

SENATE BILL No. 439

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.4-4-8; IC 36-8-8.

Synopsis: Public pension military service credit. Grants, under certain conditions, up to six years of service credit in the teachers' retirement fund for a member's past active duty military service. Grants, under certain circumstances, up to six years of service credit for active duty military service to a member of the 1977 police officers' and firefighters' pension and disability fund. Provides that, except for World War II veterans, the service credit may be used only in the computation of benefits to be paid after June 30, 2015. Provides that for World War II veterans the service credit may be used only in the computation of benefits to be paid after June 30, 2013.

Effective: July 1, 2013.

Skinner

January 10, 2013, read first time and referred to Committee on Pensions and Labor.

C
o
p
y



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.

C
o
p
y

SENATE BILL No. 439



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 5-10.4-4-8, AS AMENDED BY P.L.115-2009,
2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 8. (a) This subsection applies to a member who
4 retires before July 1, 1980. A member who had completed four (4)
5 years of approved college teacher education before voluntary or
6 involuntary induction into the military services is entitled to credit for
7 that service as if the member had begun teaching before the induction.
8 A member who serves in military service is considered a teacher and
9 is entitled to the benefits of the fund if before or during the leave of
10 absence the member pays into the fund the member's contributions.
11 Time served by a member in military service for the duration of the
12 hostilities or for the length of active service in the hostilities and the
13 necessary demobilization time after the hostilities is not subject to the
14 one-seventh rule set forth in section 7 of this chapter.
15 (b) This subsection applies to a member who retires after June 30,
16 1980. A member who completed four (4) years of approved college
17 teacher education before voluntary or involuntary induction into



1 military service is entitled to credit for the member's active military
 2 service as if the member had begun teaching before the induction. A
 3 member who serves in military service is considered a teacher and is
 4 entitled to the benefits of the fund if the following conditions are met:

- 5 (1) The member has an honorable discharge.
 6 (2) Except as provided in subsection (g), the member returns to
 7 active teaching service not later than twenty-four (24) months
 8 after the completion of active military service.
 9 (3) The member has at least ten (10) years of in-state service
 10 credit.

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

17 (c) This subsection applies to a member who retires after May 1,
 18 1989. A member who had begun but had not completed four (4) years
 19 of approved college teacher education before voluntary or involuntary
 20 induction into the military services is entitled to service credit in an
 21 amount equal to the duration of the member's active military service if
 22 the following conditions are met:

- 23 (1) The member has an honorable discharge.
 24 (2) Except as provided in subsection (g), the member returns to a
 25 four (4) year approved college teacher training program not later
 26 than twenty-four (24) months after the completion of active
 27 military service and subsequently completes that program.
 28 (3) The member has at least ten (10) years of in-state service
 29 credit.

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

35 (d) This subsection applies to a member who retires after May 1,
 36 1991, and who is employed at a state educational institution. A member
 37 who had begun but had not completed baccalaureate or
 38 post-baccalaureate education before voluntary or involuntary induction
 39 into military service is entitled to the member's active military service
 40 credit for the member's active military service in an amount equal to
 41 the duration of the member's military service if the following
 42 conditions are met:

C
o
p
y



1 (1) The member received an honorable discharge.

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

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

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

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

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

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

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

19 (1) a teacher training program; or

20 (2) baccalaureate or post-baccalaureate education;

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

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

31 (h) If a member retires and the board subsequently determines that
32 the member is entitled to additional service credit due to the extension
33 of a deadline under subsection (g), the board shall recompute the
34 member's benefit. However, the additional service credit may be used
35 only in the computation of benefits to be paid after the date of the
36 board's determination, and the member is not entitled to a
37 recomputation of benefits received before the date of the board's
38 determination.

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

C
O
P
Y



- 1 amendments.
- 2 (j) Subject to this section, an active member may purchase not more
3 than two (2) years of service credit for the member's service on active
4 duty in the armed services if the member meets the following
5 conditions:
- 6 (1) The member has at least one (1) year of credited service in the
7 fund.
- 8 (2) The member serves on active duty in the armed services of the
9 United States for at least six (6) months.
- 10 (3) The member receives an honorable discharge from the armed
11 services.
- 12 (4) Before the member retires, the member makes contributions
13 to the fund as follows:
- 14 (A) Contributions that are equal to the product of:
- 15 (i) the member's salary at the time the member actually
16 makes a contribution for the service credit;
- 17 (ii) a rate, determined by the actuary of the fund, that is
18 based on the age of the member at the time the member
19 actually makes a contribution for service credit and
20 computed to result in a contribution amount that
21 approximates the actuarial present value of the benefit
22 attributable to the service credit purchased; and
- 23 (iii) the number of years of service credit the member
24 intends to purchase.
- 25 (B) Contributions for any accrued interest, at a rate determined
26 by the actuary of the fund, for the period from the member's
27 initial membership in the fund to the date payment is made by
28 the member.
- 29 However, a member is entitled to purchase service credit under this
30 subsection only to the extent that service credit is not granted for that
31 time under another provision of this section. At least ten (10) years of
32 service in Indiana is required before a member may receive a benefit
33 based on service credits purchased under this section. A member who
34 terminates employment before satisfying the eligibility requirements
35 necessary to receive a monthly allowance or receives a monthly
36 allowance for the same service from another tax supported public
37 employee retirement plan other than under the federal Social Security
38 Act may withdraw the purchase amount plus accumulated interest after
39 submitting a properly completed application for a refund to the fund.
- 40 (k) The following apply to the purchase of service credit under
41 subsection (j):
- 42 (1) The board may allow a member to make periodic payments of

C
O
P
Y

1 the contributions required for the purchase of the service credit.
 2 The board shall determine the length of the period during which
 3 the payments must be made.

4 (2) The board may deny an application for the purchase of service
 5 credit if the purchase would exceed the limitations under Section
 6 415 of the Internal Revenue Code.

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

11 (l) This subsection applies to a member who retires after June 30,
 12 2006. A member may not receive credit under this section for service
 13 for which the member receives service credit under the terms of a
 14 military or another governmental retirement plan.

15 **(m) This subsection applies to a member regardless of whether**
 16 **the member retires before July 1, 2013, or after June 30, 2013.**
 17 **Notwithstanding any other provision of this section, a member**
 18 **who:**

19 **(1) has at least ten (10) years of in-state teaching service;**

20 **(2) served on active duty in the armed services of the United**
 21 **States;**

22 **(3) received an honorable discharge;**

23 **(4) is not entitled to receive a pension for service in the armed**
 24 **services of the United States; and**

25 **(5) is not entitled to military service credit under subsections**
 26 **(a) through (g) for purposes of determining eligibility for, or**
 27 **the computation of, benefits under this chapter;**

28 **is entitled to service credit in an amount equal to the duration of**
 29 **the member's military service. However, not more than six (6)**
 30 **years of service credit may be granted under this subsection.**

31 **(n) The service credit granted under subsection (m) may be used**
 32 **only:**

33 **(1) after the board determines that the member is eligible for**
 34 **the service credit; and**

35 **(2) in the computation of benefits to be paid after:**

36 **(A) June 30, 2013, in the case of a member who is a World**
 37 **War II veteran (as defined in 42 U.S.C. 1012); or**

38 **(B) June 30, 2015, in the case of any other member.**

39 SECTION 2. IC 36-8-8-8.2 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2013]: **Sec. 8.2. (a) This section applies to a fund member**
 42 **regardless of whether the fund member retires before July 1, 2013,**

C
O
P
Y



1 or after June 30, 2013.

2 (b) If the requirements of subsection (d) are satisfied, a fund
3 member who:

4 (1) completes at least one (1) year of active service for which
5 the 1977 fund gives credit;

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

8 (3) receives an honorable discharge from the armed services
9 of the United States;

10 (4) is not entitled to receive a benefit from the armed services
11 of the United States or another governmental retirement
12 system for the active duty service; and

13 (5) has not received credit in the 1977 fund for the active duty
14 service under another section of this chapter;

15 is entitled to service credit in the 1977 fund in an amount equal to
16 the length of the fund member's military service. However, not
17 more than six (6) years of service credit in the 1977 fund may be
18 granted under this section.

19 (c) The service credit granted under this section may be used
20 only:

21 (1) after the system board determines that the fund member
22 is eligible for the service credit in the 1977 fund; and

23 (2) in the computation of benefits to be paid after:

24 (A) June 30, 2013, in the case of a fund member who is a
25 World War II veteran (as defined by 42 U.S.C. 1012); or

26 (B) June 30, 2015, in the case of any other fund member.

27 (d) A fund member is entitled to receive service credit in the
28 1977 fund for the active duty service described in subsection (b) if
29 the fund member pays:

30 (1) in a lump sum; or

31 (2) in a series of payments determined by the system board,
32 not to exceed five (5) annual payments;

33 the amount the fund member would have contributed to the 1977
34 fund if the fund member had been a member of the 1977 fund
35 during the active duty service.

36 (e) If a fund member is entitled to receive service credit under
37 subsection (d), the fund member's employer must contribute to the
38 1977 fund the amount the system board determines necessary to
39 amortize the active duty service liability over a period determined
40 by the system board, but not to exceed ten (10) years.

41 (f) An amortization schedule for contributions paid under
42 subsection (d) must include interest at a rate determined by the

C
O
P
Y



- 1 system board.
- 2 (g) A fund member who:
- 3 (1) terminates service before satisfying the requirements for
- 4 eligibility to receive a retirement benefit payment from the
- 5 1977 fund; or
- 6 (2) receives a retirement benefit for the same service from
- 7 another retirement system, other than under the federal
- 8 Social Security Act;
- 9 may withdraw the fund member's contributions made under this
- 10 section plus accumulated interest after submitting to the 1977 fund
- 11 a properly completed application for a refund.
- 12 (h) The following apply to the granting of service credit in the
- 13 1977 fund under this section:
- 14 (1) The system board may not grant credit for the service if
- 15 doing so would exceed the limitations set forth in Section 415
- 16 of the Internal Revenue Code.
- 17 (2) A fund member may not claim the service credit for
- 18 purposes of determining eligibility or computing benefits
- 19 unless the fund member has made all payments required
- 20 under subsection (d).
- 21 (i) To the extent permitted by the Internal Revenue Code and
- 22 applicable regulations, the 1977 fund may accept, on behalf of a
- 23 fund member who is purchasing service credit under this section,
- 24 a rollover of a distribution from any of the following:
- 25 (1) A qualified plan described in Section 401(a) or 403(a) of
- 26 the Internal Revenue Code.
- 27 (2) An annuity contract or account described in Section 403(b)
- 28 of the Internal Revenue Code.
- 29 (3) An eligible plan that is maintained by a state, a political
- 30 subdivision of a state, or an agency or instrumentality of a
- 31 state or political subdivision of a state under Section 457(b) of
- 32 the Internal Revenue Code.
- 33 (4) An individual retirement account or annuity described in
- 34 Section 408(a) or 408(b) of the Internal Revenue Code.
- 35 (j) To the extent permitted by the Internal Revenue Code and
- 36 the applicable regulations, the 1977 fund may accept, on behalf of
- 37 a fund member who is purchasing service credit under this section,
- 38 a trustee to trustee transfer from either of the following:
- 39 (1) An annuity contract or account described in Section 403(b)
- 40 of the Internal Revenue Code.
- 41 (2) An eligible deferred compensation plan under Section
- 42 457(b) of the Internal Revenue Code.

C
O
P
Y



1 **(k) Notwithstanding any provision in this section, a fund**
 2 **member is entitled to service credit and benefits in the amount and**
 3 **to the extent required by the federal Uniformed Services**
 4 **Employment and Reemployment Rights Act (38 U.S.C. 4301 et**
 5 **seq.).**

6 **(l) Before implementing this section, the system board may**
 7 **request from the Internal Revenue Service any rulings or**
 8 **determination letters that the system board considers necessary or**
 9 **appropriate.**

10 SECTION 3. IC 36-8-8-8.3, AS AMENDED BY P.L.35-2012,
 11 SECTION 122, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2013]: Sec. 8.3. (a) This section applies to a
 13 fund member who, after June 30, 2009, completes service for which the
 14 1977 fund gives credit.

15 (b) A fund member may purchase not more than two (2) years of
 16 service credit for the fund member's service on active duty in the armed
 17 services if the fund member meets the following conditions:

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

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

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

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

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

28 (i) The salary of a first class patrolman or firefighter at the
 29 time the fund member actually makes a contribution for the
 30 service credit.

31 (ii) A rate, determined by the actuary of the 1977 fund, that
 32 is based on the age of the fund member at the time the fund
 33 member actually makes a contribution for service credit and
 34 that is computed to result in a contribution amount that
 35 approximates the actuarial present value of the retirement
 36 benefit attributable to the service credit purchased.

37 (iii) The number of years of service credit the fund member
 38 intends to purchase.

39 (B) Contributions for any accrued interest, at a rate determined
 40 by the actuary of the 1977 fund, for the period from the fund
 41 member's initial membership in the 1977 fund to the date
 42 payment is made by the fund member.

C
o
p
y



1 (c) A fund member must have at least twenty (20) years of service
 2 before a fund member may receive a benefit based on a service credit
 3 purchased under this section. A fund member's years of service may not
 4 exceed thirty-two (32) years with the inclusion of the service credit
 5 purchased under this section.

6 (d) A fund member may not receive service credit under this
 7 section:

8 (1) for service credit received under IC 36-8-5-7 **or section 8.2 of**
 9 **this chapter;** or

10 (2) if the military service for which the fund member requests
 11 credit also qualifies the fund member for a benefit in a military or
 12 another governmental retirement system.

13 (e) A fund member who:

14 (1) terminates service before satisfying the eligibility
 15 requirements necessary to receive a retirement benefit payment
 16 from the 1977 fund; or

17 (2) receives a retirement benefit for the same service from another
 18 retirement system, other than under the federal Social Security
 19 Act;

20 may withdraw the fund member's contributions made under this section
 21 plus accumulated interest after submitting to the fund a properly
 22 completed application for a refund.

23 (f) The following apply to the purchase of service credit under this
 24 section:

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

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

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

36 (g) To the extent permitted by the Internal Revenue Code and
 37 applicable regulations, the 1977 fund may accept, on behalf of a fund
 38 member who is purchasing service credit under this section, a rollover
 39 of a distribution from any of the following:

40 (1) A qualified plan described in Section 401(a) or Section 403(a)
 41 of the Internal Revenue Code.

42 (2) An annuity contract or account described in Section 403(b) of

C
O
P
Y



- 1 the Internal Revenue Code.
- 2 (3) An eligible plan that is maintained by a state, a political
- 3 subdivision of a state, or an agency or instrumentality of a state or
- 4 a political subdivision of a state under Section 457(b) of the
- 5 Internal Revenue Code.
- 6 (4) An individual retirement account or annuity described in
- 7 Section 408(a) or 408(b) of the Internal Revenue Code.
- 8 (h) To the extent permitted by the Internal Revenue Code and the
- 9 applicable regulations, the 1977 fund may accept, on behalf of a fund
- 10 member who is purchasing service credit under this section, a trustee
- 11 to trustee transfer from any of the following:
- 12 (1) An annuity contract or account described in Section 403(b) of
- 13 the Internal Revenue Code.
- 14 (2) An eligible deferred compensation plan under Section 457(b)
- 15 of the Internal Revenue Code.

C
o
p
y

