
HOUSE BILL No. 1587

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-3.5-5-3; IC 5-10.2-2-3; IC 5-10.2-4-2; P.L.180-2007, SECTION 13.

Synopsis: PERF and TRF investment option changes. Permits members of the teachers' retirement fund (TRF) and the public employees' retirement fund (PERF) to change investment selections once each day, with the change being effective on the next business day after the fund receives the change notice. Establishes the market valuation date of a member's investment as of five business days before the date of the member's distribution or annuitization at retirement, disability, or suspension and withdrawal. Codifies a noncode provision that permits members of the legislator's retirement system to change investment selections once each day. Repeals the noncode provision.

Effective: January 1, 2010.

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January 16, 2009, read first time and referred to Committee on Labor and Employment.

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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. 1587



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 2-3.5-5-3 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. (a) The PERF
- 3 board shall establish alternative investment programs within the fund,
- 4 based on the following requirements:
- 5 (1) The PERF board shall maintain at least one (1) alternative
- 6 investment program that is an indexed stock fund and one (1)
- 7 alternative investment program that is a bond fund.
- 8 (2) The programs should represent a variety of investment
- 9 objectives.
- 10 (3) The programs may not permit a member to withdraw money
- 11 from the member's account, except as provided in section 6 of this
- 12 chapter.
- 13 (4) All administrative costs of each alternative program shall be
- 14 paid from the earnings on that program.
- 15 (5) A valuation of each member's account must be completed as
- 16 of:
- 17 (A) the last day of each quarter; **and**



1 **(B) whenever the member makes a new investment**
 2 **selection, the day before the effective date of the member's**
 3 **selection.**

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

7 (1) A member may make a selection or change an existing
 8 selection under rules established by the PERF board. The PERF
 9 board shall allow a member to make a selection or change any
 10 existing selection ~~at least~~ once each ~~quarter~~ **day**.

11 (2) The PERF board shall implement the member's selection
 12 ~~beginning the first day of the next calendar quarter that begins at~~
 13 ~~least thirty (30) days on the next business day~~ after the selection
 14 is received by the PERF board. This date is the effective date of
 15 the member's selection.

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

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

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

24 (6) If a member does not make an investment selection of the
 25 alternative investment programs, the member's account shall be
 26 invested in the PERF board's general investment fund.

27 (7) All contributions to the member's account shall be allocated
 28 as of the last day of the quarter in which the contributions are
 29 received **or at an alternate time established by the rules of the**
 30 **board** in accordance with the member's most recent effective
 31 direction. The PERF board shall not reallocate the member's
 32 account at any other time.

33 (c) When a member transfers the amount credited to the member
 34 from one (1) alternative investment program to another alternative
 35 investment program, the amount credited to the member shall be
 36 valued at the market value of the member's investment, as of the day
 37 before the effective date of the member's selection. When a member
 38 retires, becomes disabled, dies, or withdraws from the fund, the amount
 39 credited to the member shall be the market value of the member's
 40 investment as of ~~the last day of the quarter preceding~~ **five (5) business**
 41 **days preceding** the member's distribution or annuitization at
 42 retirement, disability, death, or withdrawal, plus contributions received

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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 2. IC 5-10.2-2-3, AS AMENDED BY P.L.2-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. (a) The annuity savings account consists of:

(1) the members' contributions; and

(2) the interest credits on these contributions in the guaranteed fund or the gain or loss in market value on these contributions in the alternative investment program, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the member's contributions and interest credits.

(b) Each board shall maintain the annuity savings account program in effect on December 31, 1995 (referred to in this chapter as the guaranteed program). In addition, the board of the Indiana state teachers' retirement fund shall establish and maintain a guaranteed program within the 1996 account. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 5-10.4-3-10.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

(1) Each 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

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1 objectives under IC 5-10.3-5-3.

2 (3) No program may permit a member to withdraw money from
3 the member's account except as provided in IC 5-10.2-3 and
4 IC 5-10.2-4.

5 (4) All administrative costs of each alternative program shall be
6 paid from the earnings on that program or as may be determined
7 by the rules of each board.

8 (5) A valuation of each member's account must be completed as
9 of:

10 (A) the last day of each quarter; ~~or and~~

11 ~~(B) another time as each board may specify by rule.~~

12 **(B) whenever the member makes a new investment**
13 **selection, the day before the effective date of the member's**
14 **selection.**

15 (d) The board must prepare, at least annually, an analysis of the
16 guaranteed program and each alternative investment program. This
17 analysis must:

18 (1) include a description of the procedure for selecting an
19 alternative investment program;

20 (2) be understandable by the majority of members; and

21 (3) include a description of prior investment performance.

22 (e) A member may direct the allocation of the amount credited to
23 the member among the guaranteed fund and any available alternative
24 investment funds, subject to the following conditions:

25 (1) A member may make a selection or change an existing
26 selection under rules established by each board. A board shall
27 allow a member to make a selection or change any existing
28 selection ~~at least once each quarter.~~ **day.**

29 (2) The board shall implement the member's selection ~~beginning~~
30 ~~the first day of the next calendar quarter that begins at least thirty~~
31 ~~(30) days on the next business~~ after the selection is received by
32 the board. ~~or an alternate date established by the rules of each~~
33 ~~board.~~ This date is the effective date of the member's selection.

34 (3) A member may select any combination of the guaranteed fund
35 or any available alternative investment funds, in ten percent
36 (10%) increments or smaller increments that may be established
37 by the rules of each board.

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

40 (5) On the effective date of a member's selection, the board shall
41 reallocate the member's existing balance or balances in
42 accordance with the member's direction, based on:

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- 1 (A) for an alternative investment program balance, the market
- 2 value on the effective date; and
- 3 (B) for any guaranteed program balance, the account balance
- 4 on the effective date.

5 All contributions to the member's account shall be allocated as of
 6 the last day of that quarter or at an alternate time established by
 7 the rules of each board in accordance with the member's most
 8 recent effective direction. The board shall not reallocate the
 9 member's account at any other time.

10 (f) When a member who participates in an alternative investment
 11 program transfers the amount credited to the member from one (1)
 12 alternative investment program to another alternative investment
 13 program or to the guaranteed program, the amount credited to the
 14 member shall be valued at the market value of the member's
 15 investment, as of the day before the effective date of the member's
 16 selection. ~~or at an alternate time established by the rules of each board.~~
 17 When a member who participates in an alternative investment program
 18 retires, becomes disabled, dies, or suspends membership and withdraws
 19 from the fund, the amount credited to the member shall be the market
 20 value of the member's investment as of ~~the last day of the quarter~~ **five**
 21 **(5) business days** preceding the member's distribution or annuitization
 22 at retirement, disability, death, or suspension and withdrawal, plus
 23 contributions received after that date. ~~or at an alternate time established~~
 24 ~~by the rules of each board.~~

25 (g) When a member who participates in the guaranteed program
 26 transfers the amount credited to the member to an alternative
 27 investment program, the amount credited to the member in the
 28 guaranteed program is computed without regard to market value and is
 29 based on the balance of the member's account in the guaranteed
 30 program as of the ~~last day of the quarter~~ **preceding before** the effective
 31 date of the transfer. ~~However, each board may by rule provide for an~~
 32 ~~alternate valuation date.~~ When a member who participates in the
 33 guaranteed program retires, becomes disabled, dies, or suspends
 34 membership and withdraws from the fund, the amount credited to the
 35 member shall be computed without regard to market value and is based
 36 on the balance of the member's account in the guaranteed program as
 37 of ~~the last day of the quarter~~ **five (5) business days** preceding the
 38 member's distribution or annuitization at retirement, disability, death,
 39 or suspension and withdrawal, plus any contributions received since
 40 that date plus interest since that date. ~~However, each board may by rule~~
 41 ~~provide for an alternate valuation date.~~

42 SECTION 3. IC 5-10.2-4-2, AS AMENDED BY P.L.115-2008,

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1 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JANUARY 1, 2010]: Sec. 2. (a) Unless a member elects otherwise
 3 under this section or has elected to withdraw the member's annuity
 4 savings account under IC 5-10.2-3-6.5, the retirement benefit for each
 5 member consists of the sum of a pension provided by employer
 6 contributions plus an annuity provided by the amount credited to the
 7 member in the annuity savings account. If a member has elected to
 8 withdraw the member's annuity savings account under IC 5-10.2-3-6.5,
 9 the member's retirement benefit is equal to the pension provided by
 10 employer contributions, unless the member has transferred the
 11 creditable service earned under the public employees' retirement fund
 12 to another governmental retirement plan under IC 5-10.2-3-1(i).

13 (b) If a member has not elected to withdraw the entire amount in the
 14 member's annuity savings account under IC 5-10.2-3-6.5, a member
 15 may choose at retirement or upon a disability retirement to receive a
 16 distribution of:

17 (1) the entire amount credited to the member in the annuity
 18 savings account; or

19 (2) an amount equal to the member's federal income tax basis in
 20 the member's annuity savings account balance as it existed on
 21 December 31, 1986.

22 If the member chooses to receive the distribution under subdivision (1),
 23 the member is not entitled to an annuity as part of the retirement or
 24 disability benefit. If the member chooses to receive the distribution
 25 under subdivision (2), the member is entitled to an annuity purchasable
 26 by the amount remaining in the member's annuity savings account after
 27 the payment under subdivision (2).

28 (c) Instead of choosing to receive the benefits described in
 29 subsection (a) or (b), if a member has not elected to withdraw the entire
 30 amount in the member's annuity savings account under IC 5-10.2-3-6.5,
 31 a member may choose upon retirement or upon disability retirement to
 32 begin receiving a pension provided by employer contributions and to
 33 defer receiving in any form the member's annuity savings account. If
 34 a member chooses this option, the member:

35 (1) is not entitled to an annuity as part of the member's retirement
 36 or disability benefit, and the member's annuity savings account
 37 will continue to be invested according to the member's direction
 38 under IC 5-10.2-2-3; and

39 (2) may later choose, as of the first day of a month, or an alternate
 40 date established by the rules of each board, to receive a
 41 distribution of:

42 (A) the entire amount credited to the member in the annuity

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1 savings account; or
 2 (B) an amount equal to the member's federal income tax basis
 3 in the member's annuity savings account balance as it existed
 4 on December 31, 1986.

5 If the member chooses to receive the distribution under subdivision
 6 (2)(A), the member is not entitled to an annuity as part of the member's
 7 retirement or disability benefit. If the member chooses to receive the
 8 distribution under subdivision (2)(B), the member is entitled to an
 9 annuity purchasable by the amount remaining in the member's annuity
 10 savings account after the payment under subdivision (2)(B). If the
 11 member does not choose to receive a distribution under this subsection,
 12 the member is entitled to an annuity purchasable by the entire amount
 13 in the member's annuity savings account, and the form of the annuity
 14 shall be as described in subsection (d) unless the member elects an
 15 option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter.
 16 The amount to be paid under this section shall be determined in the
 17 manner described in IC 5-10.2-2-3. ~~except that it shall be determined~~
 18 ~~as of the last day of the quarter preceding the member's actual~~
 19 ~~distribution or annuitization date.~~ However, each board may by rule
 20 provide for an alternate valuation date.

21 (d) Retirement benefits must be distributed in a manner that
 22 complies with Section 401(a)(9) of the Internal Revenue Code, as
 23 specified in IC 5-10.2-2-1.5.

24 SECTION 4. P.L.180-2007, SECTION 13, IS REPEALED
 25 [EFFECTIVE JANUARY 1, 2010].

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