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**BOARD OF TRUSTEES OF THE INDIANA PUBLIC EMPLOYEES' RETIREMENT FUND**

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**Resolution No. 2010-12-01**

Adopting rules related to the administration of the Fund as described herein.

WHEREAS, the Indiana Public Employees' Retirement Fund exists to provide retirement benefits to its members, their survivors, and beneficiaries;

WHEREAS, the Board of Trustees of the Indiana Public Employees' Retirement Fund, by statute, administers the Fund;

WHEREAS, the Board of Trustees, pursuant to [IC 5-10.3-3-8](#), may establish and amend rules and regulations for the administration of the Fund without adopting a rule under Indiana Code 4-22-2; and

WHEREAS, the Board of Trustees of the Indiana Public Employees' Retirement Fund wishes to adopt, amend, and/or repeal certain rules contained or to be contained in the Indiana Administrative Code related to the administration of the Fund as described herein;

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Indiana Public Employees' Retirement Fund that:

SECTION 1. [35 IAC 1.2-2-1](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-2-1](#) Definitions**

**Authority:** [IC 5-10.3-3-8](#)

**Affected:** [IC 5-10.2](#); [IC 5-10.3-2-1](#); [IC 5-10.3-7](#)

Sec. 1. As used in **The following definitions apply throughout** this title, unless the context otherwise clearly requires:

- (1) "After the member's retirement", for purposes of [IC 5-10.2-4-8\(b\)](#), means when a member separates from employment.
- (2) "Annuity savings account" or "ASA" consists of the member's contributions whether paid by the member or picked up by the employer, additional annuity contributions, and interest credits on these contributions.
- (3) "Board" means the board of trustees of the public employees' retirement fund of Indiana.
- (4) "Ceases service", for purposes of [IC 5-10.2-4-3\(e\)](#) only, means when a member stops earning creditable service.
- (5) "De minimis account" or "de minimis amount" means an inactive, retired, retired for disability, suspended, or deceased member's ASA account whereby no regular and continuing contributions are being received and the account has a balance of which the value is less than the actual cost of making a distribution of the balance to the member or the member's beneficiary.
- ~~"Full-time employee" means an employee occupying a position covered by the fund as set out in [IC 5-10.3-7](#).~~
- (6) **"De minimis overpayment" means an active, inactive, retired, retired for disability, suspended, or deceased member's ASA account which received an overpayment totaling no more than ten dollars (\$10).**
- (7) "Employer" means the state for employees of the state and a participating political subdivision for its employees.
- (8) "Employer contributions" means contributions made by the state and political subdivisions to the retirement allowance account.
- (9) "ERM" means the employer reporting and maintenance system, a web-enabled software application that manages employer and member data and collects members' wages and contributions.
- (10) **"Full-time employee" means an employee occupying a position covered by the fund as set out in [IC 5-10.3-7](#).**
- (11) "Fund" means the public employees' retirement fund of Indiana.
- (12) ~~"Gender and number" for the purpose of this title,~~ **means** the masculine gender shall include the feminine, and the singular the plural as the context may require.
- (13) "Governing body" means the county council, city council, trustees of a town, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.

(14) "Member" means persons qualifying for membership under [IC 5-10.3-7-1](#).

(15) "Member's contribution" means contribution which each member shall, as a condition of employment, contribute to the fund, which is three percent (3%) of the member's compensation (**basic salary** as defined in [35 IAC 1.2-5-5](#)), ~~as well as~~ **and which includes** contributions paid by the employer ~~on behalf of~~ **for** the member pursuant to [IC 5-10.2-3-2](#) and [IC 5-10.3-7-9](#), and additional **annuity** contributions. ~~paid by the member on either a pretax or posttax basis.~~

(16) "PERF" means the public employees' retirement fund.

(17) "Political subdivision" ~~as used in this article,~~ means a county, city, town, township, political body corporate, public school corporation, public library, public utility of a county, city, town, township, and any department of, or associated with, a county, city, town or township, which department receives revenue independently of, or in addition to, funds obtained from taxation.

(18) "Retirement allowance account" consists of employer contributions for pensions and separate accounts shall be maintained for contributions by the state and by each political subdivision.

(19) "Vested status" means the status of having ten (10) years of creditable service.

(Board of Trustees of the Public Employees' Retirement Fund; [35 IAC 1.2-2-1](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1078; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Jun 11, 2010: [20100728-IR-035100467ONA](#); adopted Nov 19, 2010: [20101208-IR-035100722ONA](#); adopted Dec 17, 2010: [20101229-IR-035100777ONA](#))

SECTION 2. [35 IAC 1.2-5-12.2](#) IS ADDED TO READ AS FOLLOWS:

**[35 IAC 1.2-5-12.2](#) De minimis overpayments**

Authority: [IC 5-10.2-2-1](#)

Affected: [IC 5-10.2-3-6](#)

**Sec. 12.2. If an active, inactive, retired, retired for disability, suspended, or deceased member's ASA account is below the de minimis amount as determined within [35 IAC 1.2-2-1](#), PERF may elect to not collect the overpayment from the member.** (Board of Trustees of the Public Employees' Retirement Fund; [35 IAC 1.2-5-12.2](#); adopted Dec 17, 2010: [20101229-IR-035100777ONA](#))

SECTION 3. [35 IAC 1.2-5-23](#) IS ADDED TO READ AS FOLLOWS:

**[35 IAC 1.2-5-23](#) Stale checks**

Authority: [IC 5-10.2-2-1](#); [IC 5-10.3-3-8](#)

Affected: [IC 5-10.2-2-3](#); [IC 5-10.2-3-6](#); [IC 5-10.2-4-2](#)

**Sec. 23. Whenever a member applies for a distribution from the member's annuity savings account, an effective distribution will be deemed to have occurred as of the date the check is issued. If the member fails to negotiate the check within one hundred eighty (180) days from issuance, the amount of the check may be credited to the fund as posttax monies and it will not be further adjusted for earnings, interest, or losses. The fund will retain the monies until the member claims them in writing.** (Board of Trustees of the Public Employees' Retirement Fund; [35 IAC 1.2-5-23](#); adopted Dec 17, 2010: [20101229-IR-035100777ONA](#))

SECTION 4. [35 IAC 1.2-6-5.5](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-6-5.5](#) Adjustments**

Authority: [IC 5-10.2-2-1.5](#)

Affected: [IC 5-10.2-3-2](#); [IC 5-10.2-2-11](#); [IC 5-10.3](#); [IC 6-8.1-10-1](#)

Sec. 5.5. (a) When the employer submits the correct contributions to a member's ASA, but PERF posts the contributions to an incorrect account, the principal amount will be removed from the incorrect account. The principal amount adjusted at the interest rate defined in subsection (b) will be posted to the correct account.

(b) For purposes of this section, the interest rate shall be determined by the executive director annually, and shall not exceed the rate of interest set each year within [IC 6-8.1-10-1](#)(c).

(c) Prior to the passage of [35 IAC 1.2-5-23](#), any member whose ASA lump sum full or partial distribution was not negotiated within one hundred eighty (180) days will receive interest on the amount of the payment beginning on the one hundred eighty-first day after the distribution was made at the interest rate defined in subsection (b). (Board of Trustees of the Public Employees' Retirement Fund; [35 IAC 1.2-6-5.5](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Sep 16, 2010:

[20100929-IR-035100611ONA](#); adopted Nov 19, 2010: [20101208-IR-035100722ONA](#); adopted Dec 17, 2010: [20101229-IR-035100777ONA](#))

SECTION 5. [35 IAC 1.2-6-6](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-6-6](#) Refund of contributions**

**Authority:** [IC 5-10.3-3-8](#)

**Affected:** [IC 5-10.2](#); [IC 5-10.3](#)

Sec. 6. A member who is on an approved leave of absence is not eligible for a refund of contributions and accumulated interest unless the reason for the leave is a layoff. In order for a member to receive a refund of his PERF contributions and accumulated interest, the member must have terminated his employment and be certified by his employer as being off the payroll and the date of termination. **Employer verification is not required whenever more than one (1) year lapses from the date of the member's separation from employment and contributions to the fund cease. An application for voluntary withdrawal of contributions submitted by the member is an affirmation by the member that the member has separated from employment.** Refunds will be made on or after the fifteenth day of the month next following the month of termination, if such termination is on or prior to the fifteenth day of the month and the application for refund is received prior to the end of the month of termination. If the member becomes reemployed in a PERF-covered position within thirty (30) days from the date of such termination then the effective date of the suspension of membership shall be automatically deferred and the member shall not be eligible for such refund. The member shall notify PERF immediately if the member becomes reemployed within such thirty (30) day period. *(Board of Trustees of the Public Employees' Retirement Fund; [35 IAC 1.2-6-6](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1086; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Dec 17, 2010: [20101229-IR-035100777ONA](#))*

DATED: December 17, 2010

Kendall W. Cochran

Chairman of the Board of Trustees

Resolution adopted by 5 affirmative and 0 negative votes.

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