BOARD OF TRUSTEES OF THE INDIANA PUBLIC RETIREMENT SYSTEM

Resolution No. 2015-3-6

Adopting rules related to the administration of the Indiana Public Retirement System as described herein.

WHEREAS, the Board of Trustees of the Indiana Public Retirement System, by statute, administers the public pension or retirement funds listed in IC 5-10.5-2-2 (collectively, "Funds");

WHEREAS, the Indiana Public Retirement System exists to manage and administer each of the Funds for the benefit of their members, survivors, and beneficiaries;

WHEREAS, the Board of Trustees, pursuant to IC 5-10.5-4-2, may establish and amend rules and regulations for the administration of the Funds without adopting a rule under IC 4-22-2; and

WHEREAS, the Board of Trustees of the Indiana Public Retirement System 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 Funds as described herein;

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

SECTION 1. 35 IAC 1.2-1-6 IS AMENDED TO READ AS FOLLOWS:

35 IAC 1.2-1-6 Interest on employees' contribution accounts administered by the Indiana public retirement system
Authority: IC 5-10.5-4-2
Affected: IC 5-10-5.5; IC 5-10.2; IC 5-10.3; IC 33-38; IC 33-39; IC 36-8

Sec. 6. (a) This rule applies to all INPRS funds that have contribution accounts.

(b) Unless otherwise provided by law or rule of the board, when crediting interest on employee contribution accounts, INPRS shall do the following:
(1) With approval of the board, set the interest rate at least annually for the contribution accounts.
(2) For active members, credit interest at least once a year on the prior fiscal year-end balance.
(3) For members separated from service, members who die before vesting, and for survivors, the amount credited to the member's contribution account shall be the value of the member's contribution account plus interest valued the day ~~before~~ **after INPRS receives** the ~~member applies~~ **member's application** for a distribution or the date of death of the member plus contributions received after that date. No contribution account shall be valued under this provision prior to the effective date of the record keeper requirements to effectuate the implementation of this provision.
(4) Cease crediting interest to accounts ~~which~~ **that** have no activity after ten (10) years after the last contribution posting and which have total service credit of less than twenty (20) years.
(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-1-6; adopted Dec 14, 2012: 20121226-IR-035120663ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA)

SECTION 2. 35 IAC 1.2-1-7 IS ADDED TO READ AS FOLLOWS:

35 IAC 1.2-1-7 Overpayments and underpayments to employer, PERF ASA, and contribution accounts administered by the Indiana public retirement system
Authority: IC 5-10.5-4-2
Affected: IC 5-10-5.5; IC 5-10.2; IC 5-10.3; IC 33-38; IC 33-39; IC 36-8

Sec. 7. (a) This rule applies to all INPRS funds that have contribution accounts.

(b) When there has been an overpayment of picked up member contributions or after-tax member contributions, the principal amount of the overpayment will be credited to the employer. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(c) When there has been an underpayment of picked up member contributions or after-tax member

contributions, the principal amount of the underpayment will be billed to the employer. The principal amount of the underpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e) to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.

(d) When there has been an overpayment of employer contributions, the principal amount of the overpayment will be credited to the employer. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(e) When there has been an underpayment of the employer contribution, the principal amount of the underpayment will be billed to the employer. The principal amount may be adjusted for earnings/interest at the interest rate defined in subsection (f) to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.

(f) For purposes of this section, the interest rate shall be determined by the executive director and shall not exceed the assumed rate of return set by the board. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-1-7; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 3. 35 IAC 1.2-5-1.2 IS ADDED TO READ AS FOLLOWS:

35 IAC 1.2-5-1.2 Retirement benefit commencement without employer separation
Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4; IC 5-10.3; IC 5-10.4

Sec. 1.2. For retirements after the effective date of this rule, in accordance with Section 905 of the Pension Protection Act of 2006, and unless otherwise prohibited by law, a PERF or TRF participant who:
(1) is no longer working in PERF or TRF covered service with an employer;
(2) is actively working with the same employer; and
(3) is working in a non-PERF or non-TRF covered position;
is entitled to retire from PERF or TRF and begin receiving retirement benefits if the participant is otherwise eligible for retirement and the participant is at least sixty-two (62) years of age at the time the participant applies for retirement. For example, Steve is sixty-two (62) years of age and has fifteen (15) years of PERF service as a state of Indiana employee. Steve is elected as a judge eligible for service in the judges' retirement system (JRS). Steve terminates his previous state of Indiana PERF covered employment and immediately begins serving as a judge participating in the JRS. Since Steve is age and service eligible for a PERF benefit, is at least sixty-two (62) years of age, and has terminated his PERF covered position, he is eligible to begin receiving PERF retirement benefits even though Steve did not separate from state employment. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-1.2; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 4. 35 IAC 1.2-5-1.3 IS ADDED TO READ AS FOLLOWS:

35 IAC 1.2-5-1.3 Suspension and withdrawal of ASA without employer separation
Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.2-4; IC 5-10.3-6; IC 5-10.4

Sec. 1.3. (a) For withdrawals after the effective date of this rule, in accordance with Section 905 of the Pension Protection Act of 2006, and unless otherwise prohibited by law, a PERF or TRF participant, who is not age and service eligible for a retirement benefit, who:
(1) is no longer working in PERF or TRF covered service with an employer;
(2) is actively working with the same employer; and
(3) is working in a non-PERF or non-TRF covered position;
may suspend and withdraw the amounts in their ASA pursuant to IC 5-10.2-3-5 and IC 5-10.2-3-6 if the participant is at least sixty-two (62) years of age at the time the participant applies for the withdrawal. For example, Josh has worked in a PERF covered position for four (4) years. Josh is promoted to a non-PERF covered position with the same employer. When Josh is sixty-two (62) years of age, he may suspend and withdraw his ASA so long as he is not working in a TRF or PERF covered position.

(b) For the purposes of subsection (a)(3), non-PERF or non-TRF covered position does not include employer withdrawals or privatization of an employer under IC 5-10.3-6-8, IC 5-10.3-6-8.5, or IC 5-10.3-6-8.9. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-1.3; adopted Mar 6, 2015:*

20150318-IR-035150060ONA)

SECTION 5. 35 IAC 1.2-5-1.4 IS ADDED TO READ AS FOLLOWS:

35 IAC 1.2-5-1.4 Election, appointment to elected position, or service in other position not covered by PERF or TRF
Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4-8.2; IC 5-10.3; IC 5-10.4

Sec. 1.4. A PERF or TRF member who is a state elected official or who is a person appointed to a state elected position in a position not covered by PERF or TRF, and otherwise meets the criteria set forth in IC 5-10.2-4-8.2 may make an election to begin receiving PERF or TRF benefits while holding the position in accordance with and pursuant to IC 5-10.2-4-8.2. For example, Judge Smith worked as a deputy attorney general in a PERF covered position for twenty (20) years. He was elected as a superior court judge and immediately left his PERF covered position to serve as a judge and is participating in the judges' retirement system. While serving as a judge, he may make the election to begin receiving his PERF retirement benefit if he meets the requirements of IC 5-10.2-4-8.2. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-1.4; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 6. 35 IAC 1.2-5-13.1 IS ADDED TO READ AS FOLLOWS:

35 IAC 1.2-5-13.1 Changes to survivor beneficiary designation or form of benefit
Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4-7; IC 5-10.2-4-7.2; IC 5-10.3

Sec. 13.1. (a) Eligible retired members may change their designated survivor beneficiary or form of benefit pursuant to IC 5-10.2-4-7.2 and this rule.

(b) A designated change to a survivor beneficiary or form of benefit is effective when the change application is received and verified by the fund, and any resulting adjustment to the form or amount of benefit shall be paid prospectively from the first of a month following the date the change application is received and verified by the fund. For example, Gill's designated survivor predeceases him on July 1. Gill applies to remove his designated beneficiary and change his form of benefit to straight life with no survivor beneficiary on December 1. Gill's recalculated benefit will be paid beginning on the first of a month following receipt and verification of the change application. There are no retroactive payments to or reductions to Gill's benefit relating back to the date of death of his original survivor.

(c) If a retiree makes an election to change the designated survivor or form of benefit, the retiree's benefit will be actuarially recalculated using all factors including annuity interest in effect at the time INPRS receives the member's election form. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-13.1; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 7. 35 IAC 1.2-5-21 IS AMENDED TO READ AS FOLLOWS:

35 IAC 1.2-5-21 ASA valuation
Authority: IC 5-10.2-2-1; IC 5-10.2-2-3; IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.2-4

Sec. 21. (a) A member may direct an allocation in the amount credited to the member among the guaranteed program and any available alternative accounts subject to the following conditions:
(1) PERF shall allow a member to make a change or selection at least once a day.
(2) PERF shall implement the member's selection the same day the selection is received by PERF, unless such selection is received after 4:00 p.m. EST on a business day, or anytime on a weekend or holiday, or any other date the New York Stock Exchange is closed, then PERF shall implement the member's selection beginning the next business day after the selection is received. This date is the effective date of the member's selection.
(3) A member may select any combination of the guaranteed program or any of the available alternative accounts in one percent (1%) increments.
(4) A member's selection remains in effect until a new selection is made.
(5) On the effective date of a member's selection, PERF shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

(A) for an alternative investment program balance, the sum of the market value on the effective date, minus any applicable investment management fees; and
(B) for any guaranteed program balance, the account balance on the effective date.

(b) When a member who participates in the alternative or guaranteed investment programs transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the sum of the market value of the member's investment, as of the ~~day before the~~ effective date of the member's selection, minus any applicable investment management fees.

(c) When a member who participates in an alternative investment program retires, becomes disabled, or suspends membership and withdraws from the fund, the amount credited to the member shall be the sum of the market value of the member's investment as of the day ~~before~~ **after INPRS receives** the ~~member applies~~ **member's application** for distribution or annuitization at retirement, disability, or suspension and withdrawal, plus contributions received after that date, minus any applicable investment management fees.

~~(c)~~ **(d)** When a member who participates in an alternative investment program dies, within five (5) business days after the date of death notification is received by PERF, the entire amount in the member's annuity savings account will be moved into the guaranteed program or a fixed value account, set at the same rate as the guaranteed program. Such death notification shall be on a form or in a manner approved by PERF. The amount credited to the member's account and moved to the fixed value account shall be the sum of the market value of the member's investment as of the day the amount in the member's annuity savings account is moved to the fixed value account minus any applicable investment management fees.

~~(d)~~ **(e)** Subject to and in accordance with the distribution provisions of IC 5-10.2-3 and IC 5-10.2-4, in the event that the member has designated beneficiaries, beneficiary accounts will be established for each beneficiary and the pro rata share of all monies in the member's ASA will be moved to the respective beneficiary account and invested in the guaranteed program or a fixed value account, set at the same rate as the guaranteed program until claimed or forfeited under IC 5-10.2-3. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-21; adopted Feb 19, 2010: 20100310-IR-035100124ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 8. 35 IAC 1.2-5-26 IS AMENDED TO READ AS FOLLOWS:

35 IAC 1.2-5-26 ASA and RSA annuity interest
Authority: IC 5-10.2-2-1; IC 5-10.2-2-3; IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.2-4; IC 5-10.5-4-2.6

Sec. 26. (a) ~~Whenever~~ **When** a member elects to annuitize their ASA or their RSA, the annuitized interest rate will be applied beginning with the date of the distribution of the annuity and the annuity will be calculated prospectively from that date regardless whether the distribution was deferred under IC 5-10.2-4-2(c), there is a retroactive disability payment under IC 5-10.2-4-6, or there is a retroactive benefit payment under IC 5-10.2-4-8.2.

(b) The annuity interest rate is determined by IC 5-10.5-4-2.6 and this rule. **Except for as set forth in subsection (c),** the annuity interest rate that will be applied is the rate in effect ~~at~~ **as of** the ~~time of~~ the *[sic]* retirement date **as determined under IC 5-10.2-4-1.3,** the disability retirement date, or the **member's retirement** date ~~of the~~ **due to an** election made under IC 5-10.2-4-8.2. ~~has been determined.~~

(c) ~~Except as provided in IC 5-10.5-4-2.6, if the member elects to annuitize all or part of their distribution after deferring under IC 5-10.2-4-2(c), the annuity rate will be the current market rate at the time the request to annuitize is received.~~ **When a member elects to change their survivor beneficiary or pension option, or both, under IC 5-10.2-4-7.2, the annuity interest rate that will be applied is the rate in effect as of the date INPRS receives the member's election form.**

(d) When a member elects to defer receiving, in any form, the member's annuity savings account under IC 5-10.2-4-2(c), the annuity interest rate that will be applied is the rate in effect as of the date INPRS receives the member's postretirement payment of ASA election form. For example, Julia is a seventy-five (75) year old active member with twenty-five (25) years of creditable service. She makes an election under IC 5-10.2-4-8.2 to begin receiving benefits relating back to the date she was first eligible to make the election (five (5) years ago). Julia elects to annuitize her ASA. The annuity is calculated and interest rate is the

rate in effect on the ~~retirement~~ date Julia ~~selects.~~ **elects as her retirement date.** Julia will receive five (5) years of retroactive pension benefits using only twenty (20) years of service credit in the pension calculation. Because Julia's ASA account was actively earning interest, gains, or losses during the five (5) **year** period before Julia made the election, and the ASA had not been annuitized during this period, the annuitized interest rate will be applied beginning with the actual date of distribution of the annuity. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-26; adopted Apr 26, 2013: 20130508-IR-035130167ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 9. 35 IAC 1.2-6-1 IS AMENDED TO READ AS FOLLOWS:

35 IAC 1.2-6-1 Employer payments
Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3-2; IC 5-10.3-7-12.5

Sec. 1. (a) In accordance with and pursuant to IC 5-10.3-7-12.5, the Indiana public retirement system board of trustees herein sets the due date for contributions as seven (7) days after a covered employer's payroll unless otherwise approved by the board. **For adjustments to incorrect reports and contributions by the employer, the due date is seven (7) days after the pay period end date of the original wage and contribution report.**

(b) Notwithstanding subsection (a), the due date for adjustments to wages and contributions for members returning to covered employment from military service is thirty (30) days after the member is reemployed.

~~(b)~~ **(c)** Upon written request of INPRS, covered employers shall submit their payroll date to PERF in a manner or form established by INPRS within seven (7) days of receipt of such request.

~~(c)~~ **(d)** Any payments not made on the due date may at INPRS' discretion accrue interest at a rate equal to the rate established in section 5.5(b) of this rule.

~~(d)~~ **(e)** Any employer who fails to submit required contributions and reports within thirty (30) days of the due date will be subject to a penalty as set forth in IC 5-10.3-7-12.5. If the thirtieth day following the due date falls on a Saturday, Sunday, or legal holiday, the due date becomes the next working day.

~~(e)~~ **(f)** An employer who has elected to pick up the mandatory employee contributions of its employees must do so by resolution in accordance with IC 5-10.2-3-2(d). An employer who wants to rescind its election to pick up the mandatory employee contributions must do so in writing with approval of its governing body. The change will be effective the first payroll date following the date INPRS receives and approves the change. For purposes of IC 5-10.3-7-12.5(c), habitually late is defined as failing to submit required contributions, records, or reports for over sixty (60) days after the due date.

~~(f)~~ **(g)** An employer deemed habitually late will remain in the habitually late status until it submits reports and contributions for twelve (12) months within seven (7) days of the respective due date and after fulfilling all delinquent reporting and contribution requirements. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-1; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1085; 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 Apr 29, 2011: 20110511-IR-035110273ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA; adopted Dec 13, 2013: 20131225-IR-035130565ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 10. 35 IAC 4-3-1.2 IS ADDED TO READ AS FOLLOWS:

35 IAC 4-3-1.2 Retirement benefit commencement without employer separation
Authority: IC 5-10-5.5-3; IC 5-10.5-4-2
Affected: IC 5-10-5.5-15; IC 5-10-5.5-16

Sec. 1.2. For retirements after the effective date of this rule, in accordance with Section 905 of the Pension Protection Act of 2006, and unless otherwise prohibited by law, a conservation, excise, or gaming participant who:
(1) is no longer working in conservation, excise, or gaming covered service with the state of Indiana;
(2) is actively working for the state of Indiana; and
(3) is working in a non-conservation, excise, or gaming covered position;

is entitled to begin receiving early or regular retirement benefits from the conservation, excise, or gaming plan if the participant is otherwise eligible for retirement and is at least fifty-five (55) years of age at the time the participant applies for retirement. For example, John is fifty-five (55) years of age and has fifteen (15) years of service as a state of Indiana conservation officer. John terminates his service as a conservation officer and immediately accepts a position with the state's department of homeland security in a PERF covered position. Since John is age and service eligible for an early conservation officer retirement benefit, is at least fifty-five (55) years of age, and has terminated his conservation officer position, he is eligible to begin receiving conservation retirement benefits even though John did not separate from state employment. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 4-3-1.2; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 11. 35 IAC 14-2-8 IS AMENDED TO READ AS FOLLOWS:

35 IAC 14-2-8 ASA valuation
Authority: IC 5-10.2-2-1; IC 5-10.2-2-3; IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.2-4

Sec. 8. (a) A member may direct an allocation in the amount credited to the member among the guaranteed program and any available alternative accounts subject to the following conditions:

(1) A member may select any combination of the guaranteed program or any of the available alternative accounts in one percent (1%) increments.
(2) A member's selection remains in effect until a new selection is made.
(3) On the effective date of a member's selection, TRF's record keeper shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:
(A) for an alternative investment program balance, the market value on the effective date; and
(B) for any guaranteed program balance, the account balance on the effective date.

(b) TRF shall allow a member to make a change or selection at least once a day. TRF shall implement the member's selection the same day the selection is received by TRF, unless such selection is received after 4:00 p.m. EST on a business day, or anytime on a weekend or holiday, or any other date the New York Stock Exchange is closed, then TRF will implement the member's selection beginning the next business day after the selection is received. This date is the effective date of the member's selection.

~~(1) A member may select any combination of the guaranteed program or any of the available alternative accounts in one percent (1%) increments.~~
~~(2) A member's selection remains in effect until a new selection is made.~~
~~(3) On the effective date of a member's selection, TRF's record keeper shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:~~
~~(A) for an alternative investment program balance, the market value on the effective date; and~~
~~(B) for any guaranteed program balance, the account balance on the effective date.~~

(c) When a member who participates in the alternative or guaranteed investment programs transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the ~~day before the~~ effective date of the member's selection.

(d) When a member who participates in an alternative investment program retires, becomes disabled, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the day ~~before~~ **after INPRS receives** the ~~member applies~~ **member's application** for distribution or annuitization at retirement, disability, or suspension and withdrawal, plus contributions received after that date.

~~(d)~~ **(e)** When a member who participates in an alternative investment program dies, within five (5) business days after the date of death notification is received by TRF, the entire amount in the member's annuity savings account will be moved into the guaranteed program or a fixed value account, set at the same rate as the guaranteed program. Such death notification shall be on a form or in a manner approved by TRF. The amount credited to the member's account and moved to the fixed value account shall be the market value of the member's investment as of the day the amount in the member's annuity savings account is moved to the fixed value account.

~~(e)~~ **(f)** Subject to and in accordance with the distribution provisions of IC 5-10.2-3 and IC 5-10.2-4, in the event that the member has designated beneficiaries, beneficiary accounts will be established for each beneficiary

and the pro rata share of all monies in the member's ASA will be moved to the respective beneficiary account and invested in the guaranteed program or a fixed value account, set at the same rate as the guaranteed program until claimed or forfeited under IC 5-10.2-3. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-2-8; adopted Dec 16, 2009: 20100106-IR-550090990ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 2-2-6.1) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 14-2-8) by P.L.23-2011, SECTION 22, effective July 1, 2011.*

SECTION 12. 35 IAC 14-2-17 IS AMENDED TO READ AS FOLLOWS:

35 IAC 14-2-17 ASA and RSA annuity interest
Authority: IC 5-10.2-2-1; IC 5-10.2-2-3; IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.2-4; IC 5-10.5-4-2.6

Sec. 17. (a) Whenever a member elects to annuitize their ASA or their RSA, the annuitized interest rate will be applied beginning with the date of the distribution of the annuity and the annuity will be calculated prospectively from that date regardless whether the distribution was deferred under IC 5-10.2-4-2(c), there is a retroactive disability payment under IC 5-10.2-4-6, or there is a retroactive benefit payment under IC 5-10.2-4-8.2.

(b) The annuity interest rate is determined by IC 5-10.5-4-2.6 and this rule. The annuity interest rate that will be applied is the rate in effect ~~at the time~~ **as** of **the time all the requirements of this subsection are met as follows:**

(1) The retirement date, the disability retirement date, or the date of the election made under IC 5-10.2-4-8.2 has been determined **as of the time all the requirements of this subsection are met;**

(2) The member is eligible to begin receiving a benefit and has separated from service, unless the member has elected an in service distribution under IC 5-10.2-4-8.2 or there has been a finding of disability under IC 5-10.2-4-6; and

(3) INPRS has received and accepted the member's completed retirement application.

(c) Except as provided in IC 5-10.5-4-2.6, if the member elects to annuitize all or part of their distribution after deferring under IC 5-10.2-4-2(c), the annuity rate will be the current market rate at the time the request to annuitize is received. For example, Julia is a seventy-five (75) year old active member with twenty-five (25) years of creditable service. She makes an election under IC 5-10.2-4-8.2 to begin receiving benefits relating back to the date she was first eligible to make the election (five (5) years ago). Julia elects to annuitize her ASA. The annuity is calculated and interest rate is the rate in effect on the retirement date Julia selects. Julia will receive five (5) years of retroactive pension benefits using only twenty (20) years of service credit in the pension calculation. Because Julia's ASA account was actively earning interest, gains, or losses during the five (5) **year** period before Julia made the election, and the ASA had not been annuitized during this period, the annuitized interest rate will be applied beginning with the actual date of distribution of the annuity. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-2-17; adopted Apr 26, 2013: 20130508-IR-035130167ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 13. 35 IAC 14-3-1.2 IS ADDED TO READ AS FOLLOWS:

35 IAC 14-3-1.2 Suspension and withdrawal of ASA without employer separation
Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.2-4; IC 5-10.3; IC 5-10.4

Sec. 1.2. (a) For withdrawals after the effective date of this rule, in accordance with Section 905 of the Pension Protection Act of 2006, and unless otherwise prohibited by law, a PERF or TRF participant, who is not age and service eligible for a retirement benefit, who:

(1) is no longer working in PERF or TRF covered service with an employer;

(2) is actively working with the same employer; and

(3) is working in a non-PERF or non-TRF covered position;

may suspend and withdraw the amounts in their ASA pursuant to IC 5-10.2-3-5 and IC 5-10.2-3-6 if the participant is at least sixty-two (62) years of age at the time the participant applies for the withdrawal. For example, Josh has worked in a PERF covered position for four (4) years. Josh is promoted to a non-PERF covered position with the same employer. When Josh is sixty-two (62) years of age, he may suspend and withdraw his ASA so long as he is not working in a TRF or PERF covered position.

(b) For the purposes of subsection (a)(3) of this rule, non-PERF or non-TRF covered position does not

include employer withdrawals or privatization of an employer under IC 5-10.3-6-8, IC 5-10.3-6-8.5, or IC 5-10.3-6-8.9. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-3-1.2; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 14. 35 IAC 14-4-4.1 IS ADDED TO READ AS FOLLOWS:

35 IAC 14-4-4.1 Changes to survivor beneficiary designation or form of benefit
Authority: IC 5-10.5-4-2; IC 5-10.4
Affected: IC 5-10.2-4-7; IC 5-10.2-4-7.2; IC 5-10.4

Sec. 4.1. (a) Eligible retired members may elect to change their designated survivor beneficiary or form of benefit pursuant to IC 5-10.2-4-7.2 and this rule.

(b) A designated change in the survivor beneficiary or form of benefit is effective when the change application is received and verified by the fund, and any resulting change in the form or amount of benefit is paid prospectively from the first of a month following that date. For example, Gill's designated survivor predeceases him on July 1. Gill applies to remove his designated beneficiary and change his form of benefit to straight life with no survivor beneficiary on December 1. Gill's recalculated benefit will be paid beginning on the first of a month following receipt and verification of the change application. There are no retroactive payments to or reductions to Gill's benefit relating back to the date of death of his original survivor.

(c) If a retiree makes an election to change the designated survivor or form of benefit, the retiree's benefit will be actuarially recalculated using all factors including annuity interest in effect at the time INPRS receives the member's election form. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-4-4.1; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 15. 35 IAC 14-7-2.1 IS ADDED TO READ AS FOLLOWS:

35 IAC 14-7-2.1 Retirement benefit commencement without employer separation
Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4; IC 5-10.3; IC 5-10.4

Sec. 2.1. For retirements after the effective date of this rule, in accordance with Section 905 of the Pension Protection Act of 2006, and unless otherwise prohibited by law, a PERF or TRF participant who:
(1) is no longer working in PERF or TRF covered service with an employer;
(2) is actively working with the same employer; and
(3) is working in a non-PERF or non-TRF covered position;
is entitled to retire from PERF or TRF and begin receiving retirement benefits if the participant is otherwise eligible for retirement and the participant is at least sixty-two (62) years of age at the time the participant applies for retirement. For example, Steve is sixty-two (62) years of age and has fifteen (15) years of PERF service as a state of Indiana employee. Steve is elected as a judge eligible for service in the judges' retirement system (JRS). Steve terminates his previous state of Indiana PERF covered employment and immediately begins serving as a judge participating in the JRS. Since Steve is age and service eligible for a PERF benefit, is at least sixty-two (62) years of age, and has terminated his PERF covered position, he is eligible to begin receiving PERF retirement benefits even though Steve did not separate from state employment. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-7-2.1; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 16. 35 IAC 14-7-2.2 IS ADDED TO READ AS FOLLOWS:

35 IAC 14-7-2.2 Election, appointment to elected position, or service in other position not covered by PERF or TRF
Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4-8.2; IC 5-10.3; IC 5-10.4

Sec. 2.2. A PERF or TRF member who is a state elected official or who is a person appointed to a state elected position in a position not covered by PERF or TRF and otherwise meets the criteria set forth in IC 5-10.2-4-8.2 may make an election to begin receiving PERF or TRF benefits while holding the position in accordance with and pursuant to IC 5-10.2-4-8.2. For example, Judge Smith worked as a teacher in a state institution in a TRF covered position for twenty (20) years. He was elected as a superior

court judge and immediately left his TRF covered position to serve as a judge and is participating in the judges' retirement system. While serving as a judge, he may make the election to begin receiving his TRF retirement benefit if he meets the requirements of IC 5-10.2-4-8.2. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-7-2.2; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

SECTION 17. 35 IAC 14-7-10 IS AMENDED TO READ AS FOLLOWS:

35 IAC 14-7-10 Employer payments
Authority: IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-3-2; IC 5-10.2-4-2; IC 5-10.4-7-8

Sec. 10. (a) In accordance with and pursuant to IC 5-10.4-7, the Indiana public retirement system board of trustees herein sets the due date for contributions as seven (7) days after a covered employer's payroll unless otherwise approved by the board. **For adjustments to incorrect reports and contributions by the employer, the due date is seven (7) days after the pay period end date of the original wage and contribution report.**

(b) Notwithstanding section (a) *[subsection (a)]***, the due date for adjustments to wages and contributions for members returning to covered employment from military service is thirty (30) days after the member is reemployed.**

~~(b)~~ **(c)** Upon written request of INPRS, covered employers shall submit their payroll date to INPRS in a manner or form established by INPRS within seven (7) days of receipt of such request.

~~(c)~~ **(d)** Any payments not made on the due date may at INPRS' discretion accrue interest at a rate equal to the rate established in ~~section 11 of this rule.~~ **35 IAC 1.2-6-5.5.**

~~(d)~~ **(e)** Any employer who fails to submit required contributions and reports within thirty (30) days of the due date will be subject to a penalty as set forth in IC 5-10.4-7-8. If the thirtieth day following the due date falls on a Saturday, Sunday, or a legal holiday, the due date becomes the next working day.

~~(e)~~ **(f)** An employer who has elected to pick up the mandatory employee contributions of its employees must do so by resolution in accordance with IC 5-10.2-3-2(d). An employer who wants to rescind its election to pick up the mandatory employee contributions must do so in writing with approval of its governing body. The change will be effective the first payroll date following the date INPRS receives and approves the change. For purposes of IC 5-10.4-7-8(3), habitually late is defined as failing to submit required contributions, records, or reports for over sixty (60) days after the due date.

~~(f)~~ **(g)** An employer deemed habitually late will remain in the habitually late status until it submits reports and contributions for twelve (12) months within seven (7) days of the respective due date and after fulfilling all delinquent reporting and contribution requirements. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-7-10; adopted Dec 16, 2009: 20100106-IR-550090990ONA; errata filed Jan 19, 2010, 12:48 p.m.: 20100203-IR-550100043ACA; errata filed Feb 17, 2010, 12:09 p.m.: 20100310-IR-550100109ACA; adopted Apr 21, 2010: 20100505-IR-550100241ONA; adopted Nov 19, 2010: 20101208-IR-550100723ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA; adopted Dec 13, 2013: 20131225-IR-035130565ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 2-7-8) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 14-7-10) by P.L.23-2011, SECTION 22, effective July 1, 2011.*

SECTION 18. 35 IAC 14-7-11 IS AMENDED TO READ AS FOLLOWS:

35 IAC 14-7-11 Overpayments and underpayments
Authority: IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-2-11; IC 5-10.2-3-2; IC 6-8.1-10-1

Sec. 11. (a) When there has been an overpayment of picked up member contributions or after-tax member contributions, the principal amount of the overpayment will be credited to the employer. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(b) When there has been an underpayment of picked up member contributions or after-tax member contributions, the principal amount of the underpayment will be billed to the employer. The principal amount of the

underpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e) **to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.**

(c) When there has been an overpayment of employer contributions, the principal amount of the overpayment will be credited to the employer. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(d) When there has been an underpayment of the employer contribution, the principal amount of the underpayment will be billed to the employer. The principal amount may be adjusted for earnings/interest at the interest rate defined in subsection (e) **to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.**

(e) For purposes of this section, the interest rate shall be determined by the executive director and shall not exceed the ~~rate of interest set each year within IC 6-8.1-10-1(c).~~ **assumed rate of return set by the board.** *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-7-11; adopted Dec 16, 2009: 20100106-IR-550090990ONA; errata filed Jan 19, 2010, 12:48 p.m.: 20100203-IR-550100043ACA; adopted Sep 16, 2010: 20100929-IR-550100612ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 2-7-9) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 14-7-11) by P.L.23-2011, SECTION 22, effective July 1, 2011.*

SECTION 19. 35 IAC 22 IS ADDED TO READ AS FOLLOWS:

ARTICLE 22. INTERNAL REVENUE CODE SECTION 415

Rule 1. General Provisions

35 IAC 22-1-1 Purpose
Authority: IC 5-10.5-4-2
Affected: IC 2-3.5-3-3; IC 5-10-5.5-2.5; IC 33-38-7-16; IC 33-38-8-20; IC 33-39-7-22; IC 36-8-8-2.5

Sec. 1. (a) The purpose of this rule is to comply with Internal Revenue Code Section 415.

(b) This rule applies to all pension and retirement funds administered by INPRS. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 22-1-1; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

35 IAC 22-1-2 Procedure
Authority: IC 5-10.5-4-2
Affected: IC 2-3.5-3-3; IC 5-10-5.5-2.5; IC 33-38-7-16; IC 33-38-8-20; IC 33-39-7-22; IC 36-8-8-2.5

Sec. 2. (a) Notwithstanding any other provisions to the contrary, the member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of Section 415 of the Internal Revenue Code for a qualified governmental pension plan. For purposes of these limitations, the limitation year shall be the fiscal year. Except as otherwise provided within this section, as permitted by Treasury Regulation Section 1.415(a)-1(d), the limitations of Section 415 of the Internal Revenue Code are incorporated by reference.

(b) For purposes of applying Section 415(c) of the Internal Revenue Code and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted in subdivisions (1) and (2) and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under Section 414(h) of the Internal Revenue Code shall not be treated as compensation as follows:

(1) Compensation will be defined as wages within the meaning of Section 3401(a) of the Internal Revenue Code and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Sections 6041(d), 6051(a)(3), and 6052 of the Internal Revenue Code and will be determined without regard to any rules under Section 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the Internal Revenue Code).

(A) However, for limitation years beginning after December 31, 1997, compensation will also

include amounts that would otherwise be included in compensation but for an election under Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of Section 132(f)(4) of the Internal Revenue Code.

(B) For limitation years beginning on and after July 1, 2009, compensation for the limitation year shall also include compensation paid by the later of two and one-half (2 1/2) months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(i) the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer;

(ii) the payment is for unused accrued bona fide sick, vacation, or other leave that the member would have been able to use if employment had continued. However, compensation under subsection (b)(1)(B) this clause which is received from the employer in contemplation of the member's retirement, including severance pay, termination pay, retirement bonus, or commutation of unused sick leave or personal leave, shall be limited to no more than two thousand dollars ($2,000); or

(iii) the payments are pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income. Payments not described in this clause are not considered compensation if paid after severance from employment, even if they are paid within two and one-half (2 1/2) months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service. An employee who is in qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) shall be treated as receiving compensation from the employer during such period of qualified military service equal to the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or, if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(2) For limitation years beginning on or after July 1, 2009, a member's compensation for purposes of this subsection shall not exceed the annual limit under Section 401(a)(17) of the Internal Revenue Code.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 22-1-2; adopted Mar 6, 2015: 20150318-IR-035150060ONA)

DATED: March 6, 2015
Kendall W. Cochran,
Chairman of the Board of Trustees
Indiana Public Retirement System
Resolution adopted by 7 affirmative, 0 negative votes.

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