



March 5, 2013

**ENGROSSED
SENATE BILL No. 228**

DIGEST OF SB 228 (Updated March 5, 2013 10:45 am - DI 96)

Citations Affected: IC 5-10.2; IC 5-10.3; IC 5-10.4; IC 5-10.5; noncode.

Synopsis: Indiana public retirement system administrative matters. Provides that for a member of the public employees' retirement fund (PERF) who dies after June 30, 2013, the right to receive a death benefit from PERF vests with the designated beneficiary on file with PERF at the time of the member's death, as is the case under current law with the teachers' retirement fund (TRF). Provides that the board of the Indiana public retirement system (INPRS) shall elect officers by December 31 each year, rather than June 30 as specified in current law. Requires that an order for restitution be issued by the sentencing court before money may be taken from a PERF member's account to compensate an employer for a criminal taking by the member, and provides that money may be taken from a TRF member's account in the same manner as with PERF. Urges the legislative council to assign to the pension management oversight commission the task of studying the guaranteed fund, an investment option in the annuity savings account of PERF and TRF. (The introduced version of this bill was prepared by the pension management oversight commission.)

Effective: July 1, 2013.

Boots, Buck, Tallian

(HOUSE SPONSOR — BURTON)

January 7, 2013, read first time and referred to Committee on Pensions and Labor.
January 17, 2013, amended, reported favorably — Do Pass.
January 22, 2013, read second time, ordered engrossed.
January 23, 2013, engrossed.
January 24, 2013, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Employment, Labor and Pensions.
March 5, 2013, reported — Do Pass.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 228

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 5-10.2-4-7, AS AMENDED BY P.L.35-2012,
2 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 7. (a) Benefits provided under this section are
4 subject to IC 5-10.2-2-1.5.
5 (b) A member who retires is entitled to receive monthly retirement
6 benefits, which are guaranteed for five (5) years or until the member's
7 death, whichever is later. A member may select in writing any of the
8 following nonconflicting options for the payment of the member's
9 retirement benefits instead of the five (5) year guaranteed retirement
10 benefit payments. The amount of the optional payments shall be
11 determined under rules of the board and shall be the actuarial
12 equivalent of the benefit payable under sections 4, 5, and 6 of this
13 chapter. A member who has elected to withdraw the entire amount in
14 the member's annuity savings account under IC 5-10.2-3-6.5 may not
15 select the cash refund annuity option.
16 (1) Joint and Survivor Option.
17 (A) The member receives a decreased retirement benefit

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

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

10 (C) If the designated beneficiary dies before the member
 11 retires, the selection is automatically canceled and the member
 12 may make a new beneficiary election and may elect a different
 13 form of benefit under this subsection.

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

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

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

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

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

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

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

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

41 the member may elect to change the member's designated beneficiary
 42 or form of benefit under subsection (b) and to receive an actuarially

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

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

- 14 (1) the member's retirement option under subsection (b);
- 15 (2) the selection of a lump sum payment under section 2 of this
 16 chapter; or
- 17 (3) the beneficiary designated on the member's application for
 18 benefits if the member selects the joint and survivor option under
 19 subsection (b)(1);

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

23 (e) A member may direct that the member's retirement benefits be
 24 paid to a revocable trust that permits the member unrestricted access
 25 to the amounts held in the revocable trust. The member's direction is
 26 not an assignment or transfer of benefits under IC 5-10.3-8-10 or
 27 ~~IC 5-10.4-5-14.~~ **IC 5-10.4-5-14.5.**

28 (f) The board may adopt a policy to permit annual payment of a
 29 member's retirement benefit whenever the amount of the monthly
 30 retirement benefit to be paid to the member is not more than five
 31 dollars (\$5).

32 SECTION 2. IC 5-10.3-8-9 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) All benefits,
 34 refunds of contributions, and money in the fund are exempt from levy,
 35 sale, garnishment, attachment, or other legal process. However, the
 36 member's contributions or benefits, or both, may be transferred to
 37 reimburse **his the member's** employer for loss resulting from the
 38 member's criminal taking of **his the** employer's property by the board
 39 if **it the board** receives adequate proof of the loss. The loss resulting
 40 from the member's criminal taking of **his the member's** employer's
 41 property must be proven by **an order for restitution in favor of the**
 42 **employer issued by the sentencing court following** a felony or



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1 misdemeanor conviction.

2 (b) The board may withhold payment of a member's contributions
3 and interest if the employer of the member notifies the board that
4 felony or misdemeanor charges accusing the member of the criminal
5 taking of the employer's property have been filed.

6 (c) The board may withhold payment of a member's contributions
7 and interest under subsection (b) until the final resolution of the
8 criminal charges.

9 SECTION 3. IC 5-10.3-8-15, AS ADDED BY P.L.99-2010,
10 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2013]: Sec. 15. (a) The board may adopt rules to allow a
12 member who designates more than one (1) beneficiary to allocate
13 benefit shares in percentage increments.

14 (b) **This subsection applies in the case of a member who dies**
15 **after June 30, 2013. Notwithstanding a contrary collateral**
16 **agreement, court order, process, attachment, or levy, the right to**
17 **receive a death benefit under IC 5-10.2 or this article vests with the**
18 **designated beneficiary on file with the fund at the time of the**
19 **member's death. The fund shall distribute the death benefit to the**
20 **designated beneficiary or the designated beneficiary's estate in**
21 **accordance with IC 5-10.2 and this article.**

22 SECTION 4. IC 5-10.4-5-14, AS ADDED BY P.L.2-2006,
23 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2013]: Sec. 14. (a) The benefits payable from the fund are
25 exempt from seizure or levy on attachment, supplemental process, and
26 all other processes. **However, the member's contributions or**
27 **benefits, or both, may be transferred by the board to reimburse the**
28 **member's employer for loss resulting from the member's criminal**
29 **taking of the employer's property if the board receives adequate**
30 **proof of the loss. The loss resulting from the member's criminal**
31 **taking of the member's employer's property must be proven by an**
32 **order for restitution in favor of the employer issued by the**
33 **sentencing court following a felony or misdemeanor conviction.**

34 (b) A member's transfer of a benefit payment is void. However, a
35 member may assign benefits for paying:

36 (1) premiums on a group, life, hospitalization, surgical, or medical
37 insurance plan maintained in whole or in part by a state agency;
38 and

39 (2) dues to any association that proves to the board's satisfaction
40 that the association has as members at least twenty percent (20%)
41 of the number of retired members of the fund.

42 (b) The board may withhold payment of a member's

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1 contributions and interest if the employer of the member notifies
 2 the board that felony or misdemeanor charges accusing the
 3 member of the criminal taking of the employer's property have
 4 been filed.

5 (c) The board may withhold payment of a member's
 6 contributions and interest under subsection (b) until the final
 7 resolution of the criminal charges.

8 SECTION 5. IC 5-10.4-5-14.5 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2013]: **Sec. 14.5. A member's transfer of a**
 11 **benefit payment is void. However, a member may assign benefits**
 12 **for paying:**

13 (1) premiums on a group, life, hospitalization, surgical, or
 14 medical insurance plan maintained in whole or in part by a
 15 state agency; and

16 (2) dues to any association that proves to the board's
 17 satisfaction that the association has as members at least
 18 twenty percent (20%) of the number of retired members of
 19 the fund.

20 SECTION 6. IC 5-10.5-3-7, AS ADDED BY P.L.23-2011,
 21 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2013]: Sec. 7. (a) Not later than ~~June 30~~ **December 31** each
 23 year, the board shall elect a chair and vice chair from its members to
 24 serve as the officers of the board.

25 (b) An officer shall serve for one (1) year or until the officer's
 26 successor is elected and qualified.

27 SECTION 7. IC 5-10.5-6-4, AS ADDED BY P.L.23-2011,
 28 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2013]: Sec. 4. (a) Records of:

30 (1) individual members of; and

31 (2) membership information concerning;

32 a public pension or retirement fund administered by the board are
 33 confidential, except for the name and years of service of a member.

34 (b) This section does not prohibit the board from providing fund
 35 records to an association or organization described in IC 2-3.5-4-12,
 36 IC 2-3.5-5-10, IC 5-10.3-8-10, ~~IC 5-10.4-5-14~~, **IC 5-10.4-5-14.5**, or
 37 IC 36-8-8-17.2.

38 SECTION 8. [EFFECTIVE JULY 1, 2013] (a) **As used in this**
 39 **SECTION, "commission" refers to the pension management**
 40 **oversight commission.**

41 (b) **As used in this SECTION, "PERF" refers to the public**
 42 **employees' retirement fund established by IC 5-10.2-2-1.**

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- 1 (c) As used in this SECTION, "TRF" refers to the Indiana state
- 2 teachers' retirement fund established by IC 5-10.4-2-1.
- 3 (d) The general assembly urges the legislative council to assign
- 4 to the commission the task of studying the guaranteed fund, an
- 5 investment option in the annuity savings account of the PERF and
- 6 the TRF, including at least the following:
- 7 (1) The selection of the guaranteed fund as an investment
- 8 option by PERF and TRF members.
- 9 (2) The investment of PERF and TRF member contributions
- 10 made to the guaranteed fund.
- 11 (3) The crediting of interest on PERF and TRF member
- 12 contributions to the guaranteed fund.
- 13 (4) The valuation of amounts credited to PERF and TRF
- 14 members in the guaranteed fund.
- 15 (e) If the commission is assigned the topic described in
- 16 subsection (d), the commission shall issue to the legislative council
- 17 a final report containing the commission's findings and
- 18 recommendations, including any recommended legislation
- 19 concerning the topic, in an electronic format under IC 5-14-6, not
- 20 later than November 1, 2013.
- 21 (f) This SECTION expires December 31, 2013.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 228, 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:

Page 5, after line 37, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JULY 1, 2013] (a) As used in this SECTION, "commission" refers to the pension management oversight commission.

(b) As used in this SECTION, "PERF" refers to the public employees' retirement fund established by IC 5-10.2-2-1.

(c) As used in this SECTION, "TRF" refers to the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.

(d) The general assembly urges the legislative council to assign to the commission the task of studying the guaranteed fund, an investment option in the annuity savings account of the PERF and the TRF, including at least the following:

- (1) The selection of the guaranteed fund as an investment option by PERF and TRF members.
- (2) The investment of PERF and TRF member contributions made to the guaranteed fund.
- (3) The crediting of interest on PERF and TRF member contributions to the guaranteed fund.
- (4) The valuation of amounts credited to PERF and TRF members in the guaranteed fund.

(e) If the commission is assigned the topic described in subsection (d), the commission shall issue to the legislative council a final report containing the commission's findings and recommendations, including any recommended legislation concerning the topic, in an electronic format under IC 5-14-6, not later than November 1, 2013.

(f) This SECTION expires December 31, 2013."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 228 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 228, 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 12, nays 0.

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