

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

SENATE ENROLLED ACT No. 64

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 4-15-2-3.8, AS AMENDED BY P.L.272-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3.8. "State service" means public service by:

- (1) employees and officers, including the incumbent directors, of the county offices of family and children; and
- (2) employees and officers, except members of boards and commissions or individuals hired for or appointed to, after June 30, 1982, positions as appointing authorities, deputies, assistants reporting to appointing authorities, or supervisors of major units within state agencies, irrespective of the title carried by those positions, of the division of disability, aging, and rehabilitative services, Fort Wayne State Developmental Center, Muscatatuck State Developmental Center, division of mental health, Larue D. Carter Memorial Hospital, Evansville State Psychiatric Treatment Center for Children, Central State Hospital, Evansville State Hospital, Logansport State Hospital, Madison State Hospital, Richmond State Hospital, state department of health, Indiana School for the Blind, Indiana School for the Deaf, Indiana Veterans' Home, Indiana Soldiers' and Sailors' Children's Home, Silvercrest Children's Development Center, department of correction, Westville Correctional Facility, Plainfield Juvenile

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Correctional Facility, Putnamville Correctional Facility, Indianapolis Juvenile Correctional Facility, Indiana State Prison, Indiana Women's Prison, Pendleton Correctional Facility, Reception and Diagnostic Center, Rockville Correctional Facility, Youth Rehabilitation Facility, Plainfield Correctional Facility, department of fire and building services, state emergency management agency (excluding a county emergency management organization and any other local emergency management organization created under IC 10-4-1), civil rights commission, criminal justice planning agency, department of workforce development, Indiana historical bureau, Indiana state library, division of family and children, Indiana state board of animal health, Federal Surplus Property Warehouse, Indiana education employment relations board, ~~public employees' retirement fund; teachers' retirement fund;~~ department of labor, Indiana protection and advocacy services commission, commission on public records, Indiana horse racing commission, and state personnel department.

SECTION 2. IC 5-10.2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. Scope; Purpose. (a) This article applies to the Indiana state teachers' retirement fund and the public employees' retirement fund. Each retirement fund covered by this article is a separate retirement fund managed by its board under its retirement fund law. Each board shall make and publish regulations which are appropriate to the efficient administration of this article. The obligations of the state and political subdivisions for benefit payments are specified in each retirement fund law.

(b) **Each fund is an independent body corporate and politic. A fund is not a department or agency of the state but is an independent instrumentality exercising essential government functions.**

(c) **For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, each board, each fund, and all employees of each board or fund are public employees (as defined in IC 34-6-2-38). All employees of each board or fund employed within a classification covered by a labor agreement to which the state is a party shall continue to remain subject to the terms and conditions of that agreement and any successor labor agreements entered into by the state.**

(d) The benefits specified in this article and the benefits from the Social Security Act provide the retirement, disability, and survivor benefits for public employees and teachers. However, this article does not prohibit a political subdivision from establishing and providing



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before January 1, 1995, and continuing to provide after January 1, 1995, retirement, disability, and survivor benefits for the public employees of the political subdivision independent of this article if the political subdivision took action before January 1, 1995, and was not a participant in the public employees' retirement fund on January 1, 1995, under this article or IC 5-10.3.

SECTION 3. IC 5-10.2-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) The general assembly shall appropriate biennially for each fund **covered by this article that satisfies the conditions of section 1.5 of this chapter** the sum of the following:

- (1) the state's normal contribution for its employees to the public employees' retirement fund, the pre-1996 account, and the 1996 account, as determined in section 11 of this chapter;
- (2) at least the anticipated increase in the state's unfunded accrued liability in each fund, other than the pre-1996 account, as estimated by each board under the procedures specified in section 11 of this chapter; and
- (3) the state's obligation as estimated by each board for disability benefits and benefits payable under retirement fund laws in effect before April 1, 1955.

The request for this sum for each fund shall be submitted to the budget agency as one (1) item for each fund. Each board shall submit to the agency its actuarial investigation and valuation and any other actuarial information to support the request.

(b) The general assembly shall appropriate biennially an amount necessary for the administration of each fund. The request for this amount shall be submitted as operating expenses of other state departments are submitted. The amount shall be included in the biennial budget bill and paid as are operating expenses of other state departments. If the board and the actuary determine that investment earnings are sufficient, then the total amount of administrative costs shall be offset by the earnings. The offset shall be prorated for:

- (1) participating political subdivisions; and
- (2) school corporations and other institutions; with respect to the 1996 account.

(c) (b) The biennial appropriation specified in subsection (a) of this section shall be paid annually to each fund **covered by this article that satisfies the conditions of section 1.5 of this chapter** in equal installments in July of each year of the biennium. The biennial appropriation specified in subsection (b) of this section shall be available to each fund beginning with July of each year of the



~~biennium.~~

(c) **The biennial appropriation under this section shall be deposited in the trust of each fund and used only as provided in section 1.5 of this chapter.**

SECTION 4. IC 5-10.3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. The board shall **do all of the following:**

- (1) Appoint a director, subject to the approval of the governor.
- (2) Appoint an actuary and ~~such clerical and other help as is required~~ **employ or contract with employees, auditors, technical experts, legal counsel, and other service providers as it considers necessary** to transact the business of the fund, **without the approval of any state officer.**
- (3) Fix the compensation of persons:
 - (A) ~~appointed subject to the approval of the budget agency; or employed by the board; or~~
 - (B) **who contract with the board.**
- (4) Establish a general office in Indianapolis for board meetings and for administrative personnel.
- (5) Provide for the installation in the general office of a complete system of books, accounts including reserve accounts, and records in order to give effect to all the requirements of this article and to assure the proper operation of the fund.
- (6) Provide for a report at least annually, before June 1, to each member of the amount credited to him in the annuity savings account in each investment program under IC 5-10.2-2.
- (7) With the advice of the actuary, adopt actuarial tables and compile data needed for actuarial studies which are necessary for the fund's operation.
- (8) Act on applications for benefits and claims of error filed by members.
- (9) Have the accounts of the fund audited annually by the state board of accounts. ~~and~~
- (10) Publish for the members a synopsis of the fund's condition.
- (11) **Adopt a budget on a calendar year or fiscal year basis that is sufficient, as determined by the board, to perform the board's duties and, as appropriate and reasonable, draw upon fund assets to fund the budget.**
- (12) **Expend money, including income from the fund's investments, for effectuating the fund's purposes.**
- (13) **Establish personnel programs and policies for its employees.**

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(14) Submit a report of its activities each year to the governor, the pension management oversight commission, and the budget committee before November 1 of each year. The report under this subdivision must set forth a complete operating and financial statement covering its operations during the most recent fiscal year, including information on the following:

- (A) Investment performance.**
- (B) Investment and administrative costs as a percentage of assets under management.**
- (C) Investment asset allocation strategy.**
- (D) Member services.**
- (E) Member communications.**

(15) Establish a code of ethics or decide to be under the jurisdiction and rules adopted by the state ethics commission.

SECTION 5. IC 5-10.3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) The board may **do any of the following:**

- (1) Establish **and amend** rules and regulations:
 - (A) for the administration and regulation of the fund and the board's affairs; and**
 - (B) to effectuate the powers and purposes of the board; without adopting a rule under IC 4-22-2.**
- (2) Make contracts and sue and be sued as the board of trustees of the public employees' retirement fund of Indiana.
- (3) Delegate duties to its employees.
- (4) Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired members of the fund, and, upon authorization of the respective member, deduct premium payments for such policies from the members' retirement benefits and remit the payments to the insurance companies.
- (5) Enter into agreements with one (1) or more insurance companies to provide annuities for retired members of the fund, and, upon a member's authorization, transfer the amount credited to the member in the annuity savings account to the insurance companies.
- (6) Whenever the fund's membership is sufficiently large for actuarial valuation, establish an employer's contribution rate for all employers, including employers with special benefit provisions for certain employees.



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(7) Amortize prior service liability over a period of forty (40) years or less. ~~and~~

(8) Recover payments made under false or fraudulent representation.

(9) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.

(b) An agreement under subsection (a)(4) may be for a duration of three (3) years.

(c) A contract under subsection (a)(2) may be for a term of not more than five (5) years, with an ability to renew thereafter.

(d) The board's powers and the fund's powers specified in this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

SECTION 6. IC 21-6.1-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) Each trustee shall give bond as specified periodically by the state board of finance.

(b) The board shall **do all of the following:**

(1) Act on each application for benefits.

(2) Provide the necessary forms for administering the fund.

(3) Establish records and accounts, which provide the necessary information for an actuary's examination and which are sanctioned by the state board of accounts.

(4) Maintain individual records for each member of the fund containing:

(A) ~~his~~ **the member's** name;

(B) date of birth;

(C) age at beginning service;

(D) service record;

(E) address;

(F) ~~his~~ **the member's** contributions to the fund;

(G) amounts withdrawn;

(H) benefits paid; and

(I) other items considered necessary.

(5) **Employ assistants or contract with employees, auditors, technical experts, legal counsel, and other service providers as it considers necessary to transact the business of the fund without the approval of any state officer,** and fix their compensation. ~~subject to the approval of the budget agency:~~

(6) Make rules as are required to administer the fund.

(7) Publish for the members' information a synopsis of the fund's condition.



(8) Provide for a report at least annually, before June 1, to each member of the value of the amount credited to the member in the annuity savings account in each investment program under IC 5-10.2-2. ~~and~~

(9) Provide for the installation in the general office of a complete system of books, accounts (including reserve accounts), and records in order to give effect to all the requirements of this article and to ensure the proper operation of the fund.

(10) Appoint an actuary.

(11) With the advice of the actuary, adopt actuarial tables and compile data needed for actuarial studies that are necessary for the fund's operation.

(12) Adopt a budget on a calendar year or fiscal year basis that is sufficient, as determined by the board, to perform the board's duties and, as appropriate and reasonable, draw upon fund assets to fund the budget.

(13) Expend money, including income from the fund's investments, for effectuating the fund's purposes.

(14) Establish personnel programs and policies for its employees.

(15) Submit a report of its activities each year to the governor, the pension management oversight commission, and the budget committee before November 1 of each year. The report under this subdivision must set forth a complete operating and financial statement covering its operations during the most recent fiscal year, including information on the following:

(A) Investment performance.

(B) Investment and administrative costs as a percentage of assets under management.

(C) Investment asset allocation strategy.

(D) Member services.

(E) Member communications.

(16) Establish a code of ethics or decide to be under the jurisdiction and rules adopted by the state ethics commission.

SECTION 7. IC 21-6.1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) The board may **do any of the following:**

(1) Adopt and enforce ~~bylaws~~ **rules and regulations** regarding the ~~department's~~ **fund's** administration and the control and investment of the fund.

~~(2) employ staff, who are not trustees, to perform clerical work~~

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~~needed by the board;~~

~~(3)~~ **(2)** Bond employees for the fund's protection.

~~(4)~~ **(3)** Receive from the federal government the state's share of the cost of the pension contribution for a member on leave of absence to work in a federally supported educational project.

~~(5)~~ **(4)** Sue and be sued as the board of trustees of the Indiana state teachers' retirement fund.

~~(6)~~ **(5)** Summon and examine witnesses when adjusting claims.

~~(7)~~ **(6)** Require, when adjusting disability claims, medical examinations by doctors approved or appointed by the board; however, not more than two (2) examinations may be conducted in one (1) year.

~~(8)~~ **(7)** Conduct investigations to help determine the merit of a claim.

~~(9)~~ **(8)** Meet any emergency which may arise in the administration of its trust.

~~(10)~~ **(9)** Determine other matters regarding its trust which are not specified.

~~(11)~~ **(10)** Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired teachers, and, upon authorization of the respective retired teacher, deduct premium payments for such policies from the teachers' retirement benefits and remit the payments to the insurance companies. ~~and~~

~~(12)~~ **(11)** Enter into agreements with one (1) or more insurance companies to provide annuities for retired teachers and upon a member's authorization transfer the amount credited to the member in the annuity savings account to the insurance companies.

(12) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.

(13) Establish and amend rules and regulations:

(A) for the administration and regulation of the fund and the board's affairs; and

(B) to effectuate the powers and purposes of the board; without adopting a rule under IC 4-22-2.

(b) An agreement under subsection ~~(a)(11)~~ **(a)(10)** may be for a duration of three (3) years.

(c) This subsection does not apply to an agreement under subsection ~~(a)(11)~~ **(a)(10)**. A contract that the board enters into under section 9(b)



of this chapter or any other provision may be for a term of not more than five (5) years, with an ability to renew thereafter.

(d) The board's powers and the fund's powers specified in this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

SECTION 8. IC 36-8-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) There is established a police officers' and firefighters' pension and disability fund to be known as the 1977 fund. The 1977 fund consists of fund member and employer contributions, plus the earnings on them, to be used to make benefit payments to fund members and their survivors in the amounts and under the conditions specified in this chapter.

(b) The board of trustees of the public employees' retirement fund (referred to in this chapter as the "PERF board") shall administer the 1977 fund, which may be commingled with the public employees' retirement fund for investment purposes. All actuarial data shall be computed on the total membership of the fund, and the cost of participation is the same for all employers in the fund. The fund member and employer contributions shall be recorded separately for each employer.

(c) The 1977 fund advisory committee, referred to as the committee, is established. The PERF board shall consult with the committee on matters pertaining to the administration of this chapter and IC 5-10.3-11. The committee shall consist of the following members appointed by the governor every two (2) years for a term of two (2) years:

- (1) Two (2) firefighters:
 - (A) each of whom must be a **an active or retired** member of the 1937 fund or the 1977 fund; and
 - (B) neither of whom may be in an upper level policymaking position.
- (2) Two (2) police officers:
 - (A) each of whom must be a **an active or retired** member of the 1925 fund, the 1953 fund, or the 1977 fund; and
 - (B) neither of whom may be in an upper level policymaking position.
- (3) Two (2) members, each of whom must be an executive of an employer.
- (4) Two (2) members, each of whom must be a member of the legislative body of an employer.

The term of each member begins on July 1 following appointment and continues until his successor is qualified. A member of the committee



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who no longer holds the position that qualified him for appointment under subdivision (1), (2), (3), or (4) forfeits his membership on the committee. The governor shall appoint a person to fill a vacancy on the committee for the remainder of the unexpired term.

(d) Each member of the committee who is not a state employee is entitled to ~~the minimum salary per diem provided by IC 4-10-11-2.1(b).~~ **reimbursement for expenses actually incurred in connection with the member's duties.** Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as ~~provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.~~ **PERF board.**

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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