February 20, 2009

SENATE BILL No. 370

DIGEST OF SB 370 (Updated February 18, 2009 12:23 pm - DI 102)

Citations Affected: IC 5-10.2; IC 5-10.3; IC 5-10.4.

Synopsis: PERF/TRF administrative matters. Allows a vested member of the teachers' retirement fund (TRF) who terminates covered employment to elect to withdraw the entire amount in the member's annuity savings account (ASA) before the member is eligible to do so at retirement and receive a pension at retirement. Requires TRF and the public employees' retirement fund (PERF) to adopt a policy to require direct deposit or another approved method as the preferred way for a member or beneficiary to receive benefits, including an alternative payment method for a member or beneficiary who provides satisfactory evidence to the PERF or TRF board that the member or beneficiary is unable to receive monthly benefits by direct deposit or another approved method. Requires that payment of an estimated retirement benefit be at least 85% of the actual benefit. (Currently, the payment must be 85% of the actual benefit.) Requires that a PERF member who elects not to purchase an annuity or receive the balance in the member's ASA before retirement must receive the entire amount in the member's ASA at retirement. (Currently, a member can defer receipt of the ASA.) Allows annual payment of a monthly benefit that does not exceed $5. Provides that a PERF member who is reemployed in a covered position after retirement continues to receive retirement benefits while reemployed. Provides that a supplemental benefit based on the member's reemployment is eliminated. Denies a member's application for retirement benefits if, on or before the date the member files the

(Continued next page)

Effective: July 1, 2009.

Kruse, Mishler

January 8, 2009, read first time and referred to Committee on Pensions and Labor.
February 19, 2009, reported favorably — Do Pass.

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Digest Continued

application, the member has an agreement with a covered employer to become reemployed in a covered position. Eliminates the treasurer of state as the treasurer of PERF and reassigns the treasurer's duties to the PERF board and executive director. Provides that liability for a PERF member's unfunded service credit is charged against the employer's account. Specifies the date a TRF member returns to active teaching service or teacher education for purpose of earning military service credit. Makes conforming and technical corrections. Repeals provisions concerning a supplemental retirement benefit and the treasurer of state's role as PERF treasurer.

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February 20, 2009

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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SENATE BILL No. 370

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-2-11, AS AMENDED BY P.L.72-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) Based on the actuarial investigation and valuation in section 9 of this chapter, each board shall determine:

(1) the normal contribution for the employer, which is the amount necessary to fund the pension portion of the retirement benefit;

(2) the rate of normal contribution;

(3) the unfunded accrued liability of the public employees' retirement fund, the pre-1996 account, and the 1996 account, which is the excess of total accrued liability over the fund's or account's total assets, respectively; and

(4) the rates of contribution for the state expressed as a proportion of compensation of members, which would be necessary to:

(A) amortize the unfunded accrued liability of the state for thirty (30) years or for a shorter time period requested by the

budget agency or the governor; and

(B) prevent the state's unfunded accrued liability from increasing.

(b) Based on the information in subsection (a), each board may determine, in its sole discretion, contributions and contribution rates for individual employers or for a group of employers.

(c) The board's determinations under subsection (a):

(1) are subject to section 1.5 of this chapter; and

(2) ~~for an employer making a contribution to the Indiana state teachers' retirement fund,~~ may not include an amount for a retired member ~~of the Indiana state teachers' retirement fund~~ for whom the employer may not make contributions during the member's period of reemployment as provided under ~~IC 5-10.2-4-8(c).~~ **IC 5-10.2-4-8(c).**

SECTION 2. IC 5-10.2-3-2, AS AMENDED BY P.L.72-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Subject to IC 5-10.2-2-1.5, as used in this section, "compensation" means:

(1) the basic salary earned by and paid to the member; plus

(2) the amount that would have been a part of the basic salary earned and paid except for the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code.

(b) Except in cases where:

(1) the contribution is made on behalf of the member; or

(2) a retired member ~~of the Indiana state teachers' retirement fund~~ may not make contributions during a period of reemployment as provided under ~~IC 5-10.2-4-8(c),~~ **IC 5-10.2-4-8(c);**

each member shall, as a condition of employment, contribute to the fund three percent (3%) of his compensation.

(c) Except as provided under ~~IC 5-10.2-4-8(c),~~ **IC 5-10.2-4-8(c),** a member of a fund may make contributions to the member's annuity savings account in addition to the contributions required under subsection (b). The total amount of contributions that may be made to a member's annuity savings account with respect to a payroll period under this subsection may not exceed ten percent (10%) of the member's compensation for that payroll period. The contributions made under this subsection may be picked-up and paid by an employer as provided in subsection (d).

(d) In compliance with rules adopted by each board, an employer, under Section 414(h)(2) of the Internal Revenue Code, may pick-up and pay the contributions under subsection (c), subject to approval of

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the board and to the board's receipt of a favorable private letter ruling from the Internal Revenue Service. The employer shall reduce the member's compensation by an amount equal to the amount of the member's contributions under subsection (c) that are picked-up by the employer. Each board shall by rule establish the procedural requirements for employers to carry out the pick-up in compliance with Section 414(h)(2) of the Internal Revenue Code.

(e) A member's contributions and interest credits belong to the member and do not belong to the state or political subdivision.

SECTION 3. IC 5-10.2-3-6.5, AS ADDED BY P.L.115-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. (a) This section applies:

(1) after December 31, 2008, to a member of the public employees' retirement fund; **and**

(2) after June 30, 2009, to a member of the Indiana state teachers' retirement fund.

(b) A member who meets all of the following requirements may elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement under IC 5-10.2-4-2:

(1) The member has attained vested status in the fund.

(2) The member terminates employment **with the applicable fund after the date specified in subsection (a).**

(3) The member has not performed any service in a position covered by the fund for at least ninety (90) days after the date the member terminates employment.

(c) A member who elects to withdraw the entire amount in the member's annuity savings account under subsection (b) shall provide notice of the election on a form provided by the board.

(d) The election to withdraw the entire amount in the member's annuity savings account is irrevocable.

(e) The board shall pay the amount in the member's annuity savings account as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member becomes eligible to receive a retirement benefit under IC 5-10.2-4, a retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter; and

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(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

SECTION 4. IC 5-10.2-3-7.5, AS AMENDED BY P.L.99-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

(1) the member dies after March 31, 1990;

(2) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

(3) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (b) or (c).

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

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

(2) the actual date of death;

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

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

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

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(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly **pension** benefit to be paid to each dependent. Monthly **pension** benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly **pension** benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (e) and (g).

(d) **This subsection applies if a member did not designate a beneficiary or the designated beneficiary does not survive the member.** Except as provided in subsections (e) and (h), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter to the extent of the lump sum payment.

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

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

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

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benefits paid to the member.

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

(f) If a member dies:

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. IC 5-10.2-4-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.2. ~~The public employees' retirement~~ **(a) Each** fund shall adopt a policy that

~~(1) promotes~~ **requires** direct deposit **or another method approved by the board** as the preferred way for members and

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beneficiaries to receive monthly benefits. ~~and~~

~~(2) strongly encourages members and beneficiaries who apply for benefits to receive their monthly benefits by direct deposit.~~

(b) Notwithstanding a policy adopted under subsection (a), the board shall establish an alternative payment method for a member or beneficiary who provides satisfactory evidence to the board that the member or beneficiary is unable to receive monthly benefits by direct deposit or another method approved by the board under subsection (a).

SECTION 6. IC 5-10.2-4-1.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.4. (a) This section applies to a member or a beneficiary of the ~~public employees' retirement~~ fund who receives a monthly benefit by direct deposit.

(b) The fund shall furnish to the member or beneficiary:

(1) before each change in the amount of the member's or beneficiary's benefit; or

(2) once every twelve (12) months, if the member's or beneficiary's benefit amount does not change;

a written notice showing the member's or beneficiary's benefit amount, including any cost of living increase or other adjustment to the benefit amount, and a summary of the member's or beneficiary's benefit payment history since the member's or beneficiary's last written notice.

SECTION 7. IC 5-10.2-4-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) A fund may calculate and pay an estimated retirement benefit of the pension portion to a member if:

(1) the member has applied for a retirement benefit and has chosen a retirement date on which the retirement benefit is to begin;

(2) the member's membership records are incomplete or have not been certified; and

(3) the member's membership records that have been submitted to the fund establish that the member is entitled to a retirement benefit.

(b) ~~A~~ **After June 30, 2009, if a** fund ~~may calculate~~ **calculates and pays** an estimated benefit under this section, ~~based on~~ **the estimated benefit must be at least** eighty-five percent (85%) of the pension portion of the benefit determined under the fund's records on service and compensation information.

(c) If an estimated benefit is paid to a member under this section, the fund shall, after all membership records have been submitted to the fund and certified, determine the actual retirement benefit to which the

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member is entitled. After determining the actual retirement benefit to which the member is entitled, the fund shall temporarily adjust the actual retirement benefit that is paid to the member to reconcile any underpayment or overpayment of benefits to the member that resulted from the payment of estimated benefits. The fund may make the temporary adjustment to the member's actual retirement benefit over a reasonable time, as determined by the board.

SECTION 8. IC 5-10.2-4-2, AS AMENDED BY P.L.115-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Unless a member elects otherwise under this section or has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account. If a member has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the member's retirement benefit is equal to the pension provided by employer contributions, unless the member has transferred the creditable service earned under the public employees' retirement fund to another governmental retirement plan under IC 5-10.2-3-1(i). **Regardless of a member's election under this section, contributions totaling not more than one thousand dollars ($1,000) that are posted to a member's annuity savings account after the final date on which the member's retirement benefit is processed may be distributed to the member as a lump sum payment.**

(b) **This subsection applies to a member of the Indiana state teachers' retirement fund.** If a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose at retirement or upon a disability retirement to receive a distribution of:

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

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

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

(c) **This subsection applies to a member of the Indiana state**

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

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

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of ~~each~~ **the** board **of the Indiana state teachers' retirement fund** to receive a distribution of:

(A) the entire amount credited to the member in the annuity savings account; or

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

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

(d) This subsection applies to a member of the public employees' retirement fund who files an application for retirement benefits after June 30, 2009. If a member has not elected to receive the benefit described in subsection (a) or to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member at retirement or upon a disability

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retirement must elect to receive a distribution of:

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

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

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

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

SECTION 9. IC 5-10.2-4-7, AS AMENDED BY P.L.115-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member

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retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, or to a member of the public employees' retirement fund after June 30, 2008. If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

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(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

(1) the member's retirement option under subsection (b);

(2) the selection of a lump sum payment under section 2 of this chapter; or

(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

(f) Whenever the amount of a monthly retirement benefit to be paid to a member is not more than five dollars ($5), each board may adopt a policy to permit annual payment of the member's retirement benefit.

SECTION 10. IC 5-10.2-4-8, AS AMENDED BY P.L.130-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) **Subject to subsection (e),** if a member who is receiving retirement benefits becomes reemployed in a position covered by this article more than thirty (30) days after the member's retirement, the member's retirement benefit payments continue. ~~Except for a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund, the member shall begin making contributions as required in IC 5-10.2-3-2, and the member's employer shall make contributions throughout the member's period of reemployment.~~

(b) If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than thirty (30) days after the member's retirement, the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

~~(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state~~

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~~teachers' retirement fund. If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.~~

~~(d)~~ **(c) Subject to subsection (e),** the following apply to a member ~~of the Indiana state teachers' retirement fund~~ who is reemployed more than thirty (30) days after the member's retirement in a position covered by ~~the Indiana state teachers' retirement fund.~~ **this article:**

(1) The member's retirement benefit payments continue during the member's period of reemployment without regard to the amount of the member's earnings from the covered position.

(2) The member may not make contributions under IC 5-10.2-3-2, **IC 5-10.3-7-9,** or IC 5-10.4-4-11 during the member's period of reemployment.

(3) The member's employer may not make contributions under IC 5-10.2-2-11, **IC 5-10.3-7-9,** or IC 5-10.4-4-11 for or on behalf of the member during the member's period of reemployment.

(4) The member does not earn creditable service under IC 5-10.2-3-1 for the member's period of reemployment.

~~(5) The member is not entitled to an additional benefit under sections 9 and 10 of this chapter for the member's period of reemployment.~~

~~(e)~~ **(d)** The thirty (30) day period provided for in this section may be implemented unless the board of trustees of the fund receives a determination from the Internal Revenue Service prohibiting the implementation.

(e) After June 30, 2009, if, on or before the date the member files an application for retirement benefits under this article, a member has a formal or informal agreement with an employer covered by this article to become reemployed in a position covered by this article after the member's retirement, regardless of the time frame, the member's application for retirement benefits is void, and the following apply to the member's continued employment:

(1) If a member received a retirement benefit:

(A) the member's retirement benefit shall stop; and

(B) the member shall repay the amount of the retirement benefit received.

(2) The member shall make contributions as required by IC 5-10.2-3-2.

(3) Employer contributions shall be made throughout the period of employment.

(4) When the member's period of continued employment terminates, the member may again file an application for

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retirement benefits under IC 5-10.2-4.

SECTION 11. IC 5-10.2-4-8.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.2. (a) ~~Notwithstanding~~ **As provided under** section 8 of this chapter, if a member who is receiving retirement benefits is elected or appointed to an elected position covered by this article, the member shall ~~file a written, irrevocable election with the board to~~ continue ~~or discontinue~~ **to receive** retirement benefits while the member holds the elected position.

(b) If a member:

(1) is elected or appointed to an elected position and:

(A) becomes at least fifty-five (55) years of age; and

(B) completes at least twenty (20) years of service; or

(2) is serving in any other position covered by this article and:

(A) becomes at least seventy (70) years of age; and

(B) completes at least twenty (20) years of service;

while holding the position, the member may file a written, irrevocable election to begin receiving, while holding the position, retirement benefits to which the member would be entitled by age and service. A member who does not make the irrevocable election while holding the position is entitled to retroactive payments to cover any period from the date the member qualifies to make the election under this subsection to the date the member files the election under this subsection.

(c) The form and content of an election shall be prescribed by the board. ~~If the member elects to discontinue receiving retirement benefits, the member shall make contributions as required in IC 5-10.2-3-2.~~ If the member elects to ~~continue or~~ begin receiving benefits **under subsection (b):**

(1) the member ~~may continue to make~~ **stops making** contributions under IC 5-10.2-3-2; ~~but is not required to do so;~~ and

(2) the member ~~waives the accrual of~~ **does not accrue additional** service credit ~~and the right to any supplemental benefit~~ from service in the position, except to the extent that the value of the accrual of additional service credit ~~and any supplemental benefit~~ exceeds the actuarial value of the benefits received under this chapter and that were continued or begun pursuant to an election under this section.

(d) ~~Except to the extent of the liability for any additional benefit accrued under subsection (c)(2),~~ The employer shall make the employer's contribution only for past service liability based on the salary for the position of a member who elects under subsection ~~(a) or~~

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(b) to ~~continue or~~ begin receiving retirement benefits.

~~(c) Section 10 of this chapter applies to a member who elects under subsection (a) to discontinue receiving retirement benefits. Section 10 of this chapter does not apply, while the member holds a position covered by this article, to a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.~~

SECTION 12. IC 5-10.3-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The director is the executive officer in charge of the administration of the fund's detailed affairs.

(b) The director shall:

(1) maintain a record of the board's proceedings;

(2) be responsible for the safekeeping of the books and records of the funds administered by the board;

~~(1)~~ **(3)** receipt for payments made to the ~~fund~~ **funds administered by the board** and deposit ~~them~~ **these payments** with the ~~treasurer of state or a~~ custodian for the fund's account;

~~(2)~~ **(4)** sign vouchers for the payment of money from the ~~fund~~ **funds administered by the board** as authorized by the board;

~~(3) perform other duties assigned by the board; and~~

~~(4)~~ **(5)** execute a corporate surety bond in an amount specified by the board, the premium on the bond to be paid by the board; **and**

(6) perform other duties assigned by the board.

SECTION 13. IC 5-10.3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Securities shall be held for the fund by banks or trust companies under a custodial agreement. Income, interest, proceeds of sale, materials, redemptions, and all other receipts from securities and other investments which the board retains for the cash working balance shall be deposited ~~with the treasurer of state.~~ **as authorized by the board.**

(b) The board may contract with investment counsel, trust companies, or banks to assist the board in its investment program.

SECTION 14. IC 5-10.3-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. ~~Collection of Payments.~~ **(a)** If the employer or political subdivision fails to make payments required by this chapter, the amount payable may be:

(1) withheld by the auditor of state from moneys payable to the employer or subdivision and transferred to the fund; or

(2) recovered in a suit in the circuit or superior court of the county in which the political subdivision is located. ~~which~~ **The** suit shall be an action by the state on the relation of the board, prosecuted by the attorney general.

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(b) If:

(1) service credit is verified for a member who has filed an application for retirement benefits; and

(2) the member's employer at the time the service credit was earned has not made contributions for or on behalf of the member for the service credit;

liability for the unfunded service credit shall be charged against the employer's account and collected by the fund as provided in subsection (a). Processing of a member's application for retirement benefits may not be delayed by an employer's failure to make contributions for the service credit earned by the member while the member was employed by the employer.

(c) If the employer or political subdivision fails to file the reports or records required by this chapter or by IC 5-10.3-7-12.5, the auditor of state shall:

(1) withhold the penalty described in IC 5-10.3-7-12.5 from money payable to the employer or the political subdivision; and ~~shall~~

(2) transfer the penalty to the fund.

SECTION 15. IC 5-10.3-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. **(a) This section does not apply to a member who is reemployed as provided under IC 5-10.2-4-8 more than thirty (30) days after the member's retirement in a position covered by the fund.**

(b) Each member shall contribute three percent (3%) of his compensation to the fund as specified in IC 5-10.2-3. However, for a member who is a state employee, the employer shall pay the contribution for the member, and for a member who is not a state employee, the employer may pay all or a part of the contribution for the member.

SECTION 16. IC 5-10.3-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. ~~Payment of the Retirement Benefit.~~ **Except as provided under IC 5-10.2-4-7(f),** the retirement benefit is payable in equal monthly installments. The benefit may not be increased, decreased, revoked or repealed except for error or by action of the general assembly.

SECTION 17. IC 5-10.4-3-9, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The board is responsible for the fund's property. The board may take and hold any property given outright or on condition to the fund and shall perform the conditions accepted. Unless restricted by a condition, the board may transfer the property

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when necessary for the fund's benefit.

(b) The board shall receipt:

(1) property belonging to or coming into the fund and shall judiciously invest the property; and

(2) money coming into the fund and, except as specified in sections 13 and 14 of this chapter, shall deposit the money ~~with the state treasurer in the manner required of other state funds by IC 5-13.~~ **as authorized by the board.**

~~(c) The board shall make quarterly reports to the auditor of state as required by law for the transference of the fund to the auditor of state's books.~~

~~(d)~~ **(c)** The board shall direct the fund's disbursements on itemized vouchers ~~to the auditor of state~~ approved by the president of the board and the director or, in the absence or incapacity of both officers, by another trustee directed by order of the board. ~~The auditor of state then shall issue a warrant on the treasurer of state.~~

SECTION 18. IC 5-10.4-3-14, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. All income and other receipts from securities may be:

(1) collected by the custodian bank or safekeeping bank approved for that purpose by the board and deposited in the custodial account or a checking account of the board;

(2) reinvested from the custodial account or checking account when the board determines that the receipts may be safely invested; or

(3) withdrawn by the board for the immediate needs of the fund from the checking account or custodial account. ~~and then deposited with the treasurer of state, as required for other money coming into the fund.~~

SECTION 19. IC 5-10.4-4-8, AS AMENDED BY P.L.201-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This subsection applies to a member who retires before July 1, 1980. A member who had completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to credit for that service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if before or during the leave of absence the member pays into the fund the member's contributions. Time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the

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necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter.

(b) This subsection applies to a member who retires after June 30, 1980. A member who completed four (4) years of approved college teacher education before voluntary or involuntary induction into military service is entitled to credit for the member's active military service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if the following conditions are met:

(1) The member has an honorable discharge.

(2) Except as provided in subsection ~~(c),~~ **(g),** the member returns to active teaching service not later than twenty-four (24) months after the completion of active military service.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(c) This subsection applies to a member who retires after May 1, 1989. A member who had begun but had not completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to service credit in an amount equal to the duration of the member's active military service if the following conditions are met:

(1) The member has an honorable discharge.

(2) Except as provided in subsection ~~(c),~~ **(g),** the member returns to a four (4) year approved college teacher training program not later than twenty-four (24) months after the completion of active military service and subsequently completes that program.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(d) This subsection applies to a member who retires after May 1, 1991, and who is employed at a state educational institution. A member who had begun but had not completed baccalaureate or

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post-baccalaureate education before voluntary or involuntary induction into military service is entitled to the member's active military service credit for the member's active military service in an amount equal to the duration of the member's military service if the following conditions are met:

(1) The member received an honorable discharge.

(2) Except as provided in subsection ~~(c),~~ **(g),** the member returns to baccalaureate or post-baccalaureate education not later than twenty-four (24) months after completion of active military service and subsequently completes that education.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(e) For purposes of this section, a member returns to active teaching service on the earlier of:

(1) the date on which the member signs a teacher's contract; or

(2) the date on which the member is first employed in a position covered by this article.

(f) For purposes of this section, a member returns to:

(1) a teacher training program; or

(2) baccalaureate or post-baccalaureate education;

on the date the member registers or enrolls for classes that the member attends.

~~(e)~~ **(g)** The board shall extend the twenty-four (24) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher education program not later than twenty-four (24) months after the member's discharge from military service. However, the board may not extend the deadline beyond forty-eight (48) months after the member's discharge.

~~(f)~~ **(h)** If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection ~~(c),~~ **(g),** the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a

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recomputation of benefits received before the date of the board's determination.

~~(g)~~ **(i)** Notwithstanding any provision of this section, a member is entitled to military service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

~~(h)~~ **(j)** Subject to this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

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

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

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

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

(ii) a rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of service credit the member intends to purchase.

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

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public

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employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

~~(i)~~ **(k)** The following apply to the purchase of service credit under subsection ~~(h).~~ **(j):**

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

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

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

~~(j)~~ **(l)** This subsection applies to a member who retires after June 30, 2006. A member may not receive credit under this section for service for which the member receives service credit under the terms of a military or another governmental retirement plan.

SECTION 20. IC 5-10.4-4-10, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a)** The director shall obtain a designation of beneficiary as soon as possible from each member.

(b) Notwithstanding a contrary collateral agreement, court order, process, attachment, or levy, the right to receive a death benefit under IC 5-10.2 or IC 5-10.4 vests with the designated beneficiary on file with the fund at the time of the member's death. The fund shall distribute the death benefit to the designated beneficiary or the designated beneficiary's estate in accordance with IC 5-10.2 and IC 5-10.4.

SECTION 21. IC 5-10.4-5-9, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The fund shall make a member's first pension benefit payment not more than ninety (90) days after the date the member completes and files an application for retirement benefits.

(b) After the first pension benefit payment **and except as provided under IC 5-10.2-4-7(f),** a person entitled to benefits shall receive a retirement benefit payment by the tenth day of each month.

SECTION 22. IC 5-10.4-5-13, AS AMENDED BY P.L.76-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. ~~(a)~~ IC 5-10.2-4-8 ~~IC 5-10.2-4-9, and~~

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~~IC 5-10.2-4-10 apply~~ **applies** to the reemployment of a retired member.

~~(b) This subsection does not apply to a member who is reemployed more than thirty (30) days after the member's retirement in a position covered by the fund. For a retired member who withdraws from retirement status, resumes teaching, and again retires, the board shall pay the member, after the member's second or subsequent retirement, a monthly retirement benefit at least equal to the highest amount the retired member has received as a retirement benefit.~~

SECTION 23. IC 5-10.4-6-2, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) After July 9, 1949, a member receiving a retirement benefit under Acts 1915, c.182, or any statute amendatory of or supplemental to it enacted before January 1, 1949, is eligible, subject to Acts 1949, c.130, s.2(j), to receive a retirement benefit approximately equal to the state's proportionate share of a retirement benefit provided by Acts 1949, c.130 for up to thirty (30) years of service. These members shall make written application for these benefits to the board at any time. Applications must be based on the service record established in the office of the fund on April 1, 1949. **Except as provided by IC 5-10.2-4-7(f),** this retirement benefit must begin on the tenth of the month following acknowledgment of the application.

(b) The board shall establish, with the advice of the fund's actuary, a simplified table for computing the increases under this section for the years of service. The board may provide by resolution for participation by the members receiving benefits under this section in the additional annuity fund.

(c) Within a reasonable time, the board shall issue to each member of the fund a service certificate that includes the following:

(1) The member's name.
(2) The member's last known address.
(3) The member's account number.
(4) The law under which the member is participating in the fund.
(5) The contribution due from the member.
(6) A certification of the total years of creditable service that the member has as of a date fixed by the board.

(d) The service certificate described in subsection (c) is final and conclusive regarding service in the fund. However, a member may, not later than one (1) year from the issuance or notification of the certificate, request that the board modify the member's service certificate.

SECTION 24. IC 5-10.4-7-10, AS ADDED BY P.L.2-2006,

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SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a) Except as provided in subsection (b),** the board shall maintain separate **reserve** accounts within the 1996 account for each school corporation.

(b) If the board sets a group employer rate under IC 5-10.2-2-11(b), the board shall maintain separate reserve accounts within the 1996 account for each employer group.

(c) Credits and charges to these accounts must be made as prescribed in IC 5-10.2-2.

SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 5-10.2-4-9; IC 5-10.2-4-10; IC 5-10.3-4-1; IC 5-10.3-4-2; IC 5-10.3-9-5.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 370, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 370 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 7, Nays 0.

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