CONFERENCE COMMITTEE REPORT
DIGEST FOR HB 1093

Citations Affected: IC 2-3.5; IC 4-3; IC 5-10; IC 5-10.3; IC 21-6.1; IC 33-13; IC 36-8.

Synopsis: Public pension funds. Provides that for purposes of the legislators' retirement system law, "salary" includes amounts deferred under a deferred compensation plan. Provides that on any July 1 following the date a person begins participation in the defined contribution fund of the legislators' retirement system, any amount in the person's PERF or TRF annuity savings account may be transferred to the defined contribution fund. Requires the PERF board to establish alternative investment programs within the legislators' defined contribution fund. Requires the PERF board to maintain at least an indexed stock fund and a bond fund. Specifies that a participant may make a selection or change an existing selection at any time, but not more than one time in a 12 month period. Specifies other requirements concerning investment and valuation within the alternative investment program. Provides that when a participant in the defined contribution plan of the legislators' retirement system terminates service as a member of the general assembly, the participant is entitled to withdraw the contribution account amounts in a series of monthly installment payments over 60, 120, or 180 months (current law also allows the withdrawn amount to be paid in a lump sum or in an annuity). Provides for a series of monthly installment payments over 60 months in the case of a participant who dies while serving in the general assembly or after terminating service but before withdrawing the participant's account from the defined contribution account. (Current law also provides payments to be made in a lump sum or an annuity.) Provides that an employee who: (1) has at least ten (10) years of creditable service with a state agency; (2) retires after June 30, 2000; and (3) has accrued and unused sick days, vacation days, or personal days on the employee's retirement date; is entitled to have certain amounts deposited by the state into a cafeteria plan under Section 125 of the Internal Revenue Code. Requires the state personnel department to adopt rules that it considers necessary to make periodic payments to a cafeteria plan on behalf of the eligible retired employees. Provides that the rules may include provisions setting forth: (1) the minimum or maximum total amount or annual amount that may be deposited by the state on behalf of retired employees; (2) the period of years of deposits; and (3) payment provisions. Provides that an amount deposited on behalf of a participating retired employee is based on the hourly rate the employee was paid on the employee's retirement date. Provides that: (1) an employee with at least 10 years of creditable service but less than 15 years of creditable service is entitled to an amount based on 20% of the employee's accrued days; (2) an employee with at least 15 years of creditable service but less than 20 years of creditable service is entitled to an amount based on 35% of the employee's accrued days; and (3) an employee with at least 20 years of creditable service is entitled to an amount based on not more than 50% of the employee's accrued days. Provides that the state, through the budget agency, may adopt a defined contribution plan for the purpose of matching all or a specified portion of state employees' contributions to the state employees' deferred compensation plan. Provides that the deferred compensation committee is the trustee of the plan. Provides that the plan shall be administered by the auditor of state. Specifies that the pension of the surviving spouse of a governor who dies after June 30, 1998, is equal to the greater of: (1) 50% of the annual retirement benefit that the governor to whom the surviving spouse was married was receiving or was entitled to receive on the date of the governor's death; or (2) $10,000. Specifies that the pension of the surviving spouse of a governor who died before July 1, 1999, is equal to the greater of: (1) the annual retirement benefit received by the surviving spouse during the year beginning July 1, 1998; or (2) $10,000. Provides that the valuation of PERF and TRF members' annuity savings accounts that are invested in an alternative investment program must be done at least quarterly. (Current law requires the valuation to be done annually.) Provides that when a member participating in an alternative investment program transfers the amount credited to the member from one alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member is valued at the market value of the member's investment, as of the day before the effective date of the member's selection. (Current law provides that it is valued as of the last day of the preceding quarter.) Provides that when a member participating in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. Provides that annuity savings account contributions to the alternative investment programs: (1) shall be invested as of the last day of the quarter in which the contributions are received; and (2) begin to accumulate interest at the beginning of the quarter after the quarter in which the contributions are received. Provides that contributions to the alternative investment programs shall be invested as of the last day of the quarter in which the contributions are received. Specifies information that a PERF or TRF member must provide when filing an application for retirement benefits. Provides that the PERF board and the TRF board may suspend a person's fund membership and pay the person the annuity savings account if the member has not performed any service in a covered position during the past two years, is not vested, and has a total benefit value of less than $200. Provides that the PERF or TRF boards may purchase securities issued by a custodian bank or trust company or a subsidiary, parent, or holding company of the custodian. Provides that PERF and TRF members are entitled to service credit for adoption leave of not more than one year. Allows PERF and TRF to pay an estimated retirement benefit to a member under certain circumstances. Provides that after a member's actual retirement benefit is calculated, the fund shall temporarily adjust the member's benefit to reconcile any underpayment or overpayment that resulted from the payment of estimated benefits. Allows a member of PERF or TRF to designate a new beneficiary under certain circumstances. Allows a member of PERF or TRF to elect to begin receiving the member's pension benefit but to leave the member's annuity savings account invested until a later date. Continues to use an earnings limit prepared under federal Social Security laws to determine how much a PERF or TRF member who is receiving benefits may earn in a fund-covered position before the member's benefits are suspended and the member is reinstated into active membership, but specifies the period within which the limit is applied. Provides for an automatic suspension of benefits if a member is reemployed within 90 days of retirement. Requires an employer to submit a PERF member's membership records to the PERF board not more than 30 days after the member is hired. Provides that if an employer does not provide the PERF board with employees' membership records or other reports or payments within 30 days after the records, reports, or payments are due, the PERF board may fine the employer $100 for each day the records, reports, or payments are late. Allows the auditor of state to withhold this penalty from money payable by the state to the employer. Allows certain individuals to claim service credit in PERF if the individuals: (1) were erroneously enrolled in PERF before 1980; (2) made contributions to PERF; and (3) were subsequently denied all or part of the service credit for a position that would otherwise be covered by PERF. Allows PERF members to purchase service credit at actuarial cost for their prior service in positions covered by the 1925 fund, the 1937 fund, or the 1953 fund if they did not vest in any of those funds. Provides that TRF members may purchase service credit for private school teaching after one year of credited service in TRF. (Current law provides that the private school service credit may be purchased only after the TRF member has ten years of credited service in TRF.) Provides that a TRF member who purchases service credit for private school teaching may not claim the service credit until the member has at least ten years of credited service in TRF. (These changes would make the provisions concerning purchase of private school service credit consistent with provisions concerning the purchase of other forms of service credit.) Provides that private school teaching credit may be claimed for teaching kindergarten through postsecondary school. Provides that if a member of the 1977 fund requests a hearing concerning a determination of impairment, the local police or firefighter pension board must hold the hearing within 90 days after the member's request and must make a determination within 30 days after the hearing. Allows members with at least eight years of service in the judges' retirement system to purchase service credit at full actuarial cost for prior service in an Indiana public employees' retirement fund. Provides that a police officer or marshal employed by a town that establishes a board of metropolitan police commissioners or a town that becomes a city may participate in the 1977 fund regardless of the person's age if the person meets certain physical standards. Provides that any prior service credit for such a person may be granted only in accordance with existing law concerning the granting of prior service credit. Provides that for purposes of the 1977 fund provisions concerning line of duty benefits paid to a survivor, the term "line of duty" also includes any action that a fund member, in the member's capacity as a police officer or firefighter, performs: (1) in the course of controlling or reducing crime or enforcing the criminal law; or (2) while on the scene of an emergency run or on the way to or from the scene. (This conference committee report: (1) adds the provisions concerning the legislators' retirement system; (2) adds the provisions concerning deposits in a cafeteria plan for certain state employees who have accrued and unused sick days, vacation days, or personal days on the employee's retirement date; and (3) adds a requirement that a judge must have at least eight years in the judges' retirement system before the judge may purchase the prior service credit.)

Effective: July 1, 1999; July 1, 2000.

Adopted Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1093 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-3.5-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. "Salary" means:

(1) the salary; and

(2) the business per diem allowance and the subsistence allowance treated as compensation for federal income tax purposes;

paid to a participant by the state, determined without regard to any salary reduction agreement established under Section 125 **or Section 457** of the Internal Revenue Code.

SECTION 2. IC 2-3.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The defined contribution fund consists of the following:

(1) Each participant's contributions to the fund.

(2) Contributions made to the fund on behalf of the participants under section 5 of this chapter.

(3) Amounts transferred to the fund under subsections (b) and (c).

(4) All gifts, grants, devises, and bequests in money, property, or other form made to the fund.

(5) All earnings on investments or on deposits of the funds.

(6) All contributions or payments to the fund made in a manner provided by the general assembly.

(b) On **any** July 1 following the date a participant begins participation in the defined contribution fund, if the participant has been before that date a member of PERF, any amount in the PERF annuity savings account credited to the participant may at the participant's irrevocable option be transferred **one (1) time** to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in PERF, may such a transfer be made.

(c) On **any** July 1 following the date a participant begins participation in the defined contribution fund, if the participant has been before that date a member of TRF, the amount in the TRF annuity savings account credited to the participant may at the participant's irrevocable election be transferred **one (1) time** to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in TRF, may the transfer be made.

(d) Each participant shall be credited individually with:

(1) the participant's contributions to the fund under section 4 of this chapter, which shall be credited to the ~~employee contribution~~ **participant's** account;

(2) the contributions made to the fund on behalf of the participant under section 5 of this chapter, which shall be credited to the ~~employer contribution~~ **participant's** account;

(3) the amount transferred to the fund under subsections (b) and (c), which shall be credited to the ~~employee contribution~~ **participant's** account; and

(4) the net earnings on ~~each of~~ the participant's accounts, determined ~~and credited annually~~ under section 3 of this chapter.

SECTION 4. IC 2-3.5-5-3, AS AMENDED BY HEA 1377-1999, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The PERF board shall establish alternative investment programs within the fund, based on the following requirements:

(1) The PERF board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.

(2) The programs should represent a variety of investment objectives.

(3) The programs may not permit a member to withdraw money from the member's account, except as provided in section 6 of this chapter.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program.

(5) A valuation of each member's account must be completed as of the last day of each quarter.

(b) A member shall direct the allocation of the amount credited to the member among the available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection at any time, but not more than ~~four (4) times~~ **one (1) time** in a twelve (12) month period.

(2) The PERF board shall implement the member's selection beginning the first day of the next calendar quarter that begins at

least thirty (30) days after the selection is received by the PERF board. This date is the effective date of the member's selection.

(3) A member may select any combination of the available investment funds, in ten percent (10%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on the market value on the effective date.

(6) If a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the bond fund.

(7) All contributions to the member's account shall be allocated as of the last day of the quarter in which the contributions are received in accordance with the member's most recent effective direction. The PERF board shall not reallocate the member's account at any other time.

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection. When a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date.

(d) The PERF board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

(1) The market value shall exclude the employer contributions and employee contributions received during the quarter ending on the current allocation date.

(2) The market value as of the immediately preceding quarter end date shall include the employer contributions and employee contributions received during that preceding quarter.

(3) The market value as of the immediately preceding quarter end date shall exclude benefits paid from the fund during the quarter ending on the current quarter end date.

SECTION 4. IC 2-3.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) A participant who terminates service as a member of the general assembly is entitled to withdraw both the participant's employee contribution account and employer contribution account from the defined contribution fund. The withdrawal shall be made on the later of the first day of the month following termination of service or thirty (30) days after the board receives a request for withdrawal from the fund. The amount available for the withdrawal shall be the fair market value of the participant's accounts on the June 30 preceding the date of withdrawal plus employee contributions deducted since the June 30 preceding the date of withdrawal.

(b) The withdrawal amount shall be paid in a lump sum, ~~or as an actuarially equivalent~~ **a** monthly annuity as ~~offered~~ **purchased** by the PERF board ~~and~~ **with the withdrawal amount, or a series of monthly installment payments over sixty (60), one hundred twenty (120), or one hundred eighty (180) months,** as elected by the participant. The forms of annuity **and installments** shall be established by the PERF board by rule, in consultation with the system's actuary.

SECTION 5. IC 2-3.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) This section applies to a participant who dies while a member of the general assembly, or who dies after terminating service as a member of the general assembly and prior to withdrawing the participant's account from the defined contribution fund. The participant's employee contribution account and the participant's employer contribution account shall be paid to a beneficiary or the beneficiaries designated on a form prescribed by the board. The amount paid shall be the fair market value of the participant's accounts on the June 30 preceding the date of payment, plus employee contributions deducted since the June 30 preceding the date of payment. If there is no properly designated beneficiary, or if no beneficiary survives the participant, the participant's accounts shall be paid to:

(1) the surviving spouse of the participant;

(2) if there is no surviving spouse, a surviving dependent or the surviving dependents of the participant; or

(3) if there is no surviving spouse and no surviving dependent, the estate of the participant.

(b) Amounts payable under this section shall be paid in a lump sum, ~~or in an actuarially equivalent~~ **a** monthly annuity as ~~offered~~ **purchased** by the PERF board ~~and~~ **with the withdrawal amount, or a series of monthly installment payments over sixty (60) months,** as elected by the recipient. The forms of annuity **and installments** available shall be established by the PERF board by rule, in consultation with the system's actuary.".

Page 3, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 8. IC 5-10-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 12. Cafeteria Plan Benefits for Certain Unused Vacation, Sick, or Personal Days

Sec. 1. As used in this chapter, "department" means the state personnel department.

Sec. 2. As used in this chapter, "state agency" means an authority, board, branch, commission, committee, department, division, or other instrumentality of state government, but does not include:

(1) a state educational institution (as defined in IC 20-12-0.5-1);

(2) a state elected official's office; and

(3) the legislative and judicial branches of state government.

Sec. 3. (a) Subject to subsection (b), an employee who:

(1) has at least ten (10) years of creditable service with a state agency;

(2) retires after June 30, 2000; and

(3) has accrued and unused sick days, vacation days, or personal days on the employee's retirement date;

is entitled to have the amounts specified in section 5 of this chapter deposited by the state into a cafeteria plan under Section 125 of the Internal Revenue Code.

(b) The provisions of this chapter requiring the department to make deposits into a cafeteria plan on behalf of retired employees described in subsection (a) apply only if the department has received from the Internal Revenue Service any approvals or rulings that the department considers necessary or appropriate for the cafeteria plan.

Sec. 4. (a) The department shall adopt rules under IC 4-22-2 that it considers necessary to make periodic payments to a cafeteria plan under Section 125 of the Internal Revenue Code on behalf of retired employees described in section 3 of this chapter and to otherwise carry out this chapter.

(b) The rules adopted by the department may include provisions setting forth the following:

(1) The minimum or maximum total amount or annual amount that may be deposited by the state under this chapter on behalf of retired employees.

(2) The period of years of deposits.

(3) Payment provisions.

Sec. 5. The amount that shall be deposited on behalf of a participating retired employee may not exceed five thousand dollars ($5,000) and is based on:

(1) the hourly rate the employee was paid on the employee's retirement date; and

(2) the following provisions concerning the employee's accrued and unused vacation days, sick days, or personal days:

(A) An employee with at least ten (10) years of creditable service but less than fifteen (15) years of creditable service is entitled to an amount based on twenty percent (20%) of the employee's accrued days.

(B) An employee with at least fifteen (15) years of creditable service but less than twenty (20) years of creditable service is entitled to an amount based on thirty-five percent (35%) of the employee's accrued days.

(C) An employee with at least twenty (20) years of creditable service is entitled to an amount based on not more than fifty percent (50%) of the employee's accrued days.

Sec. 6. Within ninety (90) days after an employee's retirement date, an employee who wishes to participate in a cafeteria plan as provided under this chapter must file with the department a written application and any information required by the department.".

Page 19, line 7, delete "and".
Page 19, line 8, delete "the member".
Page 19, line 10, after "(2)" delete "." and insert "**; and**".
Page 19, between lines 10 and 11, begin a new line block indented and insert:

"**(5) has at least eight (8) years of service credit in the judges' retirement system.**".

Page 19, line 25, before "board" insert "**appropriate**".
Page 19, line 26, delete "Indiana public employees'".
Page 19, line 26, after "fund" insert "**described in subsection (a)(2)**".
Page 20, line 6, delete "and".
Page 20, line 7, delete "the member".
Page 20, line 9, after "(2)" delete "." and insert "**; and**".
Page 20, between lines 9 and 10, begin a new line block indented and insert:

"**(5) has at least eight (8) years of service credit in the judges' retirement system.**".

Page 20, line 24, before "board" insert "**appropriate**".
Page 20, line 25, delete "Indiana public employees'".
Page 20, line 25, after "fund" insert "**described in subsection (a)(2)**".
Renumber all SECTIONS consecutively.
(Reference is to EHB 1093 as printed March 19, 1999.)

Conference Committee Report
on
House Bill 1093

Signed by:

Senator Harrison	Representative Kromkowski
Senator Craycraft	Representative Buell
Senate Conferees	**House Conferees**