

SENATE BILL No. 406

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-5.5; IC 36-8.

Synopsis: Survivor benefits. Provides that if a public safety officer enters a deferred retirement option plan (DROP) for the public safety officer's respective pension plan and the public safety officer dies before the public safety officer's DROP exit date, the benefit options for the public safety officer's survivors are made similar, as applicable, to the DROP disability benefit options in: (1) the DROP applicable to the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan; (2) the DROP applicable to the 1925 police pension fund, the 1937 firefighters' pension fund, the 1953 police pension fund (Indianapolis), and the 1977 police officers' and firefighters' pension and disability fund; and (3) the DROP applicable to the county sheriffs' retirement plans.

Effective: July 1, 2020.

Garten, Boots

January 13, 2020, read first time and referred to Committee on Pensions and Labor.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 406

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

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

1 SECTION 1. IC 5-10-5.5-0.1, AS ADDED BY P.L.220-2011,
2 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 0.1. (a) As used in this section, "plan" refers to the
4 state excise police, gaming agent, gaming control officer, and
5 conservation enforcement officers' retirement plan established by
6 section 2 of this chapter.

7 (b) The following amendments to this chapter apply as follows:
8 (1) The addition of section 7.5 of this chapter by P.L.180-2007
9 applies after June 30, 2007, to active participants of the plan.
10 (2) The amendments made to section 8 of this chapter by
11 P.L.180-2007 apply after June 30, 2007, to active participants of
12 the plan.
13 (3) The amendments made to sections 10, 11, and 12 of this
14 chapter by P.L.180-2007 apply to participants of the plan who
15 retire after June 30, 2007.
16 (4) The amendments made to sections 7 and 13.5 of this chapter
17 by P.L.180-2007 apply to participants of the plan who become



1 disabled after June 30, 2007.

2 (5) The addition of section 22 of this chapter by P.L.128-2008
3 applies only to a participant in the plan who is in active service
4 after June 30, 2008.

5 (6) The amendments made to sections 9 and 10 of this chapter by
6 P.L.128-2008 apply only to a participant in the plan who is in
7 active service after June 30, 2008.

8 **(7) The amendments made to section 22 of this chapter during**
9 **the 2020 regular session of the general assembly apply only to**
10 **a participant who:**

11 **(A) enters the DROP, before, on, or after June 30, 2020;**
12 **and**

13 **(B) dies after June 30, 2020.**

14 SECTION 2. IC 5-10-5.5-22, AS ADDED BY P.L.128-2008,
15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2020]: Sec. 22. (a) As used in this section, "DROP" refers to
17 a deferred retirement option plan established under this section.

18 (b) As used in this section, "DROP entry date" means the date that
19 a participant's election to enter a DROP becomes effective.

20 (c) As used in this section, "DROP frozen benefit" refers to an
21 annual retirement allowance computed under section 10 of this chapter
22 based on a participant's:

23 (1) average annual salary; and

24 (2) years of creditable service;

25 on the date the participant enters the DROP.

26 (d) As used in this section, "DROP retirement date" means the
27 future retirement date selected by a participant at the time the
28 participant elects to enter the DROP.

29 (e) Only a participant who is eligible to receive an unreduced annual
30 retirement allowance immediately upon termination of employment
31 may elect to enter a DROP. A participant who elects to enter the DROP
32 must agree to the following:

33 (1) The participant shall execute an irrevocable election to retire
34 on the DROP retirement date and must remain in active service
35 until that date.

36 (2) While in the DROP, the participant shall continue to make
37 contributions under section 8 of this chapter.

38 (3) The participant shall select a DROP retirement date not less
39 than twelve (12) months and not more than thirty-six (36) months
40 after the participant's DROP entry date.

41 (4) The participant may not remain in the DROP after the date the
42 participant reaches the mandatory retirement age under section 9



- 1 of this chapter.
- 2 (5) The participant may make an election to enter the DROP only
- 3 once in the participant's lifetime.
- 4 (f) Contributions or payments provided by the general assembly
- 5 under section 4(b)(4) of this chapter continue for a participant while
- 6 the participant is in the DROP.
- 7 (g) A participant shall exit the DROP on the earliest of the
- 8 following:
- 9 (1) The participant's DROP retirement date.
- 10 (2) Thirty-six (36) months after the participant's DROP entry date.
- 11 (3) The participant's mandatory retirement age.
- 12 (4) The date the participant retires because of a disability as
- 13 provided by subsection (k).
- 14 (h) A participant who retires on the participant's DROP retirement
- 15 date or on the date the participant retires because of a disability as
- 16 provided by subsection (k) may elect to receive an annual retirement
- 17 allowance:
- 18 (1) computed under section 10 of this chapter as if the participant
- 19 had never entered the DROP; or
- 20 (2) consisting of:
- 21 (A) the DROP frozen benefit; plus
- 22 (B) an additional amount, paid as the participant elects under
- 23 subsection (i), determined by multiplying:
- 24 (i) the DROP frozen benefit; by
- 25 (ii) the number of months the participant was in the DROP.
- 26 (i) The participant shall elect, at the participant's retirement, to
- 27 receive the additional amount calculated under subsection (h)(2)(B) in
- 28 one (1) of the following ways:
- 29 (1) A lump sum paid on:
- 30 (A) the participant's DROP retirement date; or
- 31 (B) the date the participant retires because of a disability as
- 32 provided by subsection (k).
- 33 (2) Three (3) equal annual payments:
- 34 (A) commencing on:
- 35 (i) the participant's DROP retirement date; or
- 36 (ii) the date the participant retires because of a disability as
- 37 provided by subsection (k); and
- 38 (B) thereafter paid on:
- 39 (i) the anniversary of the participant's DROP retirement
- 40 date; or
- 41 (ii) the date the participant retires because of a disability as
- 42 provided by subsection (k).



1 (j) A cost of living increase determined under section 21(c) of this
 2 chapter does not apply to the additional amount calculated under
 3 subsection (h)(2)(B) at the participant's DROP retirement date or the
 4 date the participant retires because of a disability as provided by
 5 subsection (k). No cost of living increase is applied to a DROP frozen
 6 benefit while the participant is in the DROP. After the participant's
 7 DROP retirement date or the date the participant retires because of a
 8 disability as provided by subsection (k), cost of living increases
 9 determined under section 21(c) of this chapter apply to the participant's
 10 annual retirement allowance computed under this section.

11 (k) If a participant becomes disabled, in the line of duty or other
 12 than in the line of duty while in the DROP, the participant's annual
 13 retirement allowance is computed as follows:

14 (1) If the participant retires because of a disability less than
 15 twelve (12) months after the date the participant enters the DROP,
 16 the participant's annual retirement allowance is calculated as if
 17 the participant had never entered the DROP.

18 (2) If the participant retires because of a disability at least twelve
 19 (12) months after the date the participant enters the DROP, the
 20 participant's annual retirement allowance is calculated under this
 21 section, and the participant's retirement date is the date the
 22 member retires because of a disability rather than the participant's
 23 DROP retirement date.

24 (l) If, before payment of the participant's annual retirement
 25 allowance begins, the participant dies in the line of duty or other than
 26 in the line of duty, death benefits are payable **to the participant's**
 27 **surviving spouse. If there is no surviving spouse, the death benefits**
 28 **must be divided equally among the participant's surviving**
 29 **children. If there are no surviving children, the death benefits are**
 30 **paid to the participant's parents. If there are no surviving parents,**
 31 **the death benefits are paid to the participant's estate. The death**
 32 **benefits are determined as follows:**

33 (1) **If the participant dies less than twelve (12) months after**
 34 **the date the participant enters the DROP, the death benefits**
 35 **are calculated as if the participant had never entered the**
 36 **DROP.**

37 (2) **If the participant dies at least twelve (12) months after the**
 38 **date the participant enters the DROP, the death benefits**
 39 **consist of both of the following:**

40 (†) **(A) At the election of the survivor or survivors to whom**
 41 **the benefit is payable, the benefit calculated under subsection**
 42 **(h)(2)(B) is paid in either:**



1 (i) a lump sum; to the participant's surviving spouse. If there
 2 is no surviving spouse, the lump sum must be divided
 3 equally among the participant's surviving children. If there
 4 are no surviving children, the lump sum is paid to the
 5 participant's parents. If there are no surviving parents, the
 6 lump sum is paid to the participant's estate. or

7 (ii) **three (3) equal annual payments, the first as soon as**
 8 **practicable after the date of the participant's death, the**
 9 **second on the first anniversary of the participant's**
 10 **death, and the third on the second anniversary of the**
 11 **participant's death.**

12 ~~(2)~~ **(B)** A benefit is paid on the DROP frozen benefit under the
 13 terms of the retirement plan created by this chapter.

14 (m) Except as provided under subsections (k) and (l), the annual
 15 retirement allowance for a participant who exits the DROP for any
 16 reason other than retirement on the participant's DROP retirement date
 17 is calculated as if the participant had never entered the DROP.

18 SECTION 3. IC 36-8-8.5-0.1 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2020]: **Sec. 0.1. The amendments made to**
 21 **section 15 of this chapter during the 2020 regular session of the**
 22 **general assembly apply only to a member who:**

- 23 (1) enters the DROP, before, on, or after June 30, 2020; and
 24 (2) dies after June 30, 2020.

25 SECTION 4. IC 36-8-8.5-14, AS AMENDED BY THE
 26 TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL
 27 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2020]: Sec. 14. (a) Subject to subsection (b), a member who
 29 enters the DROP established by this chapter shall exit the DROP at the
 30 earliest of:

- 31 (1) the member's DROP retirement date;
 32 (2) thirty-six (36) months after the member's DROP entry date;
 33 (3) the mandatory retirement age applicable to the member, if
 34 any; or
 35 (4) the date the member retires because of a disability as provided
 36 under section 16.5(d) of this chapter. or
 37 ~~(5) the date determined under IC 36-8-8-24.8 (before its~~
 38 ~~expiration.);~~

39 (b) A member of the 1925 fund, the 1937 fund, or the 1953 fund
 40 who enters the DROP established by this chapter must exit the DROP
 41 on the date the authority of the board of trustees of the Indiana public
 42 retirement system to distribute from the pension relief fund established



1 under IC 5-10.3-11-1 to units of local government (described in
2 IC 5-10.3-11-3) amounts determined under IC 5-10.3-11-4.7 expires.

3 SECTION 5. IC 36-8-8.5-15 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 15. (a) If a member
5 dies

6 (†) in the line of duty or

7 (‡) other than in the line of duty

8 while the member is in the DROP, benefits for the member's survivors
9 are calculated under the provisions of the applicable fund as **follows:**

10 (1) **If the member dies less than twelve (12) months after the**
11 **date the member enters the DROP, the benefits for the**
12 **member's survivors are calculated as if the member had never**
13 **entered the DROP.**

14 (2) **If the member dies at least twelve (12) months after the**
15 **date the member enters the DROP, the benefits for the**
16 **member's survivors consist of both of the following:**

17 (A) **A benefit for the member's survivors paid by and**
18 **calculated under the provisions of the applicable fund as if**
19 **the member had never entered the DROP.**

20 (B) **An additional, separate amount that is not calculated**
21 **as a part of a benefit for the member's survivors from the**
22 **applicable fund and that is:**

23 (i) **calculated under subsection (b); and**

24 (ii) **paid to the member's survivors in accordance with**
25 **the survivor's election under subsection (c).**

26 (b) **The additional, separate amount of the benefit for a**
27 **member's survivors that is described in subsection (a)(2)(B) is**
28 **equal to:**

29 (1) **the amount of the DROP frozen benefit; multiplied by**

30 (2) **the number of months that the member was in the DROP.**

31 (c) **The survivors of a member who are eligible to receive the**
32 **additional, separate amount described in subsection (a)(2)(B) must**
33 **elect to receive the additional, separate amount by either of the**
34 **following methods:**

35 (1) **A lump sum paid as soon as practicable after the**
36 **member's death.**

37 (2) **Three (3) equal annual payments, the first as soon as**
38 **practicable after the date of the member's death, the second**
39 **on the first anniversary of the member's death, and the third**
40 **on the second anniversary of the member's death.**

41 SECTION 6. IC 36-8-10-0.1, AS ADDED BY P.L.220-2011,
42 SECTION 672, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2020]: Sec. 0.1. The following amendments to
2 this chapter apply as follows:

3 (1) The addition of section 11.5 of this chapter by P.L.228-1991
4 applies only to county police officers and jail employees who
5 suffer an injury or contract an illness after June 30, 1991.

6 (2) The amendments made to section 12 of this chapter by
7 P.L.40-1997 apply only to monthly benefits paid after June 30,
8 1997, unless the fiscal body determines that section 12 of this
9 chapter, as amended by P.L.40-1997, applies to earlier monthly
10 benefits as determined by the fiscal body.

11 (3) The amendments made to section 12.2 of this chapter by
12 P.L.51-2006 apply to an employee beneficiary of a county
13 retirement plan established under section 12 of this chapter who
14 dies in the line of duty after December 31, 2005.

15 **(4) The amendments made to section 12.2 of this chapter**
16 **during the 2020 regular session of the general assembly apply**
17 **only to an employee beneficiary who:**

18 **(A) enters the DROP, before, on, or after June 30, 2020;**
19 **and**

20 **(B) dies after June 30, 2020.**

21 SECTION 7. IC 36-8-10-12.2, AS AMENDED BY P.L.51-2006,
22 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2020]: Sec. 12.2. (a) This section applies to a county that
24 adopts a deferred retirement option plan as part of its retirement plan
25 under this chapter.

26 (b) As used in this section, "DROP" refers to a deferred retirement
27 option plan established under this section.

28 (c) As used in this section, "DROP frozen benefit" refers to a
29 monthly pension benefit calculated under the provisions of a retirement
30 plan established under this chapter based on the employee
31 beneficiary's:

32 (1) salary; and

33 (2) years of service;

34 on the date the employee beneficiary enters the DROP.

35 (d) As used in this section, "maximum years of service" refers to the
36 maximum number of years of service included in the monthly pension
37 benefit calculation under a department's retirement plan.

38 (e) An employee beneficiary who:

39 (1) is not yet credited with the maximum number of years of
40 service; and

41 (2) is eligible to receive an unreduced benefit immediately upon
42 termination of employment;



- 1 may elect to enter a DROP. The employee beneficiary's election is
 2 irrevocable.
- 3 (f) The employee beneficiary exits a DROP on the earliest of the
 4 following:
- 5 (1) The date that the employee beneficiary is credited with the
 6 maximum years of service under the retirement plan.
- 7 (2) The employee beneficiary's retirement date.
- 8 (3) The date any required benefit begins.
- 9 (g) The retirement benefit paid to the employee beneficiary who
 10 participated in a DROP consists of:
- 11 (1) the DROP frozen benefit; plus
- 12 (2) an additional amount, paid as the employee beneficiary elects
 13 under subsection (h), determined in STEP THREE of the
 14 following formula:
- 15 STEP ONE: Multiply:
- 16 (A) the DROP frozen benefit; by
- 17 (B) the number of months the employee beneficiary
 18 participated in the DROP.
- 19 STEP TWO: Multiply the product determined in STEP ONE by
 20 an interest rate that does not exceed three percent (3%) annually.
- 21 STEP THREE: Add the product determined under STEP ONE
 22 and the product determined under STEP TWO.
- 23 (h) The employee beneficiary shall elect, at the employee
 24 beneficiary's retirement, to receive the additional amount calculated
 25 under subsection (g)(2) in one (1) of the following ways:
- 26 (1) A lump sum.
- 27 (2) An actuarially equivalent increase in the monthly pension
 28 benefit payable to the employee beneficiary.
- 29 (3) A combination of (1) and (2).
- 30 (i) The cost of living payment determined under section 23 of this
 31 chapter does not apply to the additional amount calculated under
 32 subsection (g)(2). No cost of living payment is applied to a DROP
 33 frozen benefit while the employee beneficiary is participating in a
 34 DROP.
- 35 (j) If an employee beneficiary becomes disabled:
- 36 (1) in the line of duty; or
- 37 (2) other than in the line of duty;
- 38 benefits for the employee beneficiary are calculated as if the employee
 39 beneficiary had never entered the DROP.
- 40 (k) Except as provided in subsection (m), if, before the employee
 41 beneficiary's monthly pension benefit begins, an employee beneficiary
 42 dies, in the line of duty or other than in the line of duty, death benefits



- 1 are payable as follows:
- 2 (1) The benefit under subsection (g)(2) is paid in a lump sum to
- 3 the employee beneficiary's surviving spouse. If there is no
- 4 surviving spouse, the lump sum must be divided equally among
- 5 the employee beneficiary's surviving children. If there are no
- 6 surviving children, the lump sum is paid to the employee
- 7 beneficiary's parents. If there are no surviving parents, the lump
- 8 sum is paid to the employee beneficiary's estate.
- 9 (2) A benefit is paid on the DROP frozen benefit under the terms
- 10 of the county's retirement plan:
- 11 **calculated for the employee beneficiary as if the employee**
- 12 **beneficiary had never entered the DROP.**
- 13 (l) A DROP under this section must be designed to be actuarially
- 14 cost neutral to the county's retirement plan.
- 15 (m) This subsection applies if:
- 16 (1) an employee beneficiary dies in the line of duty before
- 17 payment of the employee beneficiary's monthly pension benefit
- 18 begins; and
- 19 (2) the calculation of a death benefit under the provisions of the
- 20 county's retirement plan depends upon whether an employee
- 21 beneficiary dies in the line of duty or other than in the line of
- 22 duty.
- 23 Death benefits for an employee beneficiary who dies in the line of duty
- 24 are calculated under the provisions of the county's retirement plan as
- 25 if the employee beneficiary had never entered the DROP and shall be
- 26 adjusted as necessary to ensure compliance with subsection (l).

