

## SENATE BILL No. 402

---

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8.

**Synopsis:** Military veteran public safety officer hiring age. Increases the maximum age for appointment as a police officer or firefighter from 36 to 40 years of age, if the applicant is a veteran of the armed forces of the United States.

**Effective:** July 1, 2015.

---

---

## Lanane

---

---

January 12, 2015, read first time and referred to Committee on Veterans Affairs & The Military.

---

---



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 402

---

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

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

1 SECTION 1. IC 36-8-3.5-12, AS AMENDED BY P.L.99-2007,  
2 SECTION 214, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) To be appointed to the  
4 department, an applicant must be:  
5 (1) a citizen of the United States;  
6 (2) a high school graduate or equivalent; and  
7 (3) at least twenty-one (21) years of age, but under:  
8 (A) thirty-six (36) years of age; or  
9 (B) **forty (40) years of age, if the applicant is a veteran of**  
10 **the armed forces of the United States.**  
11 However, the age requirements do not apply to a person who has been  
12 previously employed as a member of the department.  
13 (b) A person may not be appointed, reappointed, or reinstated if ~~he~~  
14 **the person** has a felony conviction on ~~his~~ **the person's** record.  
15 (c) Applications for appointment or reappointment to the  
16 department must be filed with the commission. The applicant must



1 produce satisfactory proof of the date and place of ~~his~~ **the applicant's**  
2 birth.

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

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

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

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

21 (f) If an applicant for original appointment reaches ~~his~~ **the**  
22 **applicant's** thirty-sixth birthday **(or fortieth birthday, if the**  
23 **applicant is a veteran of the armed forces of the United States), his**  
24 **the applicant's** name shall be removed from the eligibility list.  
25 Applicants remain on the list for two (2) years from the date of  
26 certification. After two (2) years a person may reapply as an applicant.

27 (g) When a vacancy occurs in the department, the commission, upon  
28 a written request of the chief of the department, shall administer the  
29 physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the  
30 applicant having the highest score on the eligibility list. If the  
31 appointed applicant successfully completes the physical agility test, the  
32 applicant shall then be enrolled as a member of the department to fill  
33 the vacancy if:

- 34 (1) the applicant is still of good character; and  
35 (2) the applicant passes the required examinations identified in  
36 IC 36-8-3.2-6 and IC 36-8-8-19.

37 (h) All appointments are probationary for a period not to exceed one  
38 (1) year. If the commission finds, upon the recommendation of the  
39 department during the probationary period, that the conduct or capacity  
40 of the probationary member is not satisfactory, the commission shall  
41 notify ~~him~~ **the member** in writing that ~~he~~ **the member** is being  
42 reprimanded, that ~~he~~ **the member** is being suspended, or that ~~he~~ **the**



1 **member** will not receive a permanent appointment. If a member is  
 2 notified that ~~he~~ **the member** will not receive a permanent appointment,  
 3 **his the member's** employment immediately ceases. Otherwise, at the  
 4 expiration of the probationary period the member is considered  
 5 regularly employed.

6 SECTION 2. IC 36-8-4-7 IS AMENDED TO READ AS FOLLOWS  
 7 [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) A person may not be  
 8 appointed as a member of the police department or fire department  
 9 after the person has reached:

10 (1) thirty-six (36) years of age; or

11 (2) **forty (40) years of age, if the person is a veteran of the**  
 12 **armed forces of the United States.**

13 A person may be reappointed as a member of the department only if the  
 14 person is a former member or a retired member not yet receiving  
 15 retirement benefits of the 1925, 1937, 1953, or 1977 fund and can  
 16 complete twenty (20) years of service before reaching sixty (60) years  
 17 of age.

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

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

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

31 SECTION 3. IC 36-8-8-7, AS AMENDED BY P.L.117-2013,  
 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2015]: Sec. 7. (a) Except as provided in subsections (d), (e),  
 34 (f), (g), (h), (k), (l), and (m), ~~(1)~~ a police officer or ~~(2)~~ a firefighter who:

35 (1) is less than:

36 (A) thirty-six (36) years of age; or

37 (B) **forty (40) years of age, if the police officer or**  
 38 **firefighter is a veteran of the armed forces of the United**  
 39 **States; and**

40 (2) ~~who~~ passes the baseline statewide physical and mental  
 41 examinations required under section 19 of this chapter;

42 shall be a member of the 1977 fund and is not a member of the 1925



1 fund, the 1937 fund, or the 1953 fund.

2 (b) A police officer or firefighter with service before May 1, 1977,  
 3 who is hired or rehired after April 30, 1977, may receive credit under  
 4 this chapter for service as a police officer or firefighter prior to entry  
 5 into the 1977 fund if the employer who rehires the police officer or  
 6 firefighter chooses to contribute to the 1977 fund the amount necessary  
 7 to amortize the police officer's or firefighter's prior service liability over  
 8 a period of not more than forty (40) years, the amount and the period  
 9 to be determined by the system board. If the employer chooses to make  
 10 the contributions, the police officer or firefighter is entitled to receive  
 11 credit for the police officer's or firefighter's prior years of service  
 12 without making contributions to the 1977 fund for that prior service. In  
 13 no event may a police officer or firefighter receive credit for prior years  
 14 of service if the police officer or firefighter is receiving a benefit or is  
 15 entitled to receive a benefit in the future from any other public pension  
 16 plan with respect to the prior years of service.

17 (c) Except as provided in section 18 of this chapter, a police officer  
 18 or firefighter is entitled to credit for all years of service after April 30,  
 19 1977, with the police or fire department of an employer covered by this  
 20 chapter.

21 (d) A police officer or firefighter with twenty (20) years of service  
 22 does not become a member of the 1977 fund and is not covered by this  
 23 chapter, if the police officer or firefighter:

- 24 (1) was hired before May 1, 1977;
- 25 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
- 26 of which were repealed September 1, 1981); and
- 27 (3) is rehired after April 30, 1977, by the same employer.

28 (e) A police officer or firefighter does not become a member of the  
 29 1977 fund and is not covered by this chapter if the police officer or  
 30 firefighter:

- 31 (1) was hired before May 1, 1977;
- 32 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
- 33 of which were repealed September 1, 1981);
- 34 (3) was rehired after April 30, 1977, but before February 1, 1979;
- 35 and
- 36 (4) was made, before February 1, 1979, a member of a 1925,
- 37 1937, or 1953 fund.

38 (f) A police officer or firefighter does not become a member of the  
 39 1977 fund and is not covered by this chapter if the police officer or  
 40 firefighter:

- 41 (1) was hired by the police or fire department of a unit before May
- 42 1, 1977;



1 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both  
2 of which were repealed September 1, 1981);

3 (3) is rehired by the police or fire department of another unit after  
4 December 31, 1981; and

5 (4) is made, by the fiscal body of the other unit after December  
6 31, 1981, a member of a 1925, 1937, or 1953 fund of the other  
7 unit.

8 If the police officer or firefighter is made a member of a 1925, 1937, or  
9 1953 fund, the police officer or firefighter is entitled to receive credit  
10 for all the police officer's or firefighter's years of service, including  
11 years before January 1, 1982.

12 (g) As used in this subsection, "emergency medical services" and  
13 "emergency medical technician" have the meanings set forth in  
14 IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

15 (1) is employed by a unit that is participating in the 1977 fund;

16 (2) was employed as an emergency medical technician by a  
17 political subdivision wholly or partially within the department's  
18 jurisdiction;

19 (3) was a member of the public employees' retirement fund during  
20 the employment described in subdivision (2); and

21 (4) ceased employment with the political subdivision and was  
22 hired by the unit's fire department due to the reorganization of  
23 emergency medical services within the department's jurisdiction;

24 shall participate in the 1977 fund. A firefighter who participates in the  
25 1977 fund under this subsection is subject to sections 18 and 21 of this  
26 chapter.

27 (h) A police officer or firefighter does not become a member of the  
28 1977 fund and is not covered by this chapter if the individual was  
29 appointed as:

30 (1) a fire chief under a waiver under IC 36-8-4-6(c); or

31 (2) a police chief under a waiver under IC 36-8-4-6.5(c);

32 unless the executive of the unit requests that the 1977 fund accept the  
33 individual in the 1977 fund and the individual previously was a  
34 member of the 1977 fund.

35 (i) A police matron hired or rehired after April 30, 1977, and before  
36 July 1, 1996, who is a member of a police department in a second or  
37 third class city on March 31, 1996, is a member of the 1977 fund.

38 (j) A park ranger who:

39 (1) completed at least the number of weeks of training at the  
40 Indiana law enforcement academy or a comparable law  
41 enforcement academy in another state that were required at the  
42 time the park ranger attended the Indiana law enforcement



1 academy or the law enforcement academy in another state;

2 (2) graduated from the Indiana law enforcement academy or a  
3 comparable law enforcement academy in another state; and

4 (3) is employed by the parks department of a city having a  
5 population of more than one hundred ten thousand (110,000) but  
6 less than one hundred fifty thousand (150,000);

7 is a member of the fund.

8 (k) Notwithstanding any other provision of this chapter, a police  
9 officer or firefighter:

10 (1) who is a member of the 1977 fund before a consolidation  
11 under IC 36-3-1-5.1 or IC 36-3-1-6.1;

12 (2) whose employer is consolidated into the consolidated law  
13 enforcement department or the fire department of a consolidated  
14 city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and

15 (3) who, after the consolidation, becomes an employee of the  
16 consolidated law enforcement department or the consolidated fire  
17 department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

18 is a member of the 1977 fund without meeting the requirements under  
19 sections 19 and 21 of this chapter.

20 (l) Notwithstanding any other provision of this chapter, if:

21 (1) before a consolidation under IC 8-22-3-11.6, a police officer  
22 or firefighter provides law enforcement services or fire protection  
23 services for an entity in a consolidated city;

24 (2) the provision of those services is consolidated into the law  
25 enforcement department or fire department of a consolidated city;  
26 and

27 (3) after the consolidation, the police officer or firefighter  
28 becomes an employee of the consolidated law enforcement  
29 department or the consolidated fire department under  
30 IC 8-22-3-11.6;

31 the police officer or firefighter is a member of the 1977 fund without  
32 meeting the requirements under sections 19 and 21 of this chapter.

33 (m) A police officer or firefighter who is a member of the 1977 fund  
34 under subsection (k) or (l) may not be:

35 (1) retired for purposes of section 10 of this chapter; or

36 (2) disabled for purposes of section 12 of this chapter;

37 solely because of a change in employer under the consolidation.

38 (n) Notwithstanding any other provision of this chapter and subject  
39 to subsection (o), a police officer or firefighter who:

40 (1) is an active member of the 1977 fund with an employer that  
41 participates in the 1977 fund;

42 (2) separates from that employer; and



1           (3) not later than one hundred eighty (180) days after the date of  
2           the separation described in subdivision (2), becomes employed as  
3           a full-time police officer or firefighter with a second employer  
4           that participates in the 1977 fund;  
5           is a member of the 1977 fund without meeting for a second time the  
6           age limitation under subsection (a) and the requirements under sections  
7           19 and 21 of this chapter. A police officer or firefighter to whom this  
8           subsection applies is entitled to receive credit for all years of 1977 fund  
9           covered service as a police officer or firefighter with all employers that  
10          participate in the 1977 fund.  
11          (o) The one hundred eighty (180) day limitation described in  
12          subsection (n)(3) does not apply to a member of the 1977 fund who is  
13          eligible for reinstatement under IC 36-8-4-11.

