

SENATE BILL No. 127

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.2-3; IC 5-10.2-4-6; IC 5-10.3-7-4.5; IC 21-6.1-4; IC 21-6.1-7; IC 36-8-8-12.7; IC 36-8-8-18.

Synopsis: Public retirement funds. Makes the following changes to the public retirement funds: (1) Removes the deadlines on time available to purchase certain types of service credit in the public employees' retirement fund (PERF) and the Indiana state teachers' retirement fund (TRF). (2) Adds a claim period for death in service benefits in PERF and TRF. (3) Allows transfer of partial service in PERF and TRF. (4) Specifies disability payments procedures for PERF and TRF. (5) Allows credit for adoption leave under TRF. (6) Provides the TRF board with the authority to perform audits of records of public entities that contribute to TRF. (7) Allows the TRF board to impose a penalty for late reports and payments. (8) Allows a surviving spouse
(Continued next page)

Effective: July 1, 1998.

Harrison

January 6, 1998, read first time and referred to Committee on Pensions and Labor.



Digest Continued

or a surviving dependent of a member of PERF or TRF who is entitled to a survivor benefit to elect to receive a lump sum payment or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. (9) Provides that a member of TRF may purchase substitute teaching service credit under certain conditions. (10) Excludes from TRF substitute teachers who do not have an associate or baccalaureate degree. (11) In the 1977 police officers' and firefighters' pension and disability fund (the 1977 fund), changes the appeal process for the degree of impairment to be similar to the process of the determination of disability. (12) Provides that for certain members of the 1977 fund, credit will be given in the 1977 fund for one-third of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician. (The introduced version of this bill was prepared by the pension management oversight commission.)



Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

SENATE BILL No. 127

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 5-10.2-3-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Each member's
3 creditable service, for the purpose of computing benefits under this
4 article, consists of all service in a position covered by a retirement fund
5 plus all other service for which the retirement fund law gives credit.
6 (b) No member may be required to pay any contributions for service
7 before he is covered by this article as a condition precedent to receiving
8 benefits under this article. However, he must furnish proof of the
9 service to the board of the fund under which he claims service.
10 (c) A member who has past service as an employee of the state or
11 a participating political subdivision in a position which was not
12 covered by the retirement fund is entitled to credit for this service if the
13 position becomes covered before January 1, 1985, by the Indiana state
14 teachers' retirement fund, the public employees' retirement fund, or the
15 retirement fund for the state board of accounts and if he submits proof

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1 of the service to the secretary of the fund in which he claims service.

2 (d) A member who has past service in a position that was not
3 covered by the retirement fund is entitled to credit for this service if the
4 position becomes covered after December 31, 1984, by a fund while he
5 holds that position or another position with the same employer and if
6 he submits proof of the service to the director of the fund in which he
7 claims service.

8 (e) The proof required by this section must:

9 (1) be submitted in a form approved by the director;

10 (2) contain dates and nature of service and other information
11 required by the director; and

12 (3) be certified by the governing body or its agent.

13 (f) A member who is a state employee is entitled to service credit for
14 the time the member is receiving disability benefits under a disability
15 plan established under IC 5-10-8-7.

16 (g) If a participant in the legislators' defined benefit plan does not
17 become entitled to a benefit from that plan, the PERF board or the TRF
18 board shall include the participant's service in the general assembly in
19 the determination of eligibility for, and computation of, benefits under
20 PERF or TRF at the time the participant would be eligible to receive
21 benefits under PERF or TRF. After benefits commence under PERF or
22 TRF with the general assembly service included, the participant's
23 general assembly service may not be used for the computation of
24 benefits under IC 2-3.5-4.

25 **(h) A member may receive service credit for all or part of the**
26 **member's creditable service in another governmental retirement**
27 **plan under IC 5-10.3-7-4.5 and IC 21-6.1-4-4.5. A member may not**
28 **receive credit for service for which the member receives service**
29 **credit in another retirement plan maintained by a state, a political**
30 **subdivision, or an instrumentality of the state for service that**
31 **PERF or TRF would otherwise give credit.**

32 **(i) A member may use all or part of the member's creditable**
33 **service under PERF or TRF in another governmental retirement**
34 **plan under the terms of the other plan. Creditable service used**
35 **under the other governmental retirement plan may not be used in**
36 **PERF or TRF.**

37 SECTION 2. IC 5-10.2-3-5 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. Suspension of
39 Membership. (a) A member who is not eligible for retirement or
40 disability retirement may suspend his membership if he terminates
41 employment. After five (5) continuous years in which he performs no
42 service, his membership shall be automatically suspended by the board



1 unless he is vested status. The board may establish ~~rule~~ **rules** for
 2 deferring the effective date of a suspension of membership. The
 3 deferral may not be for more than six (6) months.

4 (b) On resuming service the member may claim as creditable
 5 service the period of employment before the suspension of
 6 membership, **but only to the extent that the same period of**
 7 **employment is not being used by another governmental plan for**
 8 **purposes of the member's benefit in the other governmental plan.**

9 SECTION 3. IC 5-10.2-3-7.5, AS AMENDED BY P.L.35-1996,
 10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 1998]: Sec. 7.5. (a) A surviving dependent or surviving
 12 spouse of a member who dies in service is entitled to a survivor benefit
 13 if:

- 14 (1) the member dies after March 31, 1990;
 15 (2) the member has:
 16 (A) at least ten (10) years of creditable service, if the member
 17 died in service as a member of the general assembly;
 18 (B) at least fifteen (15) years of creditable service, if the
 19 member died in service in any other position covered by the
 20 retirement fund; or
 21 (C) at least ten (10) years but not more than fourteen (14)
 22 years of creditable service if the member:
 23 (i) was at least sixty-five (65) years of age; and
 24 (ii) died in service in a position covered by the teachers'
 25 retirement fund; and
 26 (3) the surviving dependent or surviving spouse qualifies for a
 27 survivor benefit under subsection (b) or (c).

28 (b) If a member described in subsection (a) dies with a surviving
 29 spouse who was married to the member for at least two (2) years, the
 30 surviving spouse is entitled to a survivor benefit equal to the monthly
 31 benefit that would have been payable to the spouse under the joint and
 32 survivor option of IC 5-10.2-4-7 upon the member's death following
 33 retirement at:

- 34 (1) fifty (50) years of age; or
 35 (2) the actual date of death;

36 whichever is later. However, benefits payable under this subsection are
 37 subject to subsections (e) and (g).

38 (c) If a member described in subsection (a) dies without a surviving
 39 spouse who was married to the member for at least two (2) years, but
 40 with a surviving dependent, the surviving dependent is entitled to a
 41 survivor benefit in a monthly amount equal to the actuarial equivalent
 42 of the monthly benefit that would have been payable to the spouse



1 (assuming the spouse would have had the same birth date as the
2 member) under the joint and survivor option of IC 5-10.2-4-7 upon the
3 member's death following retirement at:

4 (1) fifty (50) years of age; or

5 (2) the actual date of death;

6 whichever is later. If there are two (2) or more surviving dependents,
7 the actuarial equivalent of the benefit described in this subsection shall
8 be calculated and, considering the dependents' attained ages, an equal
9 dollar amount shall be determined as the monthly benefit to be paid to
10 each dependent. Monthly benefits under this subsection are payable
11 until the date the dependent becomes eighteen (18) years of age or dies,
12 whichever is earlier. However, if a dependent is permanently and
13 totally disabled (using disability guidelines established by the Social
14 Security Administration) at the date the dependent reaches eighteen
15 (18) years of age, the monthly benefit is payable until the date the
16 dependent is no longer disabled (using disability guidelines established
17 by the Social Security Administration) or dies, whichever is earlier.
18 Benefits payable under this subsection are subject to subsections (e)
19 and (g).

20 (d) Except as provided in subsections (e) and (h), the surviving
21 spouse or surviving dependent of a member who is entitled to a
22 survivor benefit under subsection (b) or (c) or section 7.6 of this
23 chapter may elect to receive a lump sum payment of the **total** amount
24 credited to the member in the member's annuity savings account **or an**
25 **amount equal to the member's federal income tax basis in the**
26 **member's annuity savings account as of December 31, 1986.** A
27 surviving spouse or surviving dependent who makes such an election
28 is not entitled to an annuity as part of the survivor benefit under
29 subsection (b) or (c) or section 7.6 of this chapter **to the extent of the**
30 **lump sum payment.**

31 (e) If a member described in subsection (a) or section 7.6(a) of this
32 chapter is survived by a designated beneficiary who is not a surviving
33 spouse or surviving dependent entitled to a survivor benefit under
34 subsection (b) or (c) or section 7.6 of this chapter, the following
35 provisions apply:

36 (1) If the member is survived by one (1) designated beneficiary,
37 the designated beneficiary is entitled to receive in a lump sum the
38 amount credited to the member's annuity savings account, less any
39 disability benefits paid to the member.

40 (2) If the member is survived by two (2) or more designated
41 beneficiaries, the designated beneficiaries are entitled to receive
42 in a lump sum equal shares of the amount credited to the



1 member's annuity savings account, less any disability benefits
2 paid to the member.

3 (3) If the member is also survived by a spouse or dependent who
4 is entitled to a survivor benefit under subsection (b) or (c) or
5 section 7.6 of this chapter, the surviving spouse or dependent is
6 not entitled to an annuity or a lump sum payment as part of the
7 survivor benefit.

8 (f) If a member dies:

9 (1) without a surviving spouse or surviving dependent who
10 qualifies for survivor benefits under subsection (b) or (c) or
11 section 7.6 of this chapter; and

12 (2) without a surviving designated beneficiary who is entitled to
13 receive the member's annuity savings account under subsection
14 (e);

15 the amount credited to the member's annuity savings account, less any
16 disability benefits paid to the member, shall be paid to the member's
17 estate.

18 (g) Survivor benefits payable under this section or section 7.6 of this
19 chapter shall be reduced by any disability benefits paid to the member.

20 (h) Additional annuity contributions, if any, shall not be included in
21 determining survivor benefits under subsection (b) or (c) or section 7.6
22 of this chapter, but are payable in a lump sum payment to:

23 (1) the member's surviving designated beneficiary; or

24 (2) the member's estate, if there is no surviving designated
25 beneficiary.

26 (i) Survivor benefits provided under this section or section 7.6 of
27 this chapter are subject to IC 5-10.2-2-1.5.

28 **(j) A benefit specified in this section shall be forfeited and**
29 **credited to the member's retirement fund if no person entitled to**
30 **the benefit claims it within three (3) years after the member's**
31 **death. However, the board may honor a claim that is made more**
32 **than three (3) years after the member's death if the board finds, in**
33 **the board's discretion, that:**

34 **(1) the delay in making the claim was reasonable or other**
35 **extenuating circumstances justify the award of the benefit to**
36 **the claimant; and**

37 **(2) paying the claim would not cause a violation of the**
38 **applicable Internal Revenue Service rules.**

39 SECTION 4. IC 5-10.2-4-6 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) A member who
41 becomes disabled while ~~in active service~~ **receiving a salary or**
42 **employer provided income protection benefits** may retire for the



1 duration of his disability if:

2 (1) the member has at least five (5) years of creditable service

3 **prior to the:**

4 **(A) termination of a salary or employer provided income**
5 **protection benefits; or**

6 **(B) exhaustion of all worker's compensation benefits;**

7 (2) the member has qualified for Social Security disability
8 benefits and has furnished proof of the Social Security
9 qualification to the board; and

10 (3) at least once each year until the member reaches age sixty-five

11 (65) a representative of the board verifies the continued disability.

12 For the purposes of this section, a member of the public employees'
13 retirement fund who has qualified for disability benefits under the
14 federal civil service system is considered to have met the requirement
15 of subdivision (2) if he furnishes proof of the qualification to the board
16 of the public employees' retirement fund.

17 (b) ~~The month following the date of~~ **Benefits for disability the**
18 ~~member is entitled to receive a benefit under this section. shall be paid~~
19 **beginning with the month following the onset of disability as**
20 **determined by the Social Security Administration.** The benefit is the
21 retirement benefit specified in section 4 of this chapter with the pension
22 computed using only the years of creditable service worked to the date
23 of disability and without reduction for early retirement. However, the
24 monthly disability retirement benefit may not be less than one hundred
25 dollars (\$100).

26 (c) The member may have his benefit paid under any of the
27 retirement benefit options specified in section 7 of this chapter, **except**
28 **that the member may not choose to have the member's disability**
29 **retirement benefit paid under the method specified under section**
30 **2(b) of this chapter.**

31 (d) This section applies to:

32 (1) a member of the public employees' retirement fund who
33 became disabled after June 30, 1973; and

34 (2) a member of the Indiana state teachers' retirement fund who
35 becomes disabled after June 30, 1984, and who chooses disability
36 retirement under this section.

37 (e) To the extent required by the Americans with Disabilities Act
38 (42 U.S.C. 12101 et seq.) and any amendments and regulations to the
39 Act, the transcripts, records, and other material compiled to determine
40 the existence of a disability shall be:

41 (1) kept in separate medical files for each member; and

42 (2) treated as confidential medical records.



1 **(f) A member may continue to receive disability benefits from**
 2 **the public employees' retirement fund or the Indiana state**
 3 **teachers' retirement fund so long as the member is entitled to**
 4 **receive Social Security benefits, including periods of trial**
 5 **employment or rehabilitation under the Social Security guidelines.**
 6 **However, during a period of trial employment or rehabilitation**
 7 **service credit may not be granted under the public employees'**
 8 **retirement fund or the Indiana state teachers' retirement fund.**

9 SECTION 5. IC 5-10.3-7-4.5, AS ADDED BY P.L.5-1997,
 10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 1998]: Sec. 4.5. (a) As used in this section, "out-of-state
 12 service" means service in another state in a comparable position that
 13 would be creditable service if performed in Indiana.

14 (b) Subject to subsections (c) through (f), a member may purchase
 15 out-of-state service credit if the member meets the following
 16 requirements:

17 (1) The member has at least one (1) year of creditable service in
 18 the fund.

19 (2) Before the member retires, the member makes contributions
 20 to the fund as follows:

21 (A) Contributions that are equal to the product of the
 22 following:

23 (i) The member's salary at the time the member actually
 24 makes a contribution for the service credit.

25 (ii) A rate, determined by the actuary of the fund, based on
 26 the age of the member at the time the member actually
 27 makes a contribution for service credit and computed to
 28 result in a contribution amount that approximates the
 29 actuarial present value of the benefit attributable to the
 30 service credit purchased.

31 (iii) The number of years of out-of-state service the member
 32 intends to purchase.

33 (B) Contributions for any accrued interest, at a rate determined
 34 by the actuary for the fund, for the period from the member's
 35 initial membership in the fund to the date payment is made by
 36 the member.

37 (3) The member has received verification from the fund that the
 38 out-of-state service is, as of that date, valid.

39 (c) Out-of-state years that qualify a member for retirement in an
 40 out-of-state system or in any federal retirement system may not be
 41 granted under this section.

42 (d) At least ten (10) years of service in Indiana is required before a



1 member may receive a benefit based on out-of-state service credits.

2 (e) A member who:

3 (1) terminates employment before satisfying the eligibility
4 requirements necessary to receive a monthly allowance; or

5 (2) receives a monthly allowance for the same service from
6 another tax supported public employee retirement plan other than
7 under the Social Security Act;

8 may withdraw the purchase amount plus accumulated interest after
9 submitting a properly completed application for a refund to the fund.

10 (f) The following apply to the purchase of service credit under this
11 section:

12 ~~(1) A member may purchase service credit not later than:~~

13 ~~(A) July 1, 1998; or~~

14 ~~(B) four (4) years after the member becomes eligible to~~
15 ~~purchase the service credit;~~

16 ~~whichever is later.~~

17 ~~(2) (1) The board may allow a member to make periodic payments~~
18 ~~of the contributions required for the purchase of the service credit.~~
19 ~~The board shall determine the length of the period during which~~
20 ~~the payments must be made.~~

21 ~~(3) (2) The board may deny an application for the purchase of~~
22 ~~service credit if the purchase would exceed the limitations under~~
23 ~~Section 415 of the Internal Revenue Code.~~

24 ~~(4) (3) A member may not claim the service credit for purposes of~~
25 ~~determining eligibility or computing benefits unless the member~~
26 ~~has made all payments required for the purchase of the service~~
27 ~~credit.~~

28 SECTION 6. IC 21-6.1-4-1 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) The members of
30 the fund include:

31 (1) legally qualified and regularly employed teachers in the public
32 schools;

33 (2) persons employed by a governing body, who were qualified
34 before their election or appointment;

35 (3) legally qualified and regularly employed teachers at Ball State
36 University, Indiana State University, University of Southern
37 Indiana, or Vincennes University;

38 (4) legally qualified and regularly employed teachers in a state
39 educational institution supported wholly by public money and
40 whose teachers devote their entire time to teaching;

41 (5) legally qualified and regularly employed teachers in state
42 benevolent, charitable, or correctional institutions;



- 1 (6) legally qualified and regularly employed teachers in an
 2 experimental school in a state university who teach elementary or
 3 high school students;
 4 (7) as determined by the board, certain instructors serving in a
 5 university extension division not covered by a state retirement
 6 law;
 7 (8) employees and officers of the department of education and of
 8 the fund who were qualified before their election or appointment;
 9 and
 10 (9) a person:
 11 (A) who is employed as a nurse appointed under IC 20-8.1-7-5
 12 by a school corporation located in a city having a population
 13 of more than one hundred ten thousand (110,000) but less than
 14 one hundred twenty thousand (120,000); and
 15 (B) who participated in the fund before December 31, 1991, in
 16 the position described in clause (A).
 17 (b) Teachers in any state institution who accept the benefits of a
 18 state supported retirement benefit system comparable to the fund's
 19 benefits may not come under the fund unless permitted by law or the
 20 rules of the board.
 21 **(c) The members of the fund do not include substitute teachers**
 22 **who have not obtained an associate degree or a baccalaureate**
 23 **degree.**
 24 SECTION 7. IC 21-6.1-4-4.5, AS AMENDED BY P.L.25-1994,
 25 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 1998]: Sec. 4.5. (a) "Out-of-state service" means service in
 27 any state in a comparable position which would be creditable service
 28 if performed in Indiana. The term includes comparable service
 29 performed on a United States military installation, in a federal prison,
 30 or at an educational facility operated or supervised by the Bureau of
 31 Indian Affairs.
 32 (b) In computing the service credit for each member who began
 33 teaching in Indiana before July 1, 1981, and who has served as a public
 34 school teacher out of state, the board may include the greater of eight
 35 (8) years or one (1) year of out-of-state service for every four (4) years
 36 of in-state service; however, this out-of-state service may be included
 37 only if rendered before July 1, 1981.
 38 (c) In addition, a member may purchase out-of-state service credit
 39 which has not been claimed under subsection (b) ~~of this section;~~
 40 subject to the limitations of subsections (d) and (e) ~~of this section;~~ if he:
 41 (1) has at least one (1) year of creditable service in the teachers'
 42 retirement fund;



1 (2) makes contributions, before he retires, to the teachers'
2 retirement fund:

3 (A) which are equal to the product of the following:

4 (i) the member's salary when the member first becomes a
5 member of the teachers' retirement fund, for service credit
6 purchased before January 1, 1994, or the member's salary at
7 the time the member actually makes a contribution for the
8 service credit, for service credit purchased after December
9 31, 1993;

10 (ii) normal cost, as determined by the actuary of the teachers'
11 retirement fund (For purposes of this chapter, "normal cost"
12 means the value of the annual amount required to fund the
13 prospective benefits promised an employee for the work he
14 has performed.) for service credit purchased before January
15 1, 1994, or a percentage rate, as determined by the actuary
16 of the teachers' retirement fund, based on the age of the
17 member at the time the member actually makes a
18 contribution for service credit and computed to result in a
19 contribution amount that approximates the actuarial present
20 value of the benefit attributable to the service credit
21 purchased, for service credit purchased after December 31,
22 1993; and

23 (iii) the number of years of out-of-state service the member
24 intends to purchase; and

25 (B) for any accrued interest, at a rate determined by the
26 actuary for the teachers' retirement fund, for the period from
27 the member's initial membership in the teachers' retirement
28 fund to the date payment is made by the member; and

29 (3) has received verification from the teachers' retirement fund
30 that the out-of-state service is, as of that date, valid.

31 (d) Out-of-state years which qualify a member for retirement in an
32 out-of-state system or in any federal retirement system may not be
33 granted under this section.

34 (e) After April 1, 1965, at least ten (10) years of in-state service is
35 required before a member may claim any out-of-state service credits.

36 (f) A member who:

37 (1) terminates employment before satisfying the eligibility
38 requirements necessary to receive a monthly allowance; or

39 (2) receives a monthly allowance for the same service from
40 another tax supported public employee retirement plan other than
41 under the Social Security Act;

42 may withdraw the personal contributions made under the contributory



1 plan plus accumulated interest after submitting a properly completed
2 application for a refund to the teachers' retirement fund.

3 (g) The following apply to the purchase of service credit under this
4 section after July 1, ~~1993~~: **1998**:

5 ~~(1) A member may purchase service credit not later than the later~~
6 ~~of:~~

7 ~~(A) July 1, 1998; or~~

8 ~~(B) four (4) years after the member becomes eligible to~~
9 ~~purchase the service credit.~~

10 ~~(2) (1)~~ The board may allow a member to make periodic payments
11 of the contributions required for the purchase of the service credit.
12 The board shall determine the length of the period during which
13 the payments must be made.

14 ~~(3) (2)~~ The board may deny an application for the purchase of
15 service credit if the purchase would exceed the limitations under
16 Section 415 of the Internal Revenue Code.

17 ~~(4) (3)~~ A member may not claim the service credit for purposes of
18 determining eligibility or computing benefits unless the member
19 has made all payments required for the purchase of the service
20 credit.

21 (h) Contributions received after July 1, 1993, for the purchase of
22 service credit under this section must be applied against the unfunded
23 accrued liability of the fund.

24 SECTION 8. IC 21-6.1-4-4.6 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 1998]: **Sec. 4.6. (a) As used in this section,**
27 **"substitute teaching service" means service in Indiana as a**
28 **substitute teacher that is not covered under section 1(c) of this**
29 **chapter, but is served by a person who has other service that is**
30 **covered under section 1(a) of this chapter.**

31 **(b) A member may purchase substitute teaching service if:**

32 **(1) the member has at least one (1) year of creditable service**
33 **in the fund;**

34 **(2) the member makes contributions, before the member**
35 **retires, to the fund:**

36 **(A) that are equal to the product of the following:**

37 **(i) the member's salary at the time the member actually**
38 **makes a contribution for the service credit;**

39 **(ii) a percentage rate, as determined by the actuary of**
40 **the fund, based on the age of the member at the time the**
41 **member makes a contribution for service credit and**
42 **computed to result in a contribution amount that**



1 **approximates the actuarial present value of the benefit**
 2 **attributable to the service credit purchased; and**

3 **(iii) the number of years of substitute teaching service**
 4 **the member intends to purchase; and**

5 **(B) for any accrued interest, at a rate determined by the**
 6 **actuary of the fund, for the period from the member's**
 7 **initial membership in the fund to the date payment is made**
 8 **by the member; and**

9 **(3) the fund receives verification from the school corporation**
 10 **that the substitute teaching service occurred.**

11 **(c) Service for years of substitute teaching that qualify a**
 12 **member for retirement in an out-of-state system or in any federal**
 13 **retirement system may not be granted under this section.**

14 **(d) A member who:**

15 **(1) terminates employment before satisfying the eligibility**
 16 **requirements necessary to receive a monthly allowance; or**

17 **(2) receives a monthly allowance for the same service from**
 18 **another tax supported public employee retirement plan other**
 19 **than under the Social Security Act;**

20 **may withdraw the personal contributions made under the**
 21 **contributory plan plus accumulated interest after submitting to the**
 22 **fund a properly completed application for a refund.**

23 **(e) The following apply to the purchase of service credit under**
 24 **this section:**

25 **(1) The board may allow a member to make periodic**
 26 **payments of the contributions required for the purchase of**
 27 **the service credit. The board shall determine the length of the**
 28 **period during which the payments must be made.**

29 **(2) The board may deny an application for the purchase of**
 30 **service credit if the purchase would exceed the limitations**
 31 **under Section 415 of the Internal Revenue Code.**

32 **(3) A member may not claim the service credit for purposes**
 33 **of determining eligibility or computing benefits unless the**
 34 **member has made all payments required for the purchase of**
 35 **the service credit.**

36 **SECTION 9. IC 21-6.1-4-5, AS AMENDED BY P.L.5-1997,**
 37 **SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 38 **JULY 1, 1998]: Sec. 5. (a) Except as provided in IC 21-6.1-4-6.1, a**
 39 **member may be given credit for leaves of absence for study,**
 40 **professional improvement, and temporary disability so long as the**
 41 **leave credit does not exceed one-seventh of the total years of service**
 42 **claimed for retirement, referred to as the one-seventh rule. A member**



1 granted a leave in these instances for exchange teaching and for other
 2 educational employment approved individually by the board is
 3 considered a teacher and is entitled to the benefits of the fund if for or
 4 during the leave the member pays into the fund the member's
 5 contributions. A leave for other educational employment is not subject
 6 to the one-seventh rule.

7 (b) In each case of a teacher requesting a leave of absence to work
 8 in a federally supported educational project, the board must determine
 9 that the project is educational in nature and serves state citizens who
 10 might otherwise be served by the public schools or public institutions
 11 of higher education. The board shall make this determination for a one
 12 (1) year period, which is later subject to review and reapproval.

13 (c) Subject to this chapter, leaves of absence, specified in
 14 IC 20-6.1-6-1, IC 20-6.1-6-2, or IC 20-6.1-6-3, **or for adoption leave**
 15 **not exceeding one (1) year**, must be credited to retirement.

16 (d) Notwithstanding any law, this section must be administered in
 17 a manner consistent with the Family and Medical Leave Act of 1993
 18 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies
 19 for the benefits and protections afforded by the Family and Medical
 20 Leave Act is entitled to receive credit for vesting and eligibility
 21 purposes to the extent required by the Family and Medical Leave Act,
 22 but is not entitled to receive credit for service for benefit purposes
 23 unless the leave is described in subsection (a), (b), or (c).

24 SECTION 10. IC 21-6.1-7-7 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) On or before
 26 January 15, April 15, July 15, and October 15 of each year, the
 27 treasurer of each school corporation, the township trustee, or the
 28 appropriate officer of any other institution covered by the fund shall
 29 make an employer report **as provided in section 8 of this chapter**, on
 30 a form furnished by the board, to the board and accompany it with a
 31 warrant in payment of:

- 32 (1) total net contributions made for or by the members in the
- 33 preceding three (3) months for the fund; and
- 34 (2) employer contributions as required by section 12 of this
- 35 chapter.

36 Amendatory reports to correct errors or omissions may be required and
 37 made.

38 (b) As used in this section, "net contributions" means the gross
 39 amount of a member's contributions minus any refund paid or due a
 40 teacher.

41 SECTION 11. IC 21-6.1-7-8 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) ~~Before or on July~~



1 ~~31~~ **On or before January 15, April 15, July 15, and October 15** of
 2 each year, the treasurer of each school corporation, the township
 3 trustee, or the appropriate officer of any other institution covered by the
 4 fund shall make a report to the board on a form furnished by the board
 5 **and within the time set by the board.** Amendatory reports to correct
 6 errors or omissions may be required and made.

7 (b) The report required by subsection (a) must include:

8 (1) the name of each member employed in the preceding ~~school~~
 9 **year; reporting period,** except substitute teachers; ~~employed~~
 10 **without a contract;**

11 (2) the total salary and other compensation paid for personal
 12 services to each member in the ~~school year; reporting period;~~

13 (3) the sum of contributions made for or by each member and the
 14 sum of employer contributions made by the school corporation or
 15 other institution;

16 (4) the number of days each member received salary or other
 17 compensation for teaching services; ~~under contract;~~ and

18 (5) any other information which the board finds necessary for the
 19 effective management of the fund.

20 (c) **As often as the board determines necessary, the board may**
 21 **audit or cause to be audited the records of any public entity**
 22 **contributing to the fund under IC 21-6.1.**

23 SECTION 12. IC 21-6.1-7-9 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. If the treasurer of a
 25 school corporation, the township trustee, or the appropriate officer of
 26 any other institution covered by the fund fails to make the reports **and**
 27 **payments** as required in section 7 or 8 of this chapter:

28 (1) **the officer has an additional thirty (30) days to make the**
 29 **reports and payments without a penalty;**

30 (2) **after thirty (30) days have passed since the deadlines**
 31 **required under section 7 or 8 of this chapter, the board may**
 32 **fine the school corporation or institution that the officer**
 33 **serves one hundred dollars (\$100) for each additional day that**
 34 **the reports and payments are late; and**

35 (3) **if the officer is habitually late as determined by the board,**
 36 the school corporation or institution which that officer serves is
 37 ineligible to receive any distribution of money from the state for
 38 school purposes until the reports and payments are received and
 39 approved by the board.

40 SECTION 13. IC 36-8-8-12.7 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12.7. (a) This section
 42 applies to hearings conducted by local boards concerning



1 determinations of impairment under this chapter or of disability under
2 IC 36-8-5-2(g), IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

3 (b) At least five (5) days before the hearing, the local board shall
4 give notice to the fund member and the safety board of the time, date,
5 and place of the hearing.

6 (c) At the hearing, the local board shall permit the fund member and
7 the safety board to:

- 8 (1) be represented by any individual;
- 9 (2) through witnesses and documents, present evidence;
- 10 (3) conduct cross-examination; and
- 11 (4) present arguments.

12 (d) At the hearing, the local board shall require all witnesses to be
13 examined under oath, which may be administered by a member of the
14 local board.

15 (e) The local board shall, at the request of the fund member or the
16 safety board, issue:

- 17 (1) subpoenas;
- 18 (2) discovery orders; and
- 19 (3) protective orders;

20 in accordance with the Indiana Rules of Trial Procedure that govern
21 discovery, depositions, and subpoenas in civil actions.

22 (f) The local board shall have the hearing recorded so that a
23 transcript may be made of the proceedings.

24 (g) After the hearing, the local board shall make its determinations,
25 including findings of fact, in writing and shall provide copies of its
26 determinations to the fund member and the safety board.

27 (h) The local board may on its own motion issue:

- 28 (1) subpoenas;
- 29 (2) discovery orders; and
- 30 (3) protective orders;

31 in accordance with the Indiana Rules of Trial Procedure that govern
32 discovery, depositions, and subpoenas in civil actions.

33 (i) At the hearing, the local board may exclude evidence that is
34 irrelevant, immaterial, unduly repetitious, or excludable on the basis of
35 evidentiary privilege recognized by the courts.

36 (j) At the hearing, the local board may request the testimony of
37 witnesses and the production of documents.

38 (k) If a subpoena or order is issued under this section, the party
39 seeking the subpoena or order shall serve it in accordance with the
40 Indiana Rules of Trial Procedure. However, if the subpoena or order is
41 on the local board's own motion, the sheriff of the county in which the
42 subpoena or order is to be served shall serve it. A subpoena or order



1 under this section may be enforced in the circuit or superior court of
2 the county in which the subpoena or order is served.

3 (l) With respect to a hearing conducted for purposes of determining
4 disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5, the determination
5 of the local board after a hearing is final and may be appealed to the
6 court.

7 (m) With respect to a hearing conducted for purposes of
8 determining impairment **or class of impairment** under this chapter, the
9 fund member may appeal the local board's determinations. ~~if the local~~
10 ~~board determines that a covered impairment does not exist.~~ An appeal
11 under this subsection:

12 (1) must be made in writing;

13 (2) must state the class of impairment and the degree of
14 impairment that is claimed by the fund member;

15 (3) must include a written determination by the chief of the police
16 or fire department stating that there is no suitable and available
17 work; and

18 (4) must be filed with the local board and the PERF board's
19 director no later than thirty (30) days after the date on which the
20 fund member received a copy of the local board's determinations.

21 (n) To the extent required by the Americans with Disabilities Act,
22 the transcripts, records, reports, and other materials generated as a
23 result of a hearing, review, or appeal conducted to determine an
24 impairment under this chapter or a disability under IC 36-8-6,
25 IC 36-8-7, or IC 36-8-7.5 must be:

26 (1) retained in the separate medical file created for the member;
27 and

28 (2) treated as a confidential medical record.

29 SECTION 14. IC 36-8-8-18 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 18. (a) Except as
31 provided in subsection (b), if a unit becomes a participant in the 1977
32 fund, credit for prior service by police officers or firefighters before the
33 date of participation may be given by the PERF board only if:

34 (1) the unit contributes to the 1977 fund the amount necessary to
35 amortize prior service liability over a period of not more than
36 forty (40) years, the amount and period to be determined by the
37 PERF board; and

38 (2) the police officers or firefighters pay, either in a lump sum or
39 in a series of payments determined by the PERF board, the
40 amount that they would have contributed if they had been
41 members of the 1977 fund during their prior service.

42 If the requirements of subdivisions (1) and (2) are not met, a fund



1 member is entitled to credit only for years of service after the date of
2 participation.

3 (b) If a unit becomes a participant in the 1977 fund under section
4 3(c) of this chapter, or if a firefighter becomes a member of the 1977
5 fund under section 7(g) of this chapter, credit for prior service before
6 the date of participation or membership ~~may~~ **shall** be given by the
7 PERF board ~~only if the following requirements are met:~~ **as follows:**

8 **(1) For a member who will accrue twenty (20) years of service**
9 **credit in the 1977 fund by the time the member reaches the**
10 **earliest retirement age under the fund at the time of the**
11 **member's date of participation in the 1977 fund, the member**
12 **will be given credit in the 1977 fund for one-third (1/3) of the**
13 **member's years of participation in PERF as a police officer,**
14 **a firefighter, or an emergency medical technician.**

15 **(2) For a member who will not accrue twenty (20) years of**
16 **service credit in the 1977 fund by the time the member**
17 **reaches the earliest retirement age under the fund at the time**
18 **of the member's date of participation in the 1977 fund, such**
19 **prior service shall be given only if:**

20 ~~(+)~~ **(A)** The unit contributes to the 1977 fund the amount
21 necessary to fund prior service liability amortized over a
22 period of not more than ten (10) years. The amount of
23 contributions must be based on the actual salary earned by a
24 first class firefighter at the time the unit becomes a participant
25 in the 1977 fund, or the firefighter becomes a member of the
26 1977 fund, or if no such salary designation exists, the actual
27 salary earned by the firefighter. However, credit for prior
28 service is limited to the amount necessary to allow the
29 firefighter to accrue twenty (20) years of service credit in the
30 1977 fund by the time the firefighter reaches ~~fifty-five (55)~~
31 **years of age: the earliest retirement age under the 1977**
32 **fund at the time of the member's date of participation in**
33 **the 1977 fund.** The limit on credit for prior service does not
34 apply if the firefighter was a member of the 1937 fund or 1977
35 fund whose participation was terminated due to the creation of
36 a new fire protection district under IC 36-8-11-5 and who
37 subsequently became a member of the 1977 fund. A firefighter
38 who was a member of or reentered the 1937 fund or 1977 fund
39 whose participation was terminated due to the creation of a
40 new fire protection district under IC 36-8-11-5 is entitled to
41 full credit for prior service in an amount equal to the
42 firefighter's years of service before becoming a member of or



1 reentering the 1977 fund. Service may only be credited for
 2 time as a full-time, fully paid firefighter or as an emergency
 3 medical technician under section 7(g) of this chapter.

4 ~~(2)~~ **(B)** The amount the firefighter would have contributed if
 5 the firefighter had been a member of the 1977 fund during the
 6 firefighter's prior service must be fully paid and must be based
 7 on the firefighter's actual salary earned during that period
 8 before service can be credited under this section.

9 ~~(3)~~ **(C)** Any amortization schedule for contributions paid under
 10 ~~subdivision (1)~~ **clause (A)** and contributions to be paid under
 11 ~~subdivision (2)~~ **clause (B)** must include interest at a rate
 12 determined by the PERF board.

13 (c) This subsection applies to a unit that:

14 (1) becomes a participant in the 1977 fund under section 3(c) of
 15 this chapter; and

16 (2) is a fire protection district created under IC 36-8-11 that
 17 includes a township or a municipality that had a 1937 fund.

18 A firefighter who continues uninterrupted service with a unit covered
 19 by this subsection and who participated in the township or municipality
 20 1937 fund is entitled to receive service credit for such service in the
 21 1977 fund. However, credit for such service is limited to the amount
 22 accrued by the firefighter in the 1937 fund or the amount necessary to
 23 allow the firefighter to accrue twenty (20) years of service credit in the
 24 1977 fund by the time the firefighter becomes fifty-five (55) years of
 25 age, whichever is less.

26 (d) The unit shall contribute into the 1977 fund the amount
 27 necessary to fund the amount of past service determined in accordance
 28 with subsection (c), amortized over a period not to exceed ten (10)
 29 years with interest at a rate determined by the PERF board.

30 (e) If the township or municipality has accumulated money in its
 31 1937 fund, any amount accumulated that exceeds the present value of
 32 all projected future benefits from the 1937 plan shall be paid by the
 33 township or municipality to the unit for the sole purpose of making the
 34 contributions determined in subsection (d).

