# SENATE BILL No. 228

DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10.2-4-7; IC 5-10.3-8; IC 5-10.4-5; IC 5-10.5.

**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. (The introduced version of this bill was prepared by the pension management oversight commission.)

**Effective:** July 1, 2013.

## Boots

January 7, 2013, read first time and referred to Committee on Pensions and Labor.

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Introduced

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.

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# 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:*

SECTION 1. IC 5-10.2-4-7, AS AMENDED BY P.L.35-2012, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: 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 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

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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.

(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.~~ **IC 5-10.4-5-14.5.**

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

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

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misdemeanor conviction.

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

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

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

**(b) This subsection applies in the case of a member who dies after June 30, 2013. Notwithstanding a contrary collateral agreement, court order, process, attachment, or levy, the right to receive a death benefit under IC 5-10.2 or this article 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 this article.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) individual members of; and

(2) membership information concerning;

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

(b) This section does not prohibit the board from providing fund records to an association or organization described in IC 2-3.5-4-12, 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 IC 36-8-8-17.2.

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