

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.

SENATE ENROLLED ACT No. 526

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 JULY 1, 2013]: **Sec. 14.5. (a) This section applies to an individual who:**

- (1) on July 1, 2013, is a member or a full-time employee of the commission; or**
- (2) after June 30, 2013, becomes employed or reemployed as a member or a full-time employee of the commission.**

(b) After June 30, 2013, 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;**



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- (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)~~; **IC 5-10.2-4-8(e)**.

SECTION 3. IC 5-10.2-3-1, AS AMENDED BY P.L.35-2012, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Except as provided in ~~IC 5-10.2-4-8(d)~~; **IC 5-10.2-4-8(e)**, each member's creditable service, for the purpose of computing benefits under this article, consists of all service in a position covered by a retirement fund plus all other service for which the retirement fund law gives credit.

(b) No member may be required to pay any contributions for service before the member is covered by this article as a condition precedent to receiving benefits under this article. However, the member must furnish to the board proof of the service in a position covered by the fund under which the member claims service.

(c) A member who has past service as an employee of the state or a participating political subdivision in a position which was not covered by the retirement fund is entitled to credit for this service if the position becomes covered before January 1, 1985, by the Indiana state teachers' retirement fund, the public employees' retirement fund, or the retirement fund for the state board of accounts and if the member submits to the board proof of the service in a position covered by the fund in which the member claims service.

(d) A member who has past service in a position that was not covered by the retirement fund is entitled to credit for this service if the position becomes covered after December 31, 1984, by a fund while

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the member holds that position or another position with the same employer and if the member submits to the board proof of the service in a position covered by the fund in which the member claims service.

(e) The proof required by this section must:

- (1) be submitted in a form approved by the director;
- (2) contain dates and nature of service and other information required by the director; and
- (3) be certified by the governing body or its agent.

(f) A member who is a state employee is entitled to service credit for the time the member is receiving disability benefits under a disability plan established under IC 5-10-8-7.

(g) If a participant in the legislators' defined benefit plan does not become entitled to a benefit from that plan, the board shall include the participant's service in the general assembly in the determination of eligibility for, and computation of, benefits under PERF or TRF at the time the participant would be eligible to receive benefits under PERF or TRF. After benefits commence under PERF or TRF with the general assembly service included, the participant's general assembly service may not be used for the computation of benefits under IC 2-3.5-4.

(h) A member may receive service credit for all or a part of the member's creditable service in another governmental retirement plan under IC 5-10.3-7-4.5 and IC 5-10.4-4-4. A member may not receive credit for service for which the member receives service credit in another retirement plan maintained by a state, a political subdivision, or an instrumentality of the state for service that PERF or TRF would otherwise give credit.

(i) A member may use all or a part of the member's creditable service under PERF or TRF in another governmental retirement plan under the terms of the other plan. Creditable service used under the other governmental retirement plan may not be used in PERF or TRF.

SECTION 4. 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



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may not make contributions during a period of reemployment as provided in ~~IC 5-10.2-4-8(d)~~; **IC 5-10.2-4-8(e)**; 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)~~, **IC 5-10.2-4-8(e)**, a member of a fund may make contributions to the member's annuity savings account in addition 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 5. 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:

- (1) does not apply to a **retired member of the Indiana state teachers' retirement fund who is reemployed begins a period of reemployment in a covered position** more than thirty (30) days after the member's retirement, **in a position covered by the Indiana state teachers' retirement fund; except as provided in subdivision (2); or**
- (2) **applies to the entire period of reemployment for a retired member of the public employees' retirement fund who, before July 1, 2013, begins a period of reemployment in a covered position.**

(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.



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(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 6. 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)~~; **(g)**, 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~~

(b) This subsection applies only to a retired member of the Indiana state teachers' public employees' retirement fund who, is reemployed before July 1, 2013, begins a period of reemployment in a covered position 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)~~ **(c)** 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)~~ **(d)** This subsection ~~does not apply~~ **applies only to a retired member of the Indiana state teachers' public employees' retirement fund who, is reemployed before July 1, 2013, begins a period of reemployment in a covered position** 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)~~ **(e)** Subject to subsection ~~(f)~~; **(g)**, **and except for a member described in IC 5-10.2-3-3(a)(2), the following apply to a retired member of the Indiana state teachers' retirement fund who is reemployed begins a period of reemployment in a covered position** 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.

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(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.

(e) (f) 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) (g) 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 7. 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 **retired** member of the ~~Indiana state teachers'~~ **public employees'** retirement fund who, is ~~reemployed before July 1, 2013,~~ **begins a period of reemployment in a covered position** more than thirty (30)



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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 8. 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 retired member of the Indiana state teachers' public employees' retirement fund who, is reemployed before July 1, 2013, begins a period of reemployment in a covered position** 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

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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 9. IC 5-10.3-7-1, AS AMENDED BY P.L.35-2012, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: 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:

- (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;

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- (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 10. IC 5-10.3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: 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.

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

SECTION 11. IC 5-10.3-7-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: 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 July 1, 2014, for each member or employee of the commission who:

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

the commission shall transfer from the lottery commission defined benefit retirement plan to the retirement allowance account of the fund the amount required to fund the pension portion of each participant's accrued retirement benefit, calculated as if the participant had been in the fund during the participant's service with the lottery commission as of July 1, 2013. If the assets in the lottery commission defined benefit retirement plan are not sufficient to fund the retirement benefit accrued as of July 1, 2013, for the participants described in this subsection, the commission shall pay to the fund, either in a single payment or in installment payments approved by the board, the amount needed to fund the accrued retirement benefits as described in this subsection.

(c) No amounts shall be transferred as of July 1, 2013, to the annuity savings account of the fund for a member described in subsection (b).

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

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

(f) This section shall not be interpreted to diminish the amount of the benefits previously accrued by any member of the commission's plan who is transferred to the fund under this section. To the extent that the member's benefit exceeds the amount due from the fund, the remaining obligation shall be that of the commission alone.

(g) A member or employee of the commission who becomes a

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member of the fund on July 1, 2013, under IC 4-30-3-14.5 is vested in the pension portion of the member's retirement benefit from the fund. To the extent that the amount transferred to the fund under this section is not sufficient to fund the cost for vesting under this subsection, the remaining obligation shall be that of the commission alone.

SECTION 12. IC 5-10.3-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. **(a) This section:**

(1) does not apply to a retired member who begins a period of reemployment in a covered position more than thirty (30) days after the member's retirement, except as provided in subdivision (2); or

(2) applies to the entire period of reemployment for a retired member of the public employees' retirement fund who, before July 1, 2013, begins a period of reemployment in a covered position.

(b) 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 13. IC 5-10.4-7-1, AS AMENDED BY P.L.1-2009, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. **(a) The administrative officers of a school corporation or other institution covered by the fund shall:**

(1) notify each person to be employed in a teaching position that the person's obligations under this article are a condition of employment; and

(2) make the obligations a part of the teacher's contract.

(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 under ~~IC 5-10.2-4-8(d)~~; IC 5-10.2-4-8(e);

a teacher's contract shall be construed to require the deduction of contributions to meet the teachers' contractual obligations to the fund and the state.

SECTION 14. IC 5-10.4-7-3, AS AMENDED BY P.L.1-2009, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. **(a) Unless the member's contribution is made on behalf of the member or the member is a retired member who may**

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not make contributions during a period of reemployment as provided under ~~IC 5-10.2-4-8(d)~~; **IC 5-10.2-4-8(e)**, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall:

- (1) deduct from each member's salary the member's contribution for the fund; and
- (2) issue to each member, on behalf of the board, a statement for each contribution deducted.

(b) The statement described in subsection (a)(2) is evidence that the member has credit from the fund for payment of the stated contribution.

SECTION 15. IC 5-10.4-7-7, AS AMENDED BY P.L.165-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) Not later than January 15, April 15, July 15, and October 15 of each year or an alternate due date established by the rules of the board, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make a report to the board on a form furnished by the board and within the time set by the board. Amendatory reports to correct errors or omissions may be required and made.

(b) The report required by subsection (a) must include:

- (1) the name of each member employed in the preceding reporting period, except substitute teachers;
- (2) the total salary and other compensation paid for personal services to each member in the reporting period;
- (3) the sum of contributions made for or by each member, except for a retired member who may not make contributions during a period of reemployment as provided under ~~IC 5-10.2-4-8(d)~~; **IC 5-10.2-4-8(e)**;
- (4) the sum of employer contributions made by the school corporation or other institution, except for a retired member for whom or on whose behalf an employer may not make contributions during a period of reemployment as provided under ~~IC 5-10.2-4-8(d)~~; **IC 5-10.2-4-8(e)**;
- (5) the number of days each member received salary or other compensation for teaching services; and
- (6) any other information that the board determines necessary for the effective management of the fund.

(c) As often as the board determines necessary, the board may review or cause to be reviewed the pertinent records of any public entity contributing to the fund under this article.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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