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# HOUSE BILL No. 1498

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10.2-3-7.5; IC 5-10.2-3-7.6.

**Synopsis:** PERF and TRF death benefit. Reduces from 15 to ten the number of years of creditable service that a member of the public employees' retirement fund (PERF) must earn for a surviving spouse or surviving dependent to receive a survivor benefit. Removes the requirement that a member of the Indiana state teachers' retirement fund (TRF), with ten years of creditable service, must be 65 years of age at the time of death for a surviving spouse or surviving dependent to be eligible for a survivor benefit. Provides that a surviving spouse or surviving dependent of an active or inactive member of PERF or TRF is entitled to a survivor benefit. (Current law provides that a surviving spouse or surviving dependent of an active service member of PERF or TRF is entitled to a survivor benefit.) Makes the changes retroactive to January 1, 2007. Provides that PERF and TRF are required to make a reasonable effort to notify certain surviving spouses or surviving dependents of changes made by this act.

**Effective:** Upon passage; January 1, 2007 (retroactive).

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## Ruppel, Niezgodski

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January 14, 2009, read first time and referred to Committee on Ways and Means.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1498



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 5-10.2-3-7.5, AS AMENDED BY P.L.99-2007,  
2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2007 (RETROACTIVE)]: Sec. 7.5. (a) **This subsection**  
4 **applies to members who die after March 31, 1990, and before**  
5 **January 1, 2007.** A surviving dependent or surviving spouse of a  
6 member who dies in service is entitled to a survivor benefit if:  
7 ~~(1) the member dies after March 31, 1990;~~  
8 ~~(2) (1) the member has:~~  
9 (A) at least ten (10) years of creditable service, if the member  
10 died in service as a member of the general assembly;  
11 (B) at least fifteen (15) years of creditable service, if the  
12 member died in service in any other position covered by the  
13 retirement fund; or  
14 (C) at least ten (10) years but not more than fourteen (14)  
15 years of creditable service if the member:  
16 (i) was at least sixty-five (65) years of age; and  
17 (ii) died in service in a position covered by the teachers'



1 retirement fund; and  
 2 ~~(3)~~ **(2)** the surviving dependent or surviving spouse qualifies for  
 3 a survivor benefit under subsection ~~(b)~~ **(c)** or ~~(e)~~ **(d)**.  
 4 **(b) This subsection applies to members who die after December**  
 5 **31, 2006. A surviving dependent or surviving spouse of a member**  
 6 **who dies is entitled to a survivor benefit if:**  
 7 **(1) the member has:**  
 8 **(A) at least ten (10) years of creditable service, if the**  
 9 **member died in service as a member of the general**  
 10 **assembly; or**  
 11 **(B) at least ten (10) years of creditable service if an active**  
 12 **or inactive member of the fund dies; and**  
 13 **(2) the surviving dependent or surviving spouse qualifies for**  
 14 **a survivor benefit under subsection (c) or (d).**  
 15 ~~(b)~~ **(c)** If a member described in subsection (a) **or (b)** dies with a  
 16 surviving spouse who was married to the member for at least two (2)  
 17 years, the surviving spouse is entitled to a survivor benefit equal to the  
 18 monthly benefit that would have been payable to the spouse under the  
 19 joint and survivor option of IC 5-10.2-4-7 upon the member's death  
 20 following retirement at:  
 21 (1) fifty (50) years of age; or  
 22 (2) the actual date of death;  
 23 whichever is later. However, benefits payable under this subsection are  
 24 subject to subsections ~~(e)~~ **(f)** and ~~(g)~~ **(h)**.  
 25 ~~(e)~~ **(d)** If a member described in subsection (a) **or (b)** dies without  
 26 a surviving spouse who was married to the member for at least two (2)  
 27 years, but with a surviving dependent, the surviving dependent is  
 28 entitled to a survivor benefit in a monthly amount equal to the actuarial  
 29 equivalent of the monthly benefit that would have been payable to the  
 30 spouse (assuming the spouse would have had the same birth date as the  
 31 member) under the joint and survivor option of IC 5-10.2-4-7 upon the  
 32 member's death following retirement at:  
 33 (1) fifty (50) years of age; or  
 34 (2) the actual date of death;  
 35 whichever is later. If there are two (2) or more surviving dependents,  
 36 the actuarial equivalent of the benefit described in this subsection shall  
 37 be calculated and, considering the dependents' attained ages, an equal  
 38 dollar amount shall be determined as the monthly benefit to be paid to  
 39 each dependent. Monthly benefits under this subsection are payable  
 40 until the date the dependent becomes eighteen (18) years of age or dies,  
 41 whichever is earlier. However, if a dependent has a permanent and total  
 42 disability (using disability guidelines established by the Social Security

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1 Administration) at the date the dependent reaches eighteen (18) years  
2 of age, the monthly benefit is payable until the date the dependent no  
3 longer has a disability (using disability guidelines established by the  
4 Social Security Administration) or dies, whichever is earlier. Benefits  
5 payable under this subsection are subject to subsections ~~(e)~~ (f) and ~~(g)~~  
6 (h).

7 ~~(d)~~ (e) Except as provided in subsections ~~(e)~~ (f) and ~~(h)~~; (i), the  
8 surviving spouse or surviving dependent of a member who is entitled  
9 to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6  
10 of this chapter may elect to receive a lump sum payment of the total  
11 amount credited to the member in the member's annuity savings  
12 account or an amount equal to the member's federal income tax basis  
13 in the member's annuity savings account as of December 31, 1986. A  
14 surviving spouse or surviving dependent who makes such an election  
15 is not entitled to an annuity as part of the survivor benefit under  
16 subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter to the extent  
17 of the lump sum payment.

18 ~~(e)~~ (f) If a member described in subsection (a) or (b) or section  
19 7.6(a) of this chapter is survived by a designated beneficiary who is not  
20 a surviving spouse or surviving dependent entitled to a survivor benefit  
21 under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter, the  
22 following provisions apply:

23 (1) If the member is survived by one (1) designated beneficiary,  
24 the designated beneficiary is entitled to receive in a lump sum or  
25 over a period of up to five (5) years, as elected by the designated  
26 beneficiary, the amount credited to the member's annuity savings  
27 account, less any disability benefits paid to the member.

28 (2) If the member is survived by two (2) or more designated  
29 beneficiaries, the designated beneficiaries are entitled to receive  
30 in a lump sum or over a period of up to five (5) years, as elected  
31 by the designated beneficiary, equal shares of the amount credited  
32 to the member's annuity savings account, less any disability  
33 benefits paid to the member.

34 (3) If the member is also survived by a spouse or dependent who  
35 is entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d)  
36 or section 7.6 of this chapter, the surviving spouse or dependent  
37 is not entitled to an annuity or a lump sum payment as part of the  
38 survivor benefit, unless the surviving spouse or dependent is also  
39 a designated beneficiary.

40 ~~(f)~~ (g) If a member dies:

41 (1) without a surviving spouse or surviving dependent who  
42 qualifies for survivor benefits under subsection ~~(b)~~ (c) or ~~(c)~~ (d)

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1 or section 7.6 of this chapter; and

2 (2) without a surviving designated beneficiary who is entitled to  
3 receive the member's annuity savings account under subsection  
4 ~~(e)~~; **(f)**;

5 the amount credited to the member's annuity savings account, less any  
6 disability benefits paid to the member, shall be paid to the member's  
7 estate.

8 ~~(g)~~ **(h)** Survivor benefits payable under this section or section 7.6 of  
9 this chapter shall be reduced by any disability benefits paid to the  
10 member.

11 ~~(h)~~ **(i)** Additional annuity contributions, if any, shall not be included  
12 in determining survivor benefits under subsection ~~(b)~~ **(c)** or ~~(c)~~ **(d)** or  
13 section 7.6 of this chapter, but are payable in a lump sum payment to:

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

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

17 ~~(i)~~ **(j)** Survivor benefits provided under this section or section 7.6 of  
18 this chapter are subject to IC 5-10.2-2-1.5.

19 ~~(j)~~ **(k)** A benefit specified in this section shall be forfeited and  
20 credited to the member's retirement fund if no person entitled to the  
21 benefit claims it within three (3) years after the member's death.  
22 However, the board may honor a claim that is made more than three (3)  
23 years after the member's death if the board finds, in the board's  
24 discretion, that:

25 (1) the delay in making the claim was reasonable or other  
26 extenuating circumstances justify the award of the benefit to the  
27 claimant; and

28 (2) paying the claim would not cause a violation of the applicable  
29 Internal Revenue Service rules.

30 SECTION 2. IC 5-10.2-3-7.6, AS AMENDED BY P.L.99-2007,  
31 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JANUARY 1, 2007 (RETROACTIVE)]: Sec. 7.6. (a) This section  
33 applies to the **following**:

34 **(1) A surviving spouse and the surviving dependent of a member**  
35 **who**

36 ~~(1)~~ **(1)** dies after June 30, 1996, **and before January 1, 2007, and:**

37 ~~(2)~~ **(A)** has at least thirty (30) years of creditable service; and

38 ~~(3)~~ **(B)** dies in service in a position covered by the fund.

39 **(2) A surviving spouse and the surviving dependent of a**  
40 **member who dies after December 31, 2006, and:**

41 **(A) has at least thirty (30) years of creditable service; and**

42 **(B) dies as an active or inactive member of the fund.**

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

7 (1) fifty-five (55) years of age; or

8 (2) the actual date of death;

9 whichever is later. However, benefits payable under this section are  
 10 subject to ~~IC 5-10.2-3-7.5(c)~~ **IC 5-10.2-3-7.5(f)** and ~~IC 5-10.2-3-7.5(g)~~.  
 11 **IC 5-10.2-3-7.5(h).**

12 (c) If a member described in subsection (a) dies without a surviving  
 13 spouse who was married to the member for at least two (2) years, but  
 14 with a surviving dependent, the board may determine that the surviving  
 15 dependent is entitled to a survivor benefit in a monthly amount equal  
 16 to the actuarial equivalent of the monthly benefit that would have been  
 17 payable to the spouse (assuming the spouse would have had the same  
 18 birth date as the member) under the joint and survivor option of  
 19 IC 5-10.2-4-7 upon the member's death following retirement at:

20 (1) fifty-five (55) years of age; or

21 (2) the actual date of death;

22 whichever is later. If there are two (2) or more surviving dependents,  
 23 the actuarial equivalent of the benefit described in this subsection shall  
 24 be calculated and, considering the dependents' attained ages, an equal  
 25 dollar amount shall be determined as the monthly benefit to be paid to  
 26 each dependent. Monthly benefits under this subsection are payable  
 27 until the date the dependent becomes eighteen (18) years of age or dies,  
 28 whichever is earlier. However, if a dependent has a permanent and total  
 29 disability (using disability guidelines established by the Social Security  
 30 Administration) on the date the dependent becomes eighteen (18) years  
 31 of age, the monthly benefit is payable until the date the dependent no  
 32 longer has a disability (using disability guidelines established by the  
 33 Social Security Administration) or dies, whichever is earlier. Benefits  
 34 payable under this section are subject to ~~IC 5-10.2-3-7.5(c)~~  
 35 **IC 5-10.2-3-7.5(f)** and ~~IC 5-10.2-3-7.5(g)~~. **IC 5-10.2-3-7.5(h).**

36 SECTION 3. [EFFECTIVE UPON PASSAGE] **(a) The definitions**  
 37 **in IC 5-10.2 apply to this SECTION.**

38 **(b) The fund must make a reasonable effort to:**

39 **(1) identify a surviving spouse or surviving dependent of a**  
 40 **member who:**

41 **(A) died after December 31, 2006;**

42 **(B) had at least ten (10) years of creditable service; and**

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1                   **(C) was an active or inactive member of the fund; and**  
 2                   **(2) notify an individual described in subdivision (1) of changes**  
 3                   **made by this act.**  
 4                   **The fund is considered to have made a reasonable effort to notify**  
 5                   **a surviving spouse or surviving dependent of changes made by this**  
 6                   **act if the fund mails notification of changes made by this act to the**  
 7                   **member's last known address.**  
 8                   **(c) Notwithstanding IC 5-10.2-3-7.5(k), as amended by this act,**  
 9                   **a surviving spouse or a surviving dependent who qualifies for a**  
 10                   **survivor benefit under IC 5-10.2-3-7.5(c) or IC 5-10.2-3-7.5(d),**  
 11                   **both as amended by this act, for a member described in subsection**  
 12                   **(b), who died after December 31, 2006, may claim the survivor**  
 13                   **benefit on or before the later of the following:**  
 14                   **(1) June 30, 2009.**  
 15                   **(2) The date the survivor benefit is forfeited to the member's**  
 16                   **retirement fund under IC 5-10.2-3-7.5(k), as amended by this**  
 17                   **act.**  
 18                   **(d) This SECTION expires January 1, 2010.**  
 19                   **SECTION 4. An emergency is declared for this act.**

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