January 25, 2013

SENATE BILL No. 526

DIGEST OF SB 526 (Updated January 23, 2013 10:58 am - DI 102)

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

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.

Boots

January 14, 2013, read first time and referred to Committee on Pensions and Labor.
January 24, 2013, reported favorably — Do Pass.

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January 25, 2013

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:

SECTION 1. IC 4-30-3-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]: **Sec. 14.5. (a) This section applies to an individual who:**

(1) on January 1, 2013, is a member or a full-time employee of the commission; or

(2) after December 31, 2012, becomes employed or reemployed as a member or a full-time employee of the commission.

(b) After December 31, 2012, a member or an employee of the commission:

(1) is eligible for;

(2) must participate in; and

(3) receives the benefits of;

the public employees' retirement fund under IC 5-10.2 and IC 5-10.3.

SECTION 2. IC 5-10.2-2-11, AS AMENDED BY P.L.35-2012,

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

(1) the normal contribution for each contribution rate group, which is the amount necessary to fund the pension portion of the retirement benefit;

(2) the rate of normal contribution;

(3) the unfunded accrued liability of the public employees' retirement fund, the pre-1996 account, and the 1996 account, which is the excess of total accrued liability over the fund's or account's total assets, respectively; and

(4) the period, which must be thirty (30) years or a shorter period, necessary to amortize the unfunded accrued liability determined in subdivision (3).

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

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

(1) are subject to sections 1.5 and 11.5 of this chapter; and

(2) ~~for an employer making a contribution to the Indiana state teachers' retirement fund,~~ may not include an amount for a retired member ~~of the Indiana state teachers' retirement fund~~ for whom the employer may not make contributions during the member's period of reemployment as provided under IC 5-10.2-4-8(d).

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

(1) the basic salary earned by and paid to the member; plus

(2) the amount that would have been a part of the basic salary earned and paid except for the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code.

(b) Except in cases where:

(1) the contribution is made on behalf of the member; or

(2) a retired member ~~of the Indiana state teachers' retirement fund~~ may not make contributions during a period of reemployment as provided in IC 5-10.2-4-8(d);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) years of service during the member's reemployment; and

(2) average compensation during the member's reemployment, if the member is reemployed for less than five (5) years, or average of the annual compensation (as defined in section 3 of this chapter) during the member's reemployment.

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

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

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

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

(1) members of the general assembly; or

(2) employees covered by section 3 of this chapter.

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

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(1) became a full-time employee of the state or of a participating political subdivision in a covered position; and

(2) had not become a member of the fund;

before April 1, 1988, shall on April 1, 1988, become a member of the fund unless the employee is excluded from membership under section 2 of this chapter.

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

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

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

(2) elected and appointed state officers;

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

(4) employees in the classified service;

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

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

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

(8) persons who:

(A) are employed by the state;

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

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

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

(10) employees of the center for agricultural science and heritage (the barn); **and**

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

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

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FOLLOWS [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]: Sec. 2. The following employees may not be members of the fund:

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

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

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

(B) are employed by a participating school corporation.

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

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

(A) the federal Social Security program; and

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

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

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

(7) Persons who:

(A) are employed by the state;

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

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

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

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

(b) Not later than January 1, 2014, the commission shall transfer to the retirement allowance account of the fund the present value of the retirement benefit payable at the plan's 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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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 526, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 526 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 9, Nays 1.

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