



April 1, 2011

**ENGROSSED
SENATE BILL No. 524**

DIGEST OF SB 524 (Updated March 31, 2011 9:40 am - DI 96)

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

Synopsis: Public employees' defined contribution plan. Establishes a defined contribution plan (plan) as an option for new state employees. A state employee who does not elect to become a member of the plan becomes a member of the public employees' retirement fund (PERF). Requires the PERF board of trustees (board) to establish the same investment options for the plan that are available for the investment of a PERF member's annuity savings account. Provides that a member's contribution to the plan is 3% of the member's compensation and is paid by the state on behalf of the member. Provides that the state's employer contribution rate for the plan is equal to the state's employer contribution rate for PERF. Provides that the amount credited from the employer's contribution rate to the member's account shall not be greater than the normal cost of PERF with any amount not credited to the member's account applied to PERF's unfunded accrued liability.
(Continued next page)

Effective: July 1, 2011.

Walker, Waltz, Boots, Banks

(HOUSE SPONSORS — DAVIS, ELLSPERMANN, TORR)

January 18, 2011, read first time and referred to Committee on Pensions and Labor.
February 17, 2011, amended, reported favorably — Do Pass.
February 21, 2011, read second time, amended, ordered engrossed.
February 22, 2011, engrossed. Read third time, passed. Yeas 37, nays 12.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Employment, Labor and Pensions.
March 31, 2011, reported — Do Pass.

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Digest Continued

Establishes a minimum state employer contribution of 3% of plan members' compensation. Establishes a five year vesting schedule for employer contributions, and requires a member who terminates state employment before the member is fully vested to forfeit amounts that are not vested. Establishes provisions for the withdrawal of amounts in member accounts. Authorizes rollover contributions to the plan. Urges the legislative council to assign to the pension management oversight commission (commission) the study of whether to create a defined contribution plan as an option for new employees of political subdivisions that participate in PERF and for new employees who are eligible to become members of the teachers' retirement fund. Requires, if the commission is assigned the topic, that the commission issue a final report containing the commission's findings and recommendations, including any recommended legislation, not later than November 1, 2011.

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April 1, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 524



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 5-10.2-2-6 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The retirement
 3 allowance account of the public employees' retirement fund consists of
 4 the retirement fund, exclusive of the annuity savings account. **The**
 5 **retirement allowance account also includes any amounts received**
 6 **under IC 5-10.3-12-24(b).** For the public employees' retirement fund,
 7 separate accounts within the retirement allowance account shall be
 8 maintained for contributions made by the state and by each political
 9 subdivision.

10 (b) The retirement allowance account of the pre-1996 account
 11 consists of the pre-1996 account, exclusive of the annuity savings
 12 account.

13 (c) The retirement allowance account of the 1996 account consists
 14 of the 1996 account, exclusive of the annuity savings account. For the
 15 1996 account, separate accounts within the retirement allowance
 16 account shall be maintained for contributions made by the state, by
 17 each school corporation, and by each institution.

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ES 524—LS 7446/DI 102+



1 SECTION 2. IC 5-10.3-12 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]:

4 **Chapter 12. Public Employees' Defined Contribution Plan**

5 **Sec. 1. (a) This chapter applies to an individual who, on or after**
6 **the effective date of the plan:**

7 (1) becomes for the first time a full-time employee of the state
8 (as defined in IC 5-10.3-7-1(d)) in a position that would
9 otherwise be eligible for membership in the fund under
10 IC 5-10.3-7; and

11 (2) makes the election described in section 20 of this chapter
12 to become a member of the plan.

13 (b) This chapter does not apply to an individual who:

14 (1) before the effective date of the plan, is or was a member
15 (as defined in IC 5-10.3-1-5) of the fund; or

16 (2) on or after the effective date of the plan, does not elect to
17 participate in the plan.

18 **Sec. 2. As used in this chapter, "account" means the plan**
19 **account established for a member under section 21(b) of this**
20 **chapter.**

21 **Sec. 3. As used in this chapter, "annuity savings account" means**
22 **the annuity savings account maintained under IC 5-10.2-2-2(a)(1).**

23 **Sec. 4. As used in this chapter, "board" has the meaning set**
24 **forth in IC 5-10.3-1-1.**

25 **Sec. 5. As used in this chapter, "compensation" has the meaning**
26 **set forth in IC 5-10.2-3-2(a).**

27 **Sec. 6. As used in this chapter, "dies in the line of duty" has the**
28 **meaning set forth in IC 5-10-11-2.**

29 **Sec. 7. As used in this chapter, "effective date" means the first**
30 **day of the month that is six (6) months after the month in which the**
31 **Internal Revenue Service issues an approval of the plan.**

32 **Sec. 8. As used in this chapter, "employer" means the state.**

33 **Sec. 9. As used in this chapter, "employer contribution**
34 **subaccount" means the subaccount in a member's plan account**
35 **established under section 21(b)(2) of this chapter.**

36 **Sec. 10. As used in this chapter, "fund" has the meaning set**
37 **forth in IC 5-10.3-1-3.**

38 **Sec. 11. As used in this chapter, "Internal Revenue Code" has**
39 **the meaning set forth in IC 5-10.2-1-3.5.**

40 **Sec. 12. As used in this chapter, "member" means an individual**
41 **who has elected to participate in the plan.**

42 **Sec. 13. As used in this chapter, "member contribution**

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subaccount" means the subaccount in a member's plan account established under section 21(b)(1) of this chapter.

Sec. 14. As used in this chapter, "normal retirement age" for a member means the member is at least sixty-two (62) years of age with at least ten (10) years of participation in the plan.

Sec. 15. As used in this chapter, "plan" refers to the public employees' defined contribution plan established by section 18 of this chapter.

Sec. 16. As used in this chapter, "years of participation" means all periods of participation in the plan in a covered position, plus any additional service for which this chapter provides years of participation credit.

Sec. 17. Except as otherwise provided in this chapter or by federal law, and subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the provisions of IC 5-10.3 that apply to the annuity savings account apply to an account established under this chapter.

Sec. 18. (a) The public employees' defined contribution plan is established for the purpose of providing amounts funded by an employer and a member for the use of the member or the member's beneficiaries or survivors after the member's retirement.

(b) The board shall adopt provisions to implement the plan established under subsection (a) as follows:

(1) The board shall initially offer the plan using the annuity savings account, subject to obtaining the approval of the Internal Revenue Service in a manner satisfactory to the board to preserve the qualified status of the plan and the fund. The plan as provided under this subdivision is a component within the fund.

(2) If the approval of the Internal Revenue Service to offer the plan using the annuity savings account cannot be obtained in a manner satisfactory to the board, the board shall offer the plan as a separate fund under Section 401(a) or another applicable section of the Internal Revenue Code.

(c) The board shall administer the plan.

(d) The board may adopt a plan document that it considers appropriate or necessary to administer the plan.

Sec. 19. The board may request from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate in order to implement or administer the plan.

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1 **Sec. 20. (a) An individual who, on or after the effective date of**
2 **the plan, becomes for the first time a full-time employee of the state**
3 **(as defined in IC 5-10.3-7-1(d)) in a position that would otherwise**
4 **be eligible for membership in the fund under IC 5-10.3-7 may elect**
5 **to become a member of the plan. An election under this section:**

- 6 (1) **must be made in writing;**
- 7 (2) **must be filed with the board, on a form prescribed by the**
8 **board; and**
- 9 (3) **is irrevocable.**

10 **(b) An individual who does not elect to become a member of the**
11 **plan becomes a member (as defined in IC 5-10.3-1-5) of the fund.**

12 **Sec. 21. (a) The plan consists of the following:**

- 13 (1) **Each member's contributions to the plan under section 23**
14 **of this chapter.**
- 15 (2) **Contributions made by an employer to the plan on behalf**
16 **of each member under section 24 of this chapter.**
- 17 (3) **Rollovers to the plan by a member under section 29 of this**
18 **chapter.**
- 19 (4) **All earnings on investments or deposits of the plan.**
- 20 (5) **All contributions or payments to the plan made in the**
21 **manner provided by the general assembly.**

22 **(b) The plan shall establish an account for each member. A**
23 **member's account consists of two (2) subaccounts credited**
24 **individually as follows:**

- 25 (1) **The member contribution subaccount consists of:**
 - 26 (A) **the member's contributions to the plan under section**
27 **23 of this chapter; and**
 - 28 (B) **the net earnings on the contributions described in**
29 **clause (A) as determined under section 22 of this chapter.**
- 30 (2) **The employer contribution subaccount consists of:**
 - 31 (A) **the employer's contributions made on behalf of the**
32 **member to the plan under section 24 of this chapter; and**
 - 33 (B) **the earnings on the contributions described in clause**
34 **(A) as determined under section 22 of this chapter.**

35 **The board may combine the two subaccounts established under**
36 **this subsection into a single account, if the board determines that**
37 **a single account is administratively appropriate and permissible**
38 **under applicable law.**

39 **(c) If a member makes rollover contributions under section 30**
40 **of this chapter, the plan shall establish a rollover account as a**
41 **separate subaccount within the member's account.**

42 **Sec. 22. (a) Subject to the board obtaining the approval of the**

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1 Internal Revenue Service as described in section 18(b) of this
 2 chapter, the board shall establish the alternative investment
 3 programs (as described by IC 5-10.2-2-3 and IC 5-10.2-2-4) within
 4 the annuity savings account as the initial alternative investment
 5 programs for the plan, except that the board shall maintain at least
 6 one (1) alternative investment program that is a stable value fund.
 7 If the board considers it necessary or appropriate, the board may
 8 establish different or additional alternative investment programs
 9 for the plan. However, the guaranteed fund (as defined in
 10 IC 5-10.2-2-3) shall not be offered as an investment option under
 11 the plan.

12 (b) The requirements and rules that apply to the alternative
 13 investment programs within the annuity savings account are the
 14 initial requirements and rules that apply to the alternative
 15 investment programs within the plan, including the following:

- 16 (1) The board's investment guidelines and limits for the
 17 alternative investment programs.
- 18 (2) A member's selection of and changes to the member's
 19 investment options.
- 20 (3) The valuation of a member's account.
- 21 (4) The allocation and payment of administrative expenses for
 22 the alternative investment programs.

23 (c) If the board considers it necessary or appropriate, the board
 24 may establish different or additional requirements and rules that
 25 apply to the alternative investment programs within the plan.

26 (d) The board shall determine the appropriate administrative
 27 fees to be charged to the member accounts.

28 Sec. 23. (a) Each member's contribution to the plan is equal to
 29 three percent (3%) of the member's compensation. The state shall
 30 pay the member's contribution on behalf of each member of the
 31 plan each year.

32 (b) Member contributions will be credited to the member's
 33 account as specified in IC 5-10.2-3.

34 (c) Although designated as employee contributions, the
 35 contributions made under subsection (a) are picked up and paid by
 36 the state as the employer in lieu of the contributions being paid by
 37 the employee in accordance with section 414(h)(2) of the Internal
 38 Revenue Code. A member may not receive any amounts paid by
 39 the state under this section directly instead of having the amounts
 40 paid to the plan.

41 Sec. 24. (a) The state shall make employer contributions to the
 42 plan based on the rate determined under this section.

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1 (b) The employer's contribution rate for the plan shall be equal
2 to the employer's contribution rate for the fund as determined by
3 the board under IC 5-10.2-2-11(b). The amount credited from the
4 employer's contribution rate to the member's account shall not be
5 greater than the normal cost of the fund. Any amount not credited
6 to the member's account shall be applied to the unfunded accrued
7 liability of the fund as determined under IC 5-10.2-2-11(a)(3) and
8 IC 5-10.2-2-11(a)(4).

9 (c) The state's minimum contribution under this section is equal
10 to three percent (3%) of the compensation of all members of the
11 plan.

12 (d) The state shall submit the employer contributions
13 determined under this section as provided in IC 5-10.2-2-12.5.

14 **Sec. 25. (a) Member contributions and net earnings on the**
15 **member contributions in the member contribution subaccount**
16 **belong to the member at all times and do not belong to the state.**

17 (b) A member is vested in the employer contribution subaccount
18 in accordance with the following schedule:

Years of participation in the plan	Vested percentage of employer contributions and earnings
1	20%
2	40%
3	60%
4	80%
5	100%

27 For purposes of vesting in the employer contribution subaccount,
28 only a member's full years of participation in the plan may be
29 counted.

30 (c) The amount that a member may withdraw from the
31 member's account is limited to the vested portion of the account.

32 (d) A member who attains normal retirement age is fully vested
33 in all amounts in the member's account.

34 (e) If a member separates from service with the state before the
35 member is fully vested in the employer contribution subaccount,
36 the amount in the employer contribution subaccount that is not
37 vested is forfeited as of the date of the member separates from
38 service.

39 (f) Amounts forfeited under subsection (e) must be used to
40 reduce the state's unfunded accrued liability of the fund as
41 determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

42 (g) A member may not earn creditable service (as defined in

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1 IC 5-10.2-3-1(a) under the plan.

2 Sec. 26. (a) Subject to the provisions of the Internal Revenue
3 Code applicable to qualified plan distributions, a member who
4 terminates service in a covered position is entitled to withdraw
5 amounts in the member's account to the extent the member is
6 vested in the account. A member must make a required withdrawal
7 from the member's account not later than the required beginning
8 date under the Internal Revenue Code.

9 (b) The member may elect to have withdrawals paid as:

- 10 (1) a lump sum;
11 (2) a direct rollover to another eligible retirement plan; or
12 (3) if the member has attained normal retirement age, as a
13 monthly annuity in accordance with the rules of the board.

14 (c) The board may establish a minimum account balance or a
15 minimum monthly payment amount in order for a member to
16 select the monthly annuity option. The board shall establish the
17 forms of annuity by rule, in consultation with the board's actuary.
18 The board shall give members information about these forms of
19 payment and any information required by federal law to
20 accompany such distributions.

21 (d) Unless otherwise required by federal or state law, the
22 requirements and rules that apply to the distribution of the annuity
23 savings account apply to distributions from a member's account.

24 Sec. 27. (a) If a member dies:

- 25 (1) while in service in a position covered by the plan but not
26 in the line of duty; or
27 (2) after terminating service in a position covered by the plan
28 but before withdrawing the member's account;

29 to the extent that the member is vested, the member's account shall
30 be paid to the beneficiary or beneficiaries designated by the
31 member on a form prescribed by the board. The amount paid shall
32 be valued as provided in IC 5-10.2-2-3 and IC 5-10.2-2-4. The
33 board shall invest the total amount in the member's account in the
34 stable value fund not later than thirty (30) days after receiving
35 notification of a member's death.

36 (b) If there is no properly designated beneficiary, or if no
37 beneficiary survives the member, the member's account shall be
38 paid to:

- 39 (1) the surviving spouse of the member;
40 (2) if there is not a surviving spouse, the surviving dependent
41 or dependents of the member in equal shares; or
42 (3) if there is not a surviving spouse or dependent, the

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member's estate.
(c) The beneficiary or beneficiaries designated under subsection (a) or a survivor determined under subsection (b) may elect to have the member's account paid as:

- (1) a lump sum;
- (2) a direct rollover to another eligible retirement plan; or
- (3) a monthly annuity in accordance with rules of the board.

A monthly annuity is an option only on or after the beneficiary or survivor attains sixty-two (62) years of age. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. Further, the board may establish a minimum account balance or a minimum monthly payment amount that is required in order for a beneficiary or survivor to select the monthly annuity option.

(d) If a member dies in the line of duty while in service in a covered position, the designated beneficiary or beneficiaries or the surviving spouse or dependents, as applicable, are entitled to payment of the member's account as provided in this section. In addition, if the member was not fully vested in the employer contribution subaccount, the account is deemed to be fully vested for purposes of withdrawal under this section.

Sec. 28. (a) All assets in the plan are exempt from levy, sale, garnishment, attachment, or other legal process.

(b) A member, beneficiary, or survivor may not assign any payment under this chapter except for the following:

- (1) Premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in part by a state agency.
- (2) Dues to an association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the retired members in the plan.

Sec. 29. (a) To the extent permitted by the Internal Revenue Code and the applicable regulations and guidance, the plan may accept, on behalf of any member who is employed in a covered position, a rollover distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3) An eligible plan maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

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1 **(4) An individual retirement account or annuity described in**
2 **Section 408(a) or Section 408(b) of the Internal Revenue**
3 **Code.**

4 **(b) Any amounts rolled over under subsection (a) must be**
5 **accounted for in a "rollover account" that is separate from the**
6 **member's account in the plan. The member shall be fully vested in**
7 **the member's rollover account.**

8 **(c) A member may direct the investment of the member's**
9 **rollover account into any alternative investment option that the**
10 **board may make available to the member's rollover account under**
11 **section 22 of this chapter.**

12 **(d) A member may withdraw the member's rollover account**
13 **from the plan in a lump sum or direct a rollover to an eligible**
14 **retirement plan at any time. Upon attainment of normal retirement**
15 **age, in addition to these payment options, the member may**
16 **withdraw the member's rollover account as a monthly annuity as**
17 **established by the board in accordance with the annuity options**
18 **that are available for the member's account in the plan. A member**
19 **must make a required withdrawal from the member's account in**
20 **the plan not later than the required beginning date under the**
21 **Internal Revenue Code.**

22 **Sec. 30. (a) If a member becomes disabled while in a covered**
23 **position, subject to any federal law limitations concerning qualified**
24 **plan distributions and the member's furnishing proof of the**
25 **member's qualification for Social Security disability benefits to the**
26 **board, to the extent that the member is vested, the member may**
27 **make a withdrawal from the member's account.**

28 **(b) The member may elect to have the withdrawal paid as:**
29 **(1) a lump sum;**
30 **(2) a direct rollover to another eligible retirement plan; or**
31 **(3) a monthly annuity in accordance with the rules of the**
32 **board.**

33 **(c) The board may establish a minimum account balance or a**
34 **minimum monthly payment amount in order for a member to**
35 **select the monthly annuity option.**

36 **Sec. 31. (a) If a member of the plan separates from employment**
37 **with the state and later returns to state employment in a position**
38 **covered by the plan, the member is entitled to receive credit for the**
39 **member's years of participation in the plan before the member's**
40 **separation. However, any amounts forfeited by the member under**
41 **section 25(e) of this chapter may not be restored to the member's**
42 **account.**

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1 **(b) An individual who elected under section 20 of this chapter to**
2 **become a member of the plan resumes membership in the plan**
3 **upon the individual's return to state employment.**
4 **(c) An individual who did not elect to become a member of the**
5 **plan resumes membership in the fund.**
6 **(d) An individual who returns to state employment having had**
7 **an opportunity to make an election under section 20 of this chapter**
8 **during an earlier period of state employment is not entitled to a**
9 **second opportunity to make an election under section 20 of this**
10 **chapter.**
11 **SECTION 3. [EFFECTIVE JULY 1, 2011] (a) As used in this**
12 **SECTION, "commission" refers to the pension management**
13 **oversight commission established by IC 2-5-12-1.**
14 **(b) The general assembly urges the legislative council to assign**
15 **the commission the task of studying the issue of whether to**
16 **establish a defined contribution plan for:**
17 **(1) new employees of political subdivisions that participate in**
18 **the public employees' retirement fund established by**
19 **IC 5-10.3-2-1; and**
20 **(2) new employees who are eligible to become members of the**
21 **Indiana state teachers' retirement fund established by**
22 **IC 5-10.4-2-1.**
23 **The study must include a survey of the design and cost of the**
24 **pension and retirement plans used by other states.**
25 **(c) If the commission is assigned the topic described in**
26 **subsection (b), the commission shall issue a final report to the**
27 **legislative council containing the commission's findings and**
28 **recommendations, including any recommended legislation**
29 **concerning the topic, not later than November 1, 2011.**
30 **(d) This SECTION expires June 30, 2012.**
31 **SECTION 4. [EFFECTIVE JULY 1, 2011] (a) The legislative**
32 **services agency shall prepare legislation for introduction in the**
33 **2012 regular session of the general assembly to organize and**
34 **correct statutes affected by this act.**
35 **(b) This SECTION expires June 30, 2013.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 524, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions and to make an appropriation.

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

"SECTION 1. IC 5-10.3-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 12. Public Employees' Defined Contribution Plan

Sec. 1. (a) This chapter applies to an individual who, on or after the effective date of the plan:

- (1) becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)) in a covered position; and
- (2) makes the election described in section 20 of this chapter to become a member of the plan.

(b) This chapter does not apply to an individual who:

- (1) before the effective date of the plan, is or was a member (as defined in IC 5-10.3-1-5) of the fund; or
- (2) on or after the effective date of the plan, does not elect to participate in the plan.

Sec. 2. As used in this chapter, "account" means the plan account established for a member under section 21(b) of this chapter.

Sec. 3. As used in this chapter, "annuity savings account" means the annuity savings account maintained under IC 5-10.2-2-2(a)(1).

Sec. 4. As used in this chapter, "board" has the meaning set forth in IC 5-10.3-1-1.

Sec. 5. As used in this chapter, "compensation" has the meaning set forth in IC 5-10.2-3-2(a).

Sec. 6. As used in this chapter, "dies in the line of duty" has the meaning set forth in IC 5-10-11-2.

Sec. 7. As used in this chapter, "effective date" means the first day of the month that is six (6) months after the month in which the Internal Revenue Service issues an approval of the plan.

Sec. 8. As used in this chapter, "employer" means the state.

Sec. 9. As used in this chapter, "employer contribution subaccount" means the subaccount in a member's plan account

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established under section 21(b)(2) of this chapter.

Sec. 10. As used in this chapter, "fund" has the meaning set forth in IC 5-10.3-1-3.

Sec. 11. As used in this chapter, "Internal Revenue Code" has the meaning set forth in IC 5-10.2-1-3.5.

Sec. 12. As used in this chapter, "member" means an individual who has elected to participate in the plan.

Sec. 13. As used in this chapter, "member contribution subaccount" means the subaccount in a member's plan account established under section 21(b)(1) of this chapter.

Sec. 14. As used in this chapter, "normal retirement age" for a member means the member is at least sixty-two (62) years of age, if the member has participated in the plan for at least ten (10) years.

Sec. 15. As used in this chapter, "plan" refers to the public employees' defined contribution plan established by section 18 of this chapter.

Sec. 16. As used in this chapter, "years of participation" means all periods of participation in the plan in a covered position, plus any additional service for which this chapter provides years of participation credit.

Sec. 17. Except as otherwise provided in this chapter or by federal law, and subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the provisions of IC 5-10.3 that apply to the annuity savings account apply to an account established under this chapter.

Sec. 18. (a) The public employees' defined contribution plan is established for the purpose of providing amounts funded by an employer and a member for the use of the member or the member's beneficiaries or survivors after the member's retirement.

(b) The board shall adopt provisions to implement the plan established under subsection (a) as follows:

(1) The board shall initially offer the plan using the annuity savings account, subject to obtaining the approval of the Internal Revenue Service in a manner satisfactory to the board to preserve the qualified status of the plan and the fund. The plan as provided under this subdivision is a component within the fund.

(2) If the approval of the Internal Revenue Service to offer the plan using the annuity savings account cannot be obtained in a manner satisfactory to the board, the board shall offer the

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plan as a separate fund under Section 401(a) or another applicable section of the Internal Revenue Code.

(c) The board shall administer the plan.

(d) The board may adopt a plan document that it considers appropriate or necessary to administer the plan.

Sec. 19. The board may request from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate in order to implement or administer the plan.

Sec. 20. (a) An individual who, on or after the effective date of the plan, becomes for the first time a full-time employee of the state (as defined in IC 5-10.3-7-1(d)) in a covered position may elect to become a member of the plan. An election under this section:

- (1) must be made in writing;
- (2) must be filed with the board, on a form prescribed by the board; and
- (3) is irrevocable.

(b) An individual who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund.

Sec. 21. (a) The plan consists of the following:

- (1) Each member's contributions to the plan under section 23 of this chapter.
- (2) Contributions made by an employer to the plan on behalf of each member under section 24 of this chapter.
- (3) Rollovers to the plan by a member under section 30 of this chapter.
- (4) All earnings on investments or deposits of the plan.
- (5) All contributions or payments to the plan made in the manner provided by the general assembly.

(b) The plan shall establish an account for each member. A member's account consists of two (2) subaccounts credited individually as follows:

- (1) The member contribution subaccount consists of:
 - (A) the member's contributions to the plan under section 23 of this chapter; and
 - (B) the net earnings on the contributions described in clause (A) as determined under section 22 of this chapter.
- (2) The employer contribution subaccount consists of:
 - (A) the employer's contributions made on behalf of the member to the plan under section 24 of this chapter; and
 - (B) the earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

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The board may combine the two subaccounts established under this subsection into a single account, if the board determines that a single account is administratively appropriate and permissible under applicable law.

(c) If a member makes rollover contributions under section 30 of this chapter, the plan shall establish a rollover account as a separate subaccount within the member's account.

Sec. 22. (a) Subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the board shall establish the alternative investment programs (as described by IC 5-10.2-2-3 and IC 5-10.2-2-4) within the annuity savings account as the initial alternative investment programs for the plan, except that the board shall maintain at least one (1) alternative investment program that is a stable value fund. If the board considers it necessary or appropriate, the board may establish different or additional alternative investment programs for the plan. However, the guaranteed fund (as defined in IC 5-10.2-2-3) shall not be offered as an investment option under the plan.

(b) The requirements and rules that apply to the alternative investment programs within the annuity savings account are the initial requirements and rules that apply to the alternative investment programs within the plan, including the following:

- (1) The board's investment guidelines and limits for the alternative investment programs.
- (2) A member's selection of and changes to the member's investment options.
- (3) The valuation of a member's account.
- (4) The allocation and payment of administrative expenses for the alternative investment programs.

(c) If the board considers it necessary or appropriate, the board may establish different or additional requirements and rules that apply to the alternative investment programs within the plan.

(d) The board shall determine the appropriate administrative fees to be charged to the member accounts.

Sec. 23. (a) Each member's contribution to the plan is equal to three percent (3%) of the member's compensation. The state shall pay the member's contribution on behalf of each member of the plan each year.

(b) Member contributions will be credited to the member's account as specified in IC 5-10.2-3.

(c) Although designated as employee contributions, the

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contributions made under subsection (a) are picked up and paid by the state as the employer in lieu of the contributions being paid by the employee in accordance with section 414(h)(2) of the Internal Revenue Code. A member may not receive any amounts paid by the state under this section directly instead of having the amounts paid to the plan.

Sec. 24. (a) The board shall determine the employer's contribution to the plan each year.

(b) The employer's contribution rate for the plan is equal to the employer's normal contribution rate for the fund as determined by the board under IC 5-10.2-2-11(a)(2). The employer's contribution rate for the plan may not include any amount that is attributable to the rate necessary for the state to amortize the state's unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(c) The state's minimum contribution under this section is equal to three percent (3%) of the compensation of all members of the plan.

Sec. 25. (a) Member contributions and net earnings on the member contributions in the member contribution subaccount belong to the member at all times and do not belong to the state.

(b) A member is vested in the employer contribution subaccount in accordance with the following schedule:

<u>Years of participation in the plan</u>	<u>Vested percentage of employer contributions and earnings</u>
1	20%
2	40%
3	60%
4	80%
5	100%

For purposes of vesting in the employer contribution subaccount, a member's partial years of participation in the plan may not be counted.

(c) The amount that a member may withdraw from the member's account is limited to the vested portion of the account.

(d) A member who attains normal retirement age is fully vested in all amounts in the member's account.

(e) If a member separates from service with the state before the



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member is fully vested in the employer contribution subaccount, the amount in the employer contribution subaccount that is not vested is forfeited as of the date of the member separates from service.

(f) Amounts forfeited under subsection (e) must be used to reduce the state's unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(g) A member may not earn creditable service (as defined in IC 5-10.2-3-1(a)) under the plan.

Sec. 26. (a) Subject to the provisions of the Internal Revenue Code applicable to qualified plan distributions, a member who terminates service in a covered position is entitled to withdraw amounts in the member's account to the extent the member is vested in the account. A member must make a required withdrawal from the member's account not later than the required beginning date under the Internal Revenue Code.

(b) The member may elect to have withdrawals paid as:

- (1) a lump sum;
- (2) a direct rollover to another eligible retirement plan; or
- (3) if the member has attained normal retirement age, as a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. The board shall give members information about these forms of payment and any information required by federal law to accompany such distributions.

(d) Unless otherwise required by federal or state law, the requirements and rules that apply to the distribution of the annuity savings account apply to distributions from a member's account.

Sec. 27. (a) If a member dies:

- (1) while in service in a position covered by the plan but not in the line of duty; or
- (2) after terminating service in a position covered by the plan but before withdrawing the member's account;

to the extent that the member is vested, the member's account shall be paid to the beneficiary or beneficiaries designated by the member on a form prescribed by the board. The amount paid shall be valued as provided in IC 5-10.2-2-3 and IC 5-10.2-2-4. The board shall invest the total amount in the member's account in the stable value fund not later than thirty (30) days after receiving

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notification of a member's death.

(b) If there is no properly designated beneficiary, or if no beneficiary survives the member, the member's account shall be paid to:

- (1) the surviving spouse of the member;
- (2) if there is not a surviving spouse, the surviving dependent or dependents of the member in equal shares; or
- (3) if there is not a surviving spouse or dependent, the member's estate.

(c) The beneficiary or beneficiaries designated under subsection (a) or a survivor determined under subsection (b) may elect to have the member's account paid as:

- (1) a lump sum;
- (2) a direct rollover to another eligible retirement plan; or
- (3) a monthly annuity in accordance with rules of the board.

A monthly annuity is an option only on or after the beneficiary or survivor attains sixty-two (62) years of age. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. Further, the board may establish a minimum account balance that is required in order for a beneficiary or survivor to select the monthly annuity option.

(d) If a member dies in the line of duty while in service in a covered position, the designated beneficiary or beneficiaries or the surviving spouse or dependents, as applicable, are entitled to payment of the member's account as provided in this section. In addition, if the member was not fully vested in the employer contribution subaccount, the account is deemed to be fully vested for purposes of withdrawal under this section.

Sec. 28. (a) The general assembly shall appropriate for each biennium the amount required to pay the contributions specified in sections 23 and 24 of this chapter.

(b) The amounts appropriated under this section shall be credited to the plan in the same manner as the state's employer contributions are credited to the fund.

Sec. 29. (a) All assets in the plan are exempt from levy, sale, garnishment, attachment, or other legal process.

(b) A member, beneficiary, or survivor may not assign any payment under this chapter except for the following:

- (1) Premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in part by a state agency.
- (2) Dues to an association that proves to the board's satisfaction that the association has as members at least

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twenty percent (20%) of the retired members in the plan.

Sec. 30. (a) To the extent permitted by the Internal Revenue Code and the applicable regulations and guidance, the plan may accept, on behalf of any member who is employed in a covered position, a rollover distribution from any of the following:

- (1)** A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
- (2)** An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3)** An eligible plan maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
- (4)** An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(b) Any amounts rolled over under subsection (a) must be accounted for in a "rollover account" that is separate from the member's account in the plan. The member shall be fully vested in the member's rollover account.

(c) A member may direct the investment of the member's rollover account into any alternative investment option that the board may make available to the member's rollover account under section 22 of this chapter.

(d) A member may withdraw the member's rollover account from the plan in a lump sum or direct a rollover to an eligible retirement plan at any time. Upon attainment of normal retirement age, in addition to these payment options, the member may withdraw the member's rollover account as a monthly annuity as established by the board in accordance with the annuity options that are available for the member's account in the plan. A member must make a required withdrawal from the member's account in the plan not later than the required beginning date under the Internal Revenue Code.

Sec. 31. (a) If a member becomes disabled while in a covered position, subject to any federal law limitations concerning qualified plan distributions and the member's furnishing proof of the member's qualification for Social Security disability benefits to the board, to the extent that the member is vested, the member may make a withdrawal from the member's account.

- (b)** The member may elect to have the withdrawal paid as:
- (1)** a lump sum;

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- (2) a direct rollover to another eligible retirement plan; or
- (3) a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option.

Sec. 32. (a) If a member of the plan separates from employment with the state and later returns to state employment in a position covered by the plan, the member is entitled to receive credit for the member's years of participation in the plan before the member's separation. However, any amounts forfeited by the member under section 25(e) of this chapter may not be restored to the member's account.

(b) An individual who elected under section 20 of this chapter to become a member of the plan resumes membership in the plan upon the individual's return to state employment.

(c) An individual who did not elect to become a member of the plan resumes membership in the fund.

(d) An individual who returns to state employment having had an opportunity to make an election under section 20 of this chapter during an earlier period of state employment is not entitled to a second opportunity to make an election under section 20 of this chapter."

Page 1, line 5, delete "close" and insert "establish a defined contribution plan for:

- (1) new employees of political subdivisions that participate in".

Page 1, line 6, after "IC 5-10.3-2-1" insert ";

Page 1, line 7, after "and" begin a new line block indented and insert:

- "(2) new employees who are eligible to become members of".

Page 1, line 8, delete "IC 5-10.4-2-1, and establish a defined contribution plan for new" and insert "IC 5-10.4-2-1."

Page 1, line 9, delete "employees." and begin a new line block left beginning with "The study".

Page 1, after line 16, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 2011] (a) The legislative services agency shall prepare legislation for introduction in the 2012 regular session of the general assembly to organize and correct statutes affected by this act.

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(b) This SECTION expires June 30, 2013."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 524 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 6, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 524 be amended to read as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 5-10.2-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The retirement allowance account of the public employees' retirement fund consists of the retirement fund, exclusive of the annuity savings account. **The retirement allowance account also includes any amounts received under IC 5-10.3-12-24(b).** For the public employees' retirement fund, separate accounts within the retirement allowance account shall be maintained for contributions made by the state and by each political subdivision.

(b) The retirement allowance account of the pre-1996 account consists of the pre-1996 account, exclusive of the annuity savings account.

(c) The retirement allowance account of the 1996 account consists of the 1996 account, exclusive of the annuity savings account. For the 1996 account, separate accounts within the retirement allowance account shall be maintained for contributions made by the state, by each school corporation, and by each institution."

Page 1, line 8, delete "covered position;" and insert "**position that would otherwise be eligible for membership in the fund under IC 5-10.3-7;**".

Page 2, line 27, after "age" delete ",".

Page 2, line 28, delete "if the member has participated in the plan for" and insert "**with**".

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Page 2, line 29, after "years" delete "." and insert "**of participation in the plan.**".

Page 3, line 27, delete "covered".

Page 3, line 27, after "position" insert "**that would otherwise be eligible for membership in the fund under IC 5-10.3-7**".

Page 3, line 40, delete "30" and insert "**29**".

Page 5, delete lines 22 through 30, begin a new paragraph and insert:

"Sec. 24. (a) The state shall make employer contributions to the plan based on the rate determined under this section.

(b) The employer's contribution rate for the plan shall be equal to the employer's contribution rate for the fund as determined by the board under IC 5-10.2-2-11(b). The amount credited from the employer's contribution rate to the member's account shall not be greater than the normal cost of the fund. Any amount not credited to the member's account shall be applied to the unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4)."

Page 5, between lines 33 and 34, begin a new paragraph and insert:

"(d) The state shall submit the employer contributions determined under this section as provided in IC 5-10.2-2-12.5."

Page 6, line 5, after "subaccount," insert "**only**".

Page 6, line 6, delete "partial" and insert "**full**".

Page 6, line 6, delete "not".

Page 7, line 32, after "balance" insert "**or a minimum monthly payment amount**".

Page 7, delete lines 41 through 42.

Page 8, delete lines 1 through 4.

Page 8, line 5, delete "29." and insert "**28.**".

Page 8, line 14, delete "30." and insert "**29.**".

Page 9, line 5, delete "31." and insert "**30.**".

Page 9, line 19, delete "32." and insert "**31.**".

Page 10, line 5, beginning with "The" begin a new line blocked left. Renumber all SECTIONS consecutively.

(Reference is to SB 524 as printed February 18, 2011.)

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BOOTS



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 524, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

GUTWEIN, Chair

Committee Vote: yeas 11, nays 0.

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