
SENATE BILL No. 526

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-30-3-14.5; IC 5-10.2; IC 5-10.3-7.

Synopsis: PERF membership and retirement benefits. Provides that, after December 31, 2012, members and full-time employees of the state lottery commission are members of the public employees' retirement fund (fund). Provides that a member of the fund who retires after July 1, 2013, and is reemployed in a position covered by the fund continues to receive a retirement benefit, but does not earn a supplemental retirement benefit for the member's period of reemployment. (Currently, a member of the Indiana state teachers' retirement fund who retires and is reemployed in a position covered by the Indiana state teachers' retirement fund continues to receive a retirement benefit, but does not earn a supplemental retirement benefit for the member's period of reemployment.)

Effective: January 1, 2013 (retroactive); July 1, 2013.

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January 14, 2013, read first time and referred to Committee on Pensions and Labor.

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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.

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SENATE BILL No. 526



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 4-30-3-14.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2013 (RETROACTIVE)]: **Sec. 14.5. (a) This section**
4 **applies to an individual who:**
5 (1) on January 1, 2013, is a member or a full-time employee
6 of the commission; or
7 (2) after December 31, 2012, becomes employed or
8 reemployed as a member or a full-time employee of the
9 commission.
10 (b) After December 31, 2012, a member or an employee of the
11 commission:
12 (1) is eligible for;
13 (2) must participate in; and
14 (3) receives the benefits of;
15 the public employees' retirement fund under IC 5-10.2 and
16 IC 5-10.3.
17 SECTION 2. IC 5-10.2-2-11, AS AMENDED BY P.L.35-2012,



1 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2013]: Sec. 11. (a) Based on the actuarial investigation and
3 valuation in section 9 of this chapter, the board shall determine:

- 4 (1) the normal contribution for each contribution rate group,
5 which is the amount necessary to fund the pension portion of the
6 retirement benefit;
7 (2) the rate of normal contribution;
8 (3) the unfunded accrued liability of the public employees'
9 retirement fund, the pre-1996 account, and the 1996 account,
10 which is the excess of total accrued liability over the fund's or
11 account's total assets, respectively; and
12 (4) the period, which must be thirty (30) years or a shorter period,
13 necessary to amortize the unfunded accrued liability determined
14 in subdivision (3).

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

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

- 19 (1) are subject to sections 1.5 and 11.5 of this chapter; and
20 (2) ~~for an employer making a contribution to the Indiana state~~
21 ~~teachers' retirement fund~~; may not include an amount for a retired
22 member of the ~~Indiana state teachers' retirement fund~~ for whom
23 the employer may not make contributions during the member's
24 period of reemployment as provided under IC 5-10.2-4-8(d).

25 SECTION 3. IC 5-10.2-3-2, AS AMENDED BY P.L.35-2012,
26 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2013]: Sec. 2. (a) Subject to IC 5-10.2-2-1.5, as used in this
28 section, "compensation" means:

- 29 (1) the basic salary earned by and paid to the member; plus
30 (2) the amount that would have been a part of the basic salary
31 earned and paid except for the member's salary reduction
32 agreement established under Section 125, 403(b), or 457 of the
33 Internal Revenue Code.

34 (b) Except in cases where:

- 35 (1) the contribution is made on behalf of the member; or
36 (2) a retired member of the ~~Indiana state teachers' retirement fund~~
37 may not make contributions during a period of reemployment as
38 provided in IC 5-10.2-4-8(d);

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

41 (c) Except as provided in IC 5-10.2-4-8(d), a member of a fund may
42 make contributions to the member's annuity savings account in addition

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1 to the contributions required under subsection (b). The total amount of
 2 contributions that may be made to a member's annuity savings account
 3 with respect to a payroll period under this subsection may not exceed
 4 ten percent (10%) of the member's compensation for that payroll
 5 period. The contributions made under this subsection may be picked-up
 6 and paid by an employer as provided in subsection (d).

7 (d) In compliance with rules adopted by the board, an employer,
 8 under Section 414(h)(2) of the Internal Revenue Code, may pick-up
 9 and pay the contributions under subsection (c), subject to approval of
 10 the board and to the board's receipt of a favorable private letter ruling
 11 from the Internal Revenue Service. The employer shall reduce the
 12 member's compensation by an amount equal to the amount of the
 13 member's contributions under subsection (c) that are picked-up by the
 14 employer. The board shall by rule establish the procedural
 15 requirements for employers to carry out the pick-up in compliance with
 16 Section 414(h)(2) of the Internal Revenue Code.

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

19 SECTION 4. IC 5-10.2-3-3, AS AMENDED BY P.L.76-2008,
 20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2013]: Sec. 3. (a) This section does not apply to a **retired**
 22 **member of the Indiana state teachers' retirement fund** who is
 23 **reemployed in a position covered by the fund from which the**
 24 **member retired** more than thirty (30) days after the member's
 25 retirement, **in a position covered by the Indiana state teachers'**
 26 **retirement fund: except for a member of the public employees'**
 27 **retirement fund who retires before July 1, 2013.**

28 (b) Members' contributions, other than members' contributions paid
 29 on behalf of a member, shall be deducted from their compensation even
 30 if the net compensation to the member is less than the statutory
 31 minimum.

32 (c) The payment of a member's compensation minus the deduction
 33 constitutes a complete discharge of all claims for services rendered by
 34 the member during the period covered by the payment, except the
 35 claim for benefits under this article.

36 SECTION 5. IC 5-10.2-4-8, AS AMENDED BY P.L.35-2012,
 37 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2013]: Sec. 8. (a) Subject to subsection (f), if a member who
 39 is receiving retirement benefits becomes reemployed in a position
 40 covered by this article more than thirty (30) days after the member's
 41 retirement, the member's retirement benefit payments continue. **Except**
 42 **for A member of the Indiana state teachers' public employees'**



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1 retirement fund who **retires before July 1, 2013, and** is reemployed
 2 **in a position covered by the public employees' retirement fund**
 3 more than thirty (30) days after the member's retirement ~~in a position~~
 4 ~~covered by the Indiana state teachers' retirement fund;~~ the member
 5 shall begin making contributions as required in IC 5-10.2-3-2, and the
 6 member's employer shall make contributions throughout the member's
 7 period of reemployment.

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

14 (c) This subsection ~~does not apply~~ **applies only** to a member of the
 15 **Indiana state teachers' public employees' retirement fund who retires**
 16 **before July 1, 2013, and** is reemployed **in a position covered by the**
 17 **public employees' retirement fund** more than thirty (30) days after
 18 the member's retirement. ~~in a position covered by the Indiana state~~
 19 ~~teachers' retirement fund:~~ If a retired member is reemployed in a
 20 position covered by this article, section 10 of this chapter applies to the
 21 member upon the member's retirement from reemployment.

22 (d) Subject to subsection (f), **except for a member of the public**
 23 **employees' retirement fund who retires before July 1, 2013,** the
 24 following apply to a member ~~of the Indiana state teachers' retirement~~
 25 ~~fund~~ who is reemployed **in a position covered by the fund from**
 26 **which the member retired** more than thirty (30) days after the
 27 member's retirement: ~~in a position covered by the Indiana state~~
 28 ~~teachers' retirement fund:~~

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

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

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

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

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

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1 (e) The thirty (30) day period provided for in this section may be
 2 implemented unless the board receives a determination from the
 3 Internal Revenue Service prohibiting the implementation.

4 (f) After July 31, 2009, if, on or before the date the member files a
 5 application for retirement benefits under this article, a member has a
 6 formal or informal agreement with an employer covered by this article
 7 to become reemployed in a position covered by this article after the
 8 member's retirement, regardless of the time frame between the
 9 member's retirement and the member's reemployment, the member's
 10 application for retirement benefits is void, and the following apply to
 11 the member's continued employment:

12 (1) If a member has received a retirement benefit:

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

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

16 (2) The member shall make contributions as required by
 17 IC 5-10.2-3-2 throughout the period of the member's continued
 18 employment.

19 (3) Employer contributions shall be made throughout the period
 20 of the member's continued employment.

21 (4) The member shall earn creditable service under IC 5-10.2-3-1
 22 for the member's continued employment.

23 (5) When the period of the member's continued employment
 24 terminates, the member may again file an application for
 25 retirement benefits under this chapter.

26 SECTION 6. IC 5-10.2-4-9, AS AMENDED BY P.L.76-2008,
 27 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2013]: Sec. 9. (a) This section ~~does not apply~~ **applies only**
 29 to a member of the ~~Indiana state teachers'~~ **public employees'** retirement
 30 fund who **retires before July 1, 2013, and** is reemployed **in a position**
 31 **covered by the public employees' retirement fund** more than thirty
 32 (30) days after the member's retirement. ~~in a position covered by the~~
 33 ~~Indiana state teachers' retirement fund.~~

34 (b) If a member dies during reemployment and retirement benefits
 35 from before the member's reemployment are payable after the member's
 36 death, the payment of these amounts shall be made without change, and
 37 any additional benefit earned during reemployment shall be paid as
 38 provided in section 10 of this chapter.

39 SECTION 7. IC 5-10.2-4-10, AS AMENDED BY P.L.76-2008,
 40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2013]: Sec. 10. (a) This section ~~does not apply~~ **applies only**
 42 to a member of the ~~Indiana state teachers'~~ **public employees'**

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1 retirement fund who **retires before July 1, 2013, and** is reemployed
 2 **in a position covered by the public employees' retirement fund**
 3 more than thirty (30) days after the member's retirement. ~~in a position~~
 4 ~~covered by the Indiana state teachers' retirement fund.~~

5 (b) Benefits provided under this section are subject to
 6 IC 5-10.2-2-1.5.

7 (c) Upon termination of reemployment, except by death, the
 8 retirement benefits from before the member's reemployment which are
 9 payable after termination shall be paid without change.

10 (d) If the member is reemployed for fewer than ninety (90)
 11 consecutive school or working days, upon termination of
 12 reemployment, contributions and interest credited to the member's
 13 annuity savings account shall be paid to the member.

14 (e) If the member is reemployed for ninety (90) or more consecutive
 15 school or working days, upon termination of reemployment, the
 16 member shall receive an additional benefit.

17 (f) The additional retirement benefit consists of the sum of a
 18 supplemental pension and a supplemental annuity. The supplemental
 19 pension is computed under section 4 of this chapter using the
 20 member's:

- 21 (1) years of service during the member's reemployment; and
- 22 (2) average compensation during the member's reemployment, if
 23 the member is reemployed for less than five (5) years, or average
 24 of the annual compensation (as defined in section 3 of this
 25 chapter) during the member's reemployment.

26 If the member is entitled to a supplemental annuity, it consists of an
 27 annuity provided by contributions and interest credited to the member
 28 during reemployment, if any.

29 (g) The additional retirement benefits are guaranteed for five (5)
 30 years or until the member's death, whichever is later. The member may
 31 choose instead of the guaranteed payments any of the options under
 32 section 7 of this chapter for the payment of the member's additional
 33 retirement benefits.

34 (h) IC 5-10.2-2-7 applies to additional retirement benefits.

35 SECTION 8. IC 5-10.3-7-1, AS AMENDED BY P.L.35-2012,
 36 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JANUARY 1, 2013 (RETROACTIVE)]: Sec. 1. (a) This section does
 38 not apply to:

- 39 (1) members of the general assembly; or
- 40 (2) employees covered by section 3 of this chapter.

41 (b) An employee of the state or of a participating political
 42 subdivision who:

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1 (1) became a full-time employee of the state or of a participating
 2 political subdivision in a covered position; and
 3 (2) had not become a member of the fund;
 4 before April 1, 1988, shall on April 1, 1988, become a member of the
 5 fund unless the employee is excluded from membership under section
 6 2 of this chapter.

7 (c) Any individual who becomes a full-time employee of the state
 8 or of a participating political subdivision in a covered position after
 9 March 31, 1988, becomes a member of the fund on the date the
 10 individual's employment begins unless the individual is excluded from
 11 membership under section 2 of this chapter.

12 (d) For the purposes of this section, "employees of the state"
 13 includes:

14 (1) employees of the judicial circuits whose compensation is paid
 15 from state funds;

16 (2) elected and appointed state officers;

17 (3) prosecuting attorneys and deputy prosecuting attorneys of the
 18 judicial circuits, whose compensation is paid in whole or in part
 19 from state funds, including participants in the prosecuting
 20 attorneys retirement fund established under IC 33-39-7;

21 (4) employees in the classified service;

22 (5) employees of any state department, institution, board,
 23 commission, office, agency, court, or division of state government
 24 receiving state appropriations and having the authority to certify
 25 payrolls from appropriations or from a trust fund held by the
 26 treasurer of state or by any department;

27 (6) employees of any state agency which is a body politic and
 28 corporate;

29 (7) except as provided under IC 5-10.5-7-4, employees of the
 30 board of trustees of the Indiana public retirement system;

31 (8) persons who:

32 (A) are employed by the state;

33 (B) have been classified as federal employees by the Secretary
 34 of Agriculture of the United States; and

35 (C) are excluded from coverage as federal employees by the
 36 federal Social Security program under 42 U.S.C. 410;

37 (9) the directors and employees of county offices of family and
 38 children; ~~and~~

39 (10) employees of the center for agricultural science and heritage
 40 (the barn); ~~and~~

41 **(11) members and employees of the state lottery commission.**

42 SECTION 9. IC 5-10.3-7-2 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]:

2 Sec. 2. The following employees may not be members of the fund:

3 (1) Officials of a political subdivision elected by vote of the
4 people, unless the governing body specifically provides for the
5 participation of locally elected officials.

6 (2) Employees occupying positions normally requiring
7 performance of service of less than six hundred (600) hours
8 during a year who:

9 (A) were hired before July 1, 1982; or

10 (B) are employed by a participating school corporation.

11 (3) Independent contractors or officers or employees paid wholly
12 on a fee basis.

13 (4) Employees who occupy positions that are covered by other
14 pension or retirement funds or plans, maintained in whole or in
15 part by appropriations by the state or a political subdivision,
16 except:

17 (A) the federal Social Security program; and

18 (B) the prosecuting attorneys retirement fund established by
19 IC 33-39-7-9.

20 (5) Managers or employees of a license branch of the bureau of
21 motor vehicles commission, except those persons who may be
22 included as members under IC 9-16-4.

23 (6) Employees, except employees of a participating school
24 corporation, hired after June 30, 1982, occupying positions
25 normally requiring performance of service of less than one
26 thousand (1,000) hours during a year.

27 (7) Persons who:

28 (A) are employed by the state;

29 (B) have been classified as federal employees by the Secretary
30 of Agriculture of the United States; and

31 (C) are covered by the federal Social Security program as
32 federal employees under 42 U.S.C. 410.

33 ~~(8) Members and employees of the state lottery commission.~~

34 SECTION 10. IC 5-10.3-7-3.5 IS ADDED TO THE INDIANA
35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]: **Sec. 3.5. (a) As**
37 **used in this section, "commission" refers to the state lottery**
38 **commission established under IC 4-30-3-1.**

39 **(b) Not later than January 1, 2014, the commission shall**
40 **transfer to the retirement allowance account of the fund the**
41 **present value of the retirement benefit payable at the plan's**
42 **normal retirement age that is attributable to each member or**

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employee of the commission who:
(1) is a participant in a defined benefit retirement plan offered by the commission before January 1, 2013; and
(2) becomes a member of the fund on January 1, 2013, under IC 4-30-3-14.5.

(c) If the amounts transferred under subsection (b) are less than the normal employer contribution required to fund the pension portion of the retirement benefit payable to the members and employees of the commission who become members of the fund on January 1, 2013, under IC 4-30-3-14.5, the commission shall pay to the fund, either in a single payment or in installment payments approved by the board, the amount needed.

(d) Not later than January 1, 2014, the commission shall transfer to the annuity savings account of the fund the amounts credited to each member or employee of the commission who:

- (1) is a participant in a defined contribution retirement plan offered by the commission before January 1, 2013; and
- (2) becomes a member of the fund on January 1, 2013.

(e) A member or employee of the commission who becomes a member of the fund on January 1, 2013, is entitled to receive creditable service in the fund for all service performed for the commission before January 1, 2013.

(f) The liabilities of a retirement plan offered by the commission before January 1, 2013, whose participants are transferred on January 1, 2013, to the fund are not liabilities of the fund, except as provided by agreement between the fund and the commission.

SECTION 11. IC 5-10.3-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. Except for a member who retires before July 1, 2013, this section does not apply to a member who is reemployed in a position covered by the fund more than thirty (30) days after the member's retirement. Each member shall contribute three percent (3%) of his the member's compensation to the fund as specified in IC 5-10.2-3. However, for a member who is a state employee, the employer shall pay the contribution for the member, and for a member who is not a state employee, the employer may pay all or a part of the contribution for the member.

SECTION 12. An emergency is declared for this act.

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