



January 31, 2020

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## SENATE BILL No. 406

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DIGEST OF SB 406 (Updated January 29, 2020 11:51 am - DI 132)

**Citations Affected:** IC 5-10; 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; and (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.

**Effective:** July 1, 2020.

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## Garten, Boots

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January 13, 2020, read first time and referred to Committee on Pensions and Labor.  
January 30, 2020, amended, reported favorably — Do Pass.

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SB 406—LS 6487/DI 113





January 31, 2020

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

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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.**





## COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 406, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 6, delete lines 41 through 42.

Delete pages 7 through 9.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 406 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 11, Nays 0.

