses and receipts of money,
the provider unit shall establish the tax levy required to fund the
estimated budget. The amount budgeted under this subsection shall
be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover
the costs incurred in providing fire protection services within the
territory, the provider unit may transfer from available sources to the
fire protection territory fund the money needed to cover those costs.
In this case:
   (1) the levy in the following year shall be increased by the
       amount required to be transferred; and
   (2) the provider unit is entitled to transfer the amount described
       in subdivision (1) from the fund as reimbursement to the
       provider unit.

(e) If the amount levied in a particular year exceeds the amount
necessary to cover the costs incurred in providing fire protection
services within the territory, the levy in the following year shall be
reduced by the amount of surplus money that is not transferred to the
equipment replacement fund established under section 8.5 of this
chapter. The amount that may be transferred to the equipment
replacement fund may not exceed five percent (5%) of the levy for
that fund for that year. Each participating unit must agree to the
amount to be transferred by adopting an ordinance (if the unit is a
county or municipality) or a resolution (if the unit is a township) that
specifies an identical amount to be transferred.

(f) The tax under this section is subject to the tax levy limitations
imposed under IC 6-1.1-18.5-10.5.

P.L.128-2008, SEC.7; P.L.182-2009(ss), SEC.443; P.L.183-2014,
SEC.27.

IC 36-8-19-8.5
Equipment replacement fund; property tax levy; maximum
property tax rate
Sec. 8.5. (a) Participating units may agree to establish an
equipment replacement fund under this section to be used to purchase fire protection equipment, including housing, that will be used to serve the entire territory. To establish the fund, the legislative bodies of each participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township), and the following requirements must be met:

1. The ordinance or resolution is identical to the ordinances and resolutions adopted by the other participating units under this section.
2. Before adopting the ordinance or resolution, each participating unit must comply with the notice and hearing requirements of IC 6-1.1-41-3.
3. The ordinance or resolution authorizes the provider unit to establish the fund.
4. The ordinance or resolution includes at least the following:
   A. The name of each participating unit and the provider unit.
   B. An agreement to impose a uniform tax rate upon all of the taxable property within the territory for the equipment replacement fund.
   C. The contents of the agreement to establish the fund.

An ordinance or a resolution adopted under this section takes effect as provided in IC 6-1.1-41.

(b) If a fund is established, the participating units may agree to:

1. impose a property tax to provide for the accumulation of money in the fund to purchase fire protection equipment;
2. incur debt to purchase fire protection equipment and impose a property tax to retire the loan; or
3. transfer an amount from the fire protection territory fund to the fire equipment replacement fund not to exceed five percent (5%) of the levy for the fire protection territory fund for that year;

or any combination of these options. The property tax rate for the levy imposed under this section may not exceed three and thirty-three hundredths cents ($0.0333) per one hundred dollars ($100) of assessed value. Before debt may be incurred, the fiscal body of a participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies the amount and purpose of the debt. The ordinance or resolution must be identical to the other ordinances and resolutions adopted by the participating units. In addition, the department of local government finance must approve the incurrence of the debt using the same standards as applied to the incurrence of debt by civil taxing units.

(c) Money in the fund may be used by the provider unit only for those purposes set forth in the agreement among the participating units that permits the establishment of the fund.

(d) The requirements and procedures specified in IC 6-1.1-41 concerning the establishment or reestablishment of a cumulative fund, the imposing of a property tax for a cumulative fund, and the increasing of a property tax rate for a cumulative fund apply to:
(1) the establishment or reestablishment of a fund under this section;
(2) the imposing of a property tax for a fund under this section; and
(3) the increasing of a property tax rate for a fund under this section.

c) Notwithstanding IC 6-1.1-18-12, if a fund established under this section is reestablished in the manner provided in IC 6-1.1-41, the property tax rate imposed for the fund in the first year after the fund is reestablished may not exceed three and thirty-three hundredths cents ($0.0333) per one hundred dollars ($100) of assessed value.


IC 36-8-19-8.6
Transfer of money from participating unit to fire protection territory fund or fire protection territory equipment replacement fund

Sec. 8.6. (a) A participating unit may adopt an ordinance or a resolution to transfer any money belonging to the participating unit to:

(1) the fire protection territory fund established under section 8 of this chapter;
(2) the fire protection territory equipment replacement fund established under section 8.5 of this chapter; or
(3) both funds described in subdivisions (1) and (2).

(b) An ordinance or a resolution adopted under this section must state both of the following:

(1) The amount of money transferred to either fund.
(2) The source of the money.

(c) The transfer of money from a participating unit to a fire protection territory before July 1, 2008, is legalized.


IC 36-8-19-8.7
Purchase of firefighting equipment on installment conditional sale or mortgage contract

Sec. 8.7. After a sufficient appropriation for the purchase of firefighting apparatus and equipment, including housing, is made and is available, the participating units, with the approval of the fiscal body of each participating unit, may purchase the firefighting apparatus and equipment for the territory on an installment conditional sale or mortgage contract running for a period not exceeding:

(1) six (6) years; or
(2) fifteen (15) years for a territory that:

(A) has a total assessed value of sixty million dollars ($60,000,000) or less, as determined by the department of
local government finance; and
(B) is purchasing the firefighting equipment with funding from the:
   (i) state or its instrumentalities; or
   (ii) federal government or its instrumentalities.
The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.

IC 36-8-19-9
Avoidance of duplication of tax levies; preexisting indebtedness
Sec. 9. (a) The department of local government finance, when approving a rate and levy fixed by the provider unit, shall verify that a duplication of tax levies does not exist within participating units, so that taxpayers do not bear two (2) levies for the same service, except as provided by subsection (b) or (c).
(b) A unit that incurred indebtedness for fire protection services before becoming a participating unit under this chapter shall continue to repay that indebtedness by levies within the boundaries of the unit until the indebtedness is paid in full.
(c) A unit that agreed to the borrowing of money to purchase fire protection equipment while a participating unit under this chapter shall continue to repay the unit's share of that indebtedness by imposing a property tax within the boundaries of the unit until the indebtedness is paid in full. The department of local government finance shall determine the amount of the indebtedness that represents the unit's fair share, taking into account the equipment purchased, the useful life of the equipment, the depreciated value of the equipment, and the number of years the unit benefited from the equipment.

IC 36-8-19-10
Disbandment of existing fire departments
Sec. 10. This chapter does not require a municipality or township to disband its fire department unless its legislative body consents by ordinance (if the unit is a municipality) or resolution (if the unit is a township) to do so.

IC 36-8-19-11
Annexation of territory
Sec. 11. Any area that is part of a territory and that is annexed by a municipality that is not a part of the territory ceases to be a part of the territory when the municipality begins to provide fire protection services to the area.
IC 36-8-19-12
Adjusments to tax levy; entry year of participants
Sec. 12. In the same year that a tax levy is imposed under this chapter, each respective participating unit's tax levies attributable to providing fire protection services within the unit shall be reduced by an amount equal to the amount levied for fire protection services in the year immediately preceding the year in which each respective unit became a participating unit.

IC 36-8-19-13
Withdrawal from territory; ordinance or resolution; effect of adoption
Sec. 13. (a) If a unit elects to withdraw from a fire protection territory established under this chapter, the unit must after January 1 but before April 1, adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) providing for the withdrawal. An ordinance or resolution adopted under this section takes effect July 1 of the year that the ordinance or resolution is adopted.

(b) If an ordinance or a resolution is adopted under subsection (a):
(1) the unit's maximum permissible ad valorem property tax levy with respect to fire protection services shall be initially increased by the amount of the particular unit's previous year levy under this chapter; and
(2) additional increases with respect to fire protection services levy amounts are subject to the tax levy limitations under IC 6-1.1-18.5, except for the part of the unit's levy that is necessary to retire the unit's share of any debt incurred while the unit was a participating unit.

IC 36-8-19-14
Payment of line of duty health care expenses for firefighters
Sec. 14. (a) A provider unit shall pay for the care of a full-time, paid firefighter who:
(1) suffers an injury; or
(2) contracts an illness;
during the performance of the firefighter's duty.

(b) The provider unit shall pay for the following expenses incurred by a firefighter described in subsection (a):
(1) Medical and surgical care.
(2) Medicines and laboratory, curative, and palliative agents and means.
(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.
(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.
(c) Expenditures required by subsection (a) shall be paid from the
fund used by the provider unit for payment of the costs attributable to providing fire protection services in the provider unit.

(d) A provider unit that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The provider unit's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the firefighter against the third party.


**IC 36-8-19-15**
Dissolution of fire protection territory; reversion of title to real property

Sec. 15. (a) For purposes of this section, a fire protection territory is dissolved if all participating units withdraw from the fire protection territory as provided in section 13 of this chapter.

(b) When a fire protection territory dissolves, title to any real property transferred to the provider unit reverts to the participating unit that transferred the real property to the provider unit.

IC 36-8-19.5
Chapter 19.5. Public Safety Improvement Areas

IC 36-8-19.5-1
Applicability of chapter
Sec. 1. This chapter applies to consolidated and second class cities.

IC 36-8-19.5-2
"Institute" defined
Sec. 2. As used in this chapter, "institute" means the Indiana criminal justice institute established under IC 5-2-6-3.

IC 36-8-19.5-3
Designation of public safety improvement areas
Sec. 3. (a) A legislative body may apply to the institute to have an area of a city governed by the legislative body designated as a public safety improvement area. The application must include a plan for improving public safety within the area.
(b) The institute may not designate an area as a public safety improvement area unless the area:
   (1) has a high crime rate;
   (2) has boundaries that are expressly designated by the legislative body; and
   (3) comprises not more than twenty percent (20%) of the city's geographical territory.

IC 36-8-19.5-4
Adoption of rules
Sec. 4. The institute shall adopt rules under IC 4-22-2 to carry out this chapter. The rules must include the following:
   (1) A definition of a public safety improvement area.
   (2) A description of what constitutes a high crime rate.
   (3) Guidelines for the application and approval process for designating an area as a public safety improvement area.
   (4) A method for:
      (A) publishing a description of each public safety area approved by the institute; and
      (B) informing the residents of a city whenever the institute designates an area of the city as a public safety improvement area.
   (5) A procedure for the institute to give priority to public safety improvement areas when the institute is involved in:
      (A) awarding; or
      (B) administering the award of;
      grants that public safety improvement areas are eligible to receive.
IC 36-8-19.5-5
Duration and renewal of designation

Sec. 5. (a) The institute may approve an area as a public safety improvement area under this chapter for five (5) years.

(b) A legislative body may reapply to have an area designated as a public safety improvement area under the application and approval process described in this chapter.

IC 36-8-20  
Chapter 20. Universal 911 Emergency Telephone Number

IC 36-8-20-1  
Applicability  
Sec. 1. This chapter applies to the state and all units.  

IC 36-8-20-2  
Designation as universal emergency telephone number  
Sec. 2. The telephone number 911 is designated as the universal emergency telephone number for reporting an emergency and requesting assistance.  

IC 36-8-20-3  
Exclusivity of system  
Sec. 3. A communication system that is:  
   (1) available to members of the public as a means to report an emergency and to request assistance; and  
   (2) established or operated by the state or a unit;  
must use 911 as the exclusive universal emergency telephone number for that communication system.  
IC 36-8-21
Repealed
(Repealed by P.L.132-2012, SEC.21.)
IC 36-8-21.5
Chapter 21.5. Severe Weather Warning Sirens

IC 36-8-21.5-1
"Department"
Sec. 1. As used in this chapter, "department" refers to:
(1) the department of homeland security established by IC 10-19-2-1; or
(2) an appropriate division within the department of homeland security, as determined by the executive director of the department of homeland security.
*As added by P.L.89-2008, SEC.1.*

IC 36-8-21.5-2
"Infrastructure agency"
Sec. 2. As used in this chapter, "infrastructure agency", with respect to an area in a county, means:
(1) a political subdivision; or
(2) an agency; responsible for planning for, acquiring, operating, maintaining, or testing one (1) or more severe weather warning sirens in the area.
*As added by P.L.89-2008, SEC.1.*

IC 36-8-21.5-3
"Plan"
Sec. 3. As used in this chapter, "plan" refers to a siren coverage plan adopted by a county under section 13 of this chapter.
*As added by P.L.89-2008, SEC.1.*

IC 36-8-21.5-4
"Planning agency"
Sec. 4. As used in this chapter, "planning agency", with respect to an area, means:
(1) a unit that has planning and zoning jurisdiction over all or any part of the area; or
(2) a plan commission that has planning jurisdiction over all or any part of the area.
*As added by P.L.89-2008, SEC.1.*

IC 36-8-21.5-5
"Planned siren"
Sec. 5. As used in this chapter, "planned siren" refers to a siren that satisfies all of the following:
(1) The siren has a definite location within the county.
(2) The funding for the siren has been identified.
(3) An approximate date for the siren's acquisition and installation has been determined.
*As added by P.L.89-2008, SEC.1.*

IC 36-8-21.5-6
"Report"
Sec. 6. As used in this chapter, "report" refers to a siren coverage report prepared by a county under section 11 of this chapter.
As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-7
"Severe weather"
Sec. 7. As used in this chapter, "severe weather" means:
(1) a tornado; or
(2) any other storm, weather condition, or emergency designated by the department in a rule adopted under section 9 of this chapter.
As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-8
"Severe weather warning siren"
Sec. 8. As used in this chapter, "severe weather warning siren" or "siren" means a siren that can be activated within a specified range to warn residents of an occurrence or imminent threat of severe weather.
As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-9
Department to adopt rules concerning severe weather warning sirens
Sec. 9. Before January 1, 2010, the department shall adopt rules under IC 4-22-2 to provide for the following:
(1) Minimum technical standards, including a minimum range, for any siren that is to be acquired and installed in a county under a county's siren coverage plan.
(2) A specification of any permissible storm, weather condition, or emergency, other than a tornado, for which a severe weather warning siren may be activated.
(3) Requirements for any test, activation, or failure rate data that the department may require a county to submit with respect to any siren identified by a county in:
   (A) siren coverage report prepared under this chapter; or
   (B) siren coverage plan prepared under this chapter.
(4) Any other rules necessary for the department to:
   (A) assess the number, location, and condition of existing severe weather warning sirens in each county in Indiana; and
   (B) determine the need for additional sirens in order to ensure comprehensive severe weather warning siren coverage for all Indiana residents.
As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-10
County's siren coverage plan; assistance from department; siren coverage report
Sec. 10. (a) At the request of the county legislative body, the department shall assist the county in development of a siren coverage
plan for the county.

(b) In developing a siren coverage plan for a county, the department may require the county to develop a siren coverage report.

As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-11
Siren coverage report; required information; public hearings; adoption

Sec. 11. (a) Except for the recommendation required by subsection (b)(3), the county legislative body may designate one (1) or more:

(1) infrastructure agencies; or
(2) other departments, divisions, or agencies;
to prepare a siren coverage report.

(b) A siren coverage report must include the following:

(1) A description of all existing and planned severe weather warning sirens in the county as of the date of the report. For each severe weather warning siren identified, the following information must be included:

(A) The location of the siren within the county, including an identification of any political subdivision in which the siren is or will be located. The information provided under this clause must include a map depicting the location of each siren within the county.
(B) The following technical and other specifications for the siren:
   (i) The manufacturer and model year.
   (ii) For an existing siren, the date of installation.
   (iii) For a planned siren, the planned dates for installation and first operation.
   (iv) The range of the siren, identified in miles or some other appropriate measure of distance.
   (v) The number of persons living within the range identified under item (iv), as determined by the most recent federal census block data available.
   (vi) For an existing siren, siren activation data for the most recent twelve (12) month period, including the date of each activation and whether the siren was activated for testing purposes or for an actual severe weather event. If an existing siren has been in operation for less than twelve (12) months, the data required by this item must cover all activations occurring since the date the siren first came online.
   (vii) For an existing siren, the siren's failure rate, as determined from the data reported under item (vi).

(2) An identification of the areas in the county that are not within the range of an existing or a planned siren. For each area identified under this subdivision, the following information must be included:

(A) The number of persons living in the area, as determined
by the most recent federal census block data available.

(B) Any development planned for the area, as determined through consultation with all appropriate planning agencies. The information required by this clause must include:
   (i) the type of development proposed;
   (ii) the number of new dwelling units or other buildings proposed; and
   (iii) the status of the proposal, including the status of any needed permits or approvals.

(3) Subject to subsection (e), a recommendation by the county legislative body as to the county's need for any additional sirens, other than those sirens identified as planned sirens under subdivision (1). The county legislative body may recommend under this subdivision additional sirens to provide coverage for:
   (A) any of the areas identified under subdivision (2) as not within the range of an existing or a planned siren; or
   (B) any area identified under subdivision (1) as within the range of an existing siren, if the county legislative body determines that the existing siren does not provide consistent or adequate coverage for the area, based on the existing siren's failure rate, as determined under subdivision (1)(B)(vii).

(c) In making a recommendation under subsection (b)(3), the county legislative body:
   (1) may consult with the department; and
   (2) shall consult with each:
      (A) infrastructure agency; and
      (B) planning agency;
      with jurisdiction in an area identified by the county legislative body as needing one (1) or more sirens.

(d) Before adopting the siren coverage report prepared under this section, the county legislative body must do the following:
   (1) Give notice of and hold at least one (1) public hearing on the report.
   (2) Publish, in accordance with IC 5-3-1, a schedule stating the time and place of each hearing. The schedule must also state where the entire report is on file and may be examined in its entirety for at least ten (10) days before the hearing.

(e) After considering any comments made at the hearing required by subsection (d), the county legislative body shall:
   (1) adopt the report:
      (A) as originally proposed; or
      (B) as modified by the county legislative body after the hearing required by subsection (d); and
   (2) submit the report to the department.

As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-12
Department's review of report; recommendations
Sec. 12. The department shall do the following not later than six
(6) months after a county submits a report under section 11 of this chapter:

(1) Review the siren coverage report.
(2) Make any recommendations to the county that the department determines to be necessary to ensure comprehensive severe weather warning siren coverage for all residents of the county.


IC 36-8-21.5-13
County's siren coverage plan; required information; public hearings; adoption; effective date

Sec. 13. (a) A county's siren coverage plan must contain the following information:

(1) The information included in the county's siren coverage report under section 11 of this chapter, including the following:
   (A) Information concerning any areas in the county that are not within the range of an existing or a planned siren, as:
      (i) identified by the county in its siren coverage report; and
      (ii) updated or revised by the county as needed to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.
   (B) Information concerning any areas in the county that are within the range of an existing siren if the department has determined that the existing siren does not provide consistent or adequate coverage for the area. As necessary, the county shall update the information provided under this clause as follows:
      (i) To include any additional existing sirens that the county legislative body has determined do not provide consistent or adequate coverage for an area. The county shall provide the test, activation, or failure rate data to support its determination as may be required by a rule adopted by the department under this chapter.
      (ii) To exclude any siren that the department has determined does not provide consistent or adequate coverage for an area. The county shall provide such proof as may be required by a rule adopted by the department under this chapter that the siren has been repaired or replaced.
   (C) Any additional or revised information that:
      (i) was not included in the county's siren coverage report; and
      (ii) is necessary to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.

(2) An estimate of the nature and location of development that is expected to occur in each area identified under subdivision (1) during the ten (10) years immediately following the date of the adoption of the plan.
(3) An estimate of the type, location, and cost of the siren or sirens that are necessary to provide complete siren coverage for the areas identified under subdivision (1). The plan must indicate:

(A) the proposed timing and sequencing of the acquisition and installation of each siren; and
(B) the infrastructure agency that is responsible for acquiring and providing for the installation of each siren.

(4) A general description of the sources and amounts of money used to pay for any sirens installed in the county during the five years immediately preceding the date of the plan.

(b) For each area in which the plan provides for the acquisition and installation of a siren, the plan must:

(1) provide for the acquisition and installation within the ten (10) years immediately following the date of the plan's adoption; and
(2) identify the revenue sources and estimate the amount of the revenue sources that the county intends to use to acquire and install the sirens identified under subsection (a)(3).

(c) In preparing, or causing to be prepared, the plan required by this section, the county:

(1) may consult with:
   (A) the department; or
   (B) a qualified engineer licensed to perform engineering services in Indiana; and
(2) shall consult with each:
   (A) infrastructure agency; and
   (B) planning agency;
   with jurisdiction in an area described in subsection (a)(1).

(d) Before adopting the siren coverage plan prepared under this section, the county legislative body must do the following:

(1) Give notice of and hold at least one (1) public hearing on the plan.
(2) Publish, in accordance with IC 5-3-1, a schedule stating the time and place of each hearing. The schedule must also state where the entire plan is on file and may be examined in its entirety for at least ten (10) days before the hearing.

(e) After considering any comments made at the hearing required by subsection (d), the county legislative body shall:

(1) adopt the plan:
   (A) as originally proposed; or
   (B) as modified by the county legislative body after the hearing required by subsection (d); and
(2) submit the plan to the department.

(f) A siren coverage plan adopted under this section takes effect on January 1 after its adoption. Each unit having planning and zoning jurisdiction in an area described in subsection (a)(1) shall incorporate the siren coverage plan as part of the unit's comprehensive plan and capital improvement plan, as appropriate.

IC 36-8-21.5-14
Department to assist in implementing plan
Sec. 14. The department shall assist a county that adopts a siren coverage plan to do the following:
   (1) Implement the plan.
   (2) Obtain federal and other grants to enable the county to implement the plan.
IC 36-8-22
Chapter 22. Meet and Confer for Public Safety Employees

IC 36-8-22-1
Application of chapter
Sec. 1. This chapter applies after December 31, 2007.

IC 36-8-22-2
"Employee"
Sec. 2. As used in this chapter, "employee" means a full-time employee of a police or fire department. However, the term does not include an employee in an upper level policymaking position.

IC 36-8-22-3
"Employee organization"
Sec. 3. As used in this chapter, "employee organization" means an organization:
(1) that includes employees as members; and
(2) whose primary purpose is to represent the members of the organization on issues concerning grievances, wages, rates of pay, hours of employment, conditions of employment, or becoming an exclusive recognized representative.

IC 36-8-22-4
"Employer"
Sec. 4. As used in this chapter, "employer" means a unit.

IC 36-8-22-5
"Exclusive recognized representative"
Sec. 5. As used in this chapter, "exclusive recognized representative" means an employee organization elected under section 9 of this chapter.

IC 36-8-22-6
"Strike"
Sec. 6. As used in this chapter, "strike" means a:
(1) work stoppage by two (2) or more employees to enforce compliance with demands made on an employer; or
(2) temporary stoppage of work activities by two (2) or more employees in protest against an act or condition.

IC 36-8-22-7
Exemptions; existing agreements
Sec. 7. (a) Except as provided in section 15 of this chapter, this
chapter does not apply to an employer with a population of less than seven thousand (7,000).

(b) This chapter does not apply to an employer that has adopted by:
   (1) ordinance;
   (2) resolution;
   (3) amendment; or
   (4) executive order;
provisions and procedures that permit an employee to form, join, or assist an employee organization to bargain collectively.

(c) For:
   (1) a collective bargaining agreement; or
   (2) a memorandum of understanding;
entered into between an employer and an employee organization or a recognized representative before January 1, 2008, this chapter may not be construed to annul, modify, or limit the agreement or memorandum during the term of the agreement or memorandum.


IC 36-8-22-8
Employee rights
Sec. 8. (a) All employees have the right to:
   (1) meet and freely assemble to discuss their interests as employees on the employees' own time;
   (2) form an employee organization on the employees' own time; and
   (3) join and assist an employee organization.

(b) The rights guaranteed under subsection (a) include the right to:
   (1) solicit membership;
   (2) join an employee organization to present the view of the employee; and
   (3) have dues deducted from employee wages and submitted to the exclusive recognized representative.

(c) An employee may not be required to:
   (1) become a member of; or
   (2) pay dues to;
an employee organization.


IC 36-8-22-9
Election of exclusive recognized representative
Sec. 9. (a) An employee organization is the exclusive recognized representative of the employees of an employer if:
   (1) before January 1, 2008, the employee organization was recognized by the employer as the sole representative of the employer's employees; or
   (2) after December 31, 2007, the employee organization is elected to be the exclusive recognized representative under subsection (c).

(b) After December 31, 2007, an employer shall conduct an
election to determine an exclusive recognized representative if at
least thirty percent (30%) of the employees of the employer sign a
petition requesting such an election. The election shall be conducted
at least thirty (30) but not more than sixty (60) days after the
employer receives the petition.

c) An employee organization becomes the exclusive recognized
representative of the employees of the employer if it receives more
than fifty percent (50%) of the votes cast in an election conducted
under subsection (b).

d) An election under subsection (b) to determine an exclusive
recognized representative may not be conducted more often than once
every two (2) years.


IC 36-8-22-10
Employer rights

Sec. 10. This chapter is not intended to circumscribe or modify the
existing right of an employer to:

1) direct the work of the employer's employees;
2) hire, promote, demote, transfer, assign, and retain employees
   in positions;
3) suspend, discharge, or otherwise discipline employees for
   just cause;
4) maintain the efficiency of governmental operations;
5) relieve employees from duties because of lack of work or for
   other legitimate reasons; or
6) take actions that may be necessary to carry out the mission
   of the employer in emergencies.


IC 36-8-22-11
Prohibited employer practices

Sec. 11. An employer may not do the following:

1) Interfere with, restrain, or coerce employees in the exercise
   of the rights guaranteed under this chapter.
2) Dominate, interfere with, or assist in the formation or
   administration of an employee organization, or contribute
   financial or other support to an employee organization.
   However, an employer may permit employees to meet and
   confer and represent employee interests during working hours
   without loss of time or pay.
3) Discriminate in regard to hiring or conditions of
   employment to encourage or discourage membership in an
   employee organization.
4) Discharge or otherwise discriminate against an employee
   because the employee has filed a complaint, an affidavit, or a
   petition or has given information or testified under this chapter.
5) Refuse to meet and confer in good faith with an exclusive
   recognized representative.

IC 36-8-22-12
Written notice by exclusive recognized representative; employer required to meet and confer

Sec. 12. (a) An exclusive recognized representative of the employees of an employer that elects to meet and confer with an employer must notify the employer in writing that the exclusive recognized representative intends to exercise its rights under this chapter.

(b) Except as provided by section 13 of this chapter, an employer who has received a written notice under subsection (a) shall meet and confer in good faith at reasonable times, including meeting in advance of the budget making process, to discuss issues and proposals regarding wages, hours of employment, and other conditions and terms of employment with the exclusive recognized representative.


IC 36-8-22-13
Employer election to meet and confer; termination of duty to meet and confer

Sec. 13. (a) An employer is not required to meet and confer with an exclusive recognized representative under this chapter unless the exclusive recognized representative has notified the employer in writing that the exclusive recognized representative elects to exercise its rights under this chapter.

(b) Notwithstanding subsection (a), an employer may elect to meet and confer and enter into an agreement under section 12 of this chapter even if the employer did not receive a written notice from an exclusive recognized representative.

(c) Notwithstanding any other provision of this chapter, an employer may elect to terminate its duty to meet and confer with an exclusive recognized representative under this chapter if:

1) after meeting and conferring with the exclusive recognized representative under section 12 of this chapter, the employer and the exclusive recognized representative are unable to reach a written agreement under this chapter; and

2) at least fifty percent (50%) of the members of the legislative body of the employer vote to terminate the employer's duty to meet and confer with the exclusive recognized representative under this chapter and written notice of the action of the legislative body is given to the exclusive recognized representative.

(d) An exclusive recognized representative that receives a termination notice from an employer under subsection (c)(2) must wait at least one (1) year after the date the exclusive recognized representative receives the notice to notify the employer of the exclusive recognized representative's election under subsection (a) to exercise its rights under this chapter.

IC 36-8-22-14
Deficit financing prohibited
Sec. 14. (a) As used in this section, "deficit financing" means making expenditures that exceed the money legally available to an employer in any budget year.
(b) An employer may not enter into an agreement under section 12 of this chapter that will place the employer in a position of deficit financing. An agreement is voidable to the extent that an employer must engage in deficit financing to comply with the agreement.

IC 36-8-22-15
No strike participation; employee discharge; loss of right of representation
Sec. 15. (a) This section applies to employees of an employer regardless of population.
(b) An employee, an employee organization, or an exclusive recognized representative may not participate in or encourage participation in a strike against an employer.
(c) An employee engaging in a strike is subject to discharge by the employer as provided in IC 36-8-3-4.
(d) An exclusive recognized representative that engages in or sanctions a strike loses the right to represent the employees for at least ten (10) years after the date of the action.
(e) An employer may not pay an employee for days the employee is engaged in a strike.

IC 36-8-22-16
Maximum agreement term
Sec. 16. The term of any written agreement entered into under section 12 of this chapter may not exceed forty-eight (48) months.
IC 36-8-23
Chapter 23. Community Fast Responders

IC 36-8-23-1
"Community fast responder"
Sec. 1. As used in this chapter, "community fast responder" means a volunteer who may be summoned to perform cardiopulmonary resuscitation, defibrillation, or other emergency services under the direction of a nonprofit corporation.
As added by P.L.70-2012, SEC.2.

IC 36-8-23-2
"Community fast responder nonprofit corporation"
Sec. 2. As used in this chapter, "community fast responder nonprofit corporation" means a nonprofit corporation that organizes or directs community fast responders. The term, for purposes of this chapter, does not include a hospital or an entity operated or directed by a hospital.
As added by P.L.70-2012, SEC.2.

IC 36-8-23-3
Good Samaritan statute applies to fast responders
Sec. 3. IC 34-30-12-1 (the good Samaritan statute) applies to a community fast responder.
As added by P.L.70-2012, SEC.2.

IC 36-8-23-4
Immunities of fast responders
Sec. 4. IC 16-31-6 applies to a community fast responder.
As added by P.L.70-2012, SEC.2.

IC 36-8-23-5
Limited liability of community fast responders and nonprofit corporations
Sec. 5. (a) This section applies if:
(1) a county adopts an ordinance approving the provision of community fast responder services by a community fast responder nonprofit corporation; and
(2) the community fast responder nonprofit corporation purchases an insurance policy described in subsection (b).
(b) A community fast responder nonprofit corporation shall purchase an insurance policy that provides at least seven hundred thousand dollars ($700,000) of insurance coverage for the liability of all of the corporation's community fast responders for bodily injury or property damage caused by the corporation's community fast responders acting within the scope of their duties.
(c) The civil liability of a community fast responder for:
(1) an act that is within the scope of a community fast responder's duties; or
(2) the failure to do an act that is within the scope of a
community fast responder's duties; while performing emergency services or while traveling to the scene of an emergency or from the scene of an emergency is limited to the coverage provided by the insurance policy purchased under this section. A community fast responder may not be named in a lawsuit as a nonparty and is not liable for punitive damages for any act that is within the scope of the community fast responder's duties.

(d) The civil liability of a community fast responder nonprofit corporation is limited to five million dollars ($5,000,000) for injury to or death of all persons in an occurrence. A community fast responder nonprofit corporation is not liable for punitive damages. 
As added by P.L.70-2012, SEC.2.

IC 36-8-23-6
Tort claims act applies to counties adopting an ordinance concerning fast responders
Sec. 6. A county that adopts an ordinance under section 5(a)(1) of this chapter is immune from civil liability in accordance with IC 34-13-3-3.
As added by P.L.70-2012, SEC.2.