

Document: Proposed Rule, **Register Page Number:** 26 IR 3678

Source: August 1, 2003, Indiana Register, Volume 26, Number 11

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register. However, this document is unofficial.

**TITLE 35 BOARD OF TRUSTEES OF THE PUBLIC
EMPLOYEES' RETIREMENT FUND**

Proposed Rule
LSA Document #03-131

DIGEST

Adds 35 IAC 11 concerning the pickup of additional member contributions to a member's annuity savings account. Effective 30 days after filing with the secretary of state.

35 IAC 11

SECTION 1. 35 IAC 11 IS ADDED TO READ AS FOLLOWS:

ARTICLE 11. ADDITIONAL CONTRIBUTIONS

Rule 1. Elective Payroll Deductions for Additional Contributions

35 IAC 11-1-1 Payroll deduction for additional contributions

Authority: IC 5-10.3-3-8

Affected: IC 5-10.2-3-2

Sec. 1. (a) The purpose of this rule is to provide a pickup of member contributions by participating employers under Section 414(h)(2) of the Internal Revenue Code of 1986 for additional employee contributions made to the member's annuity savings account under IC 5-10.2-3-2(c) and IC 5-10.2-3-2(d). Employers may elect to participate in the pickup of additional employee contributions by a resolution adopting the provisions of this rule.

(b) A member in active covered employment (with an electing employer) who elects to make contributions to the member's annuity savings account in addition to the contributions required under IC 5-10.2-3-2(b) may do so through a binding, irrevocable payroll deduction authorization.

(c) A member in active covered employment, having executed a binding, irrevocable payroll deduction authorization with respect to any such additional contributions, is not entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the board of trustees of the public employees' retirement fund (board). Such contributions shall be remitted to the public employees' retirement fund in the same manner as all other contributions and shall be credited to the member's annuity savings account. The salary the employer will use to calculate such contributions will be the same as the salary the employer reports to the board for purposes of determining a member's mandatory contribution and benefit calculation. Such contributions, although designated as employee contributions, will be paid by the employer in lieu of contributions by the employee. The contributions so assumed shall be treated as tax-deferred employer pickup contributions pursuant to Section 414(h)(2) of the Internal Revenue Code, subject to a favorable letter ruling by the Internal Revenue Service.

(d) A member in active covered employment may elect to pay all or part of any additional contribution through payroll deduction. This election is available for two (2) years, beginning on September 1 following the plan year in which the employee completes five (5) years of creditable service, and ending on August 31 of the second calendar year following the opening of the election period. The amounts to be deducted and the duration of the deduction shall be specified on the authorization form prescribed by the board, and the amounts and duration shall be irrevocable and binding once made. Prepayment of amounts covered by the authorization is not permitted. However, nothing in this rule shall prevent a member

from paying any amounts not covered by the authorization with after-tax dollars, up to the statutory maximum. The investment of the additional contributions shall be made in the same manner and percentage as the investment of the member's mandatory contributions.

(e) If a member terminates and then returns to covered employment with a different employer, when the member has five (5) or more years of creditable service credited or reccredited under Indiana statutes, the member shall be entitled to execute a new binding irrevocable payroll deduction authorization within a two (2) year election period, beginning on September 1 following the plan year in which the employee completes or is reccredited with five (5) years of creditable service and ending on August 31 of the second calendar year following the opening of the election period. If a member terminates and then returns to covered employment with the same employer, the member's binding irrevocable payroll deduction authorization, if any, shall be immediately effective upon rehire.

(f) No payroll deduction shall begin unless and until the active member executes the payroll deduction authorization on a form prescribed by the board, which must be received within the election period defined in subsection (d). The board will send the form to the treasurer or other disbursing officer of the employer. After receiving the binding, irrevocable payroll deduction authorization, the treasurer or other disbursing officer of each employer shall add such contributions to the contributions deducted from the member's regular compensation each pay day. The employer shall treat these deductions as picked up contributions.

(g) All such payroll deductions, including the amounts and the duration specified, shall be binding and irrevocable upon the member's execution of the prescribed form. A member may execute and submit the payroll deduction authorization with the election period defined in subsection (d), effective as of the next possible payroll date within the election period. However, such deductions will cease only upon any of the following events:

(1) The member's death.

(2) The termination of the member's employment.

Distribution of the additional contributions shall be made in the same manner as distributions from the member's annuity savings account. In no event shall the member receive a return of the payroll deductions made under this rule except pursuant to the normal disbursement procedures of IC 5-10.2.

(h) Members with at least five (5) years of creditable service as of June 30, 2003, may elect to make additional contributions to their annuity savings accounts through a payroll deduction pursuant to this provision between September 1, 2003, and August 31, 2005. (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 11-1-1*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 27, 2003 at 2:00 p.m., at the Board of Trustees of the Public Employees' Retirement Fund, 143 West Market Street, Fifth Floor, Indianapolis, Indiana the Board of Trustees of the Public Employees' Retirement Fund will hold a public hearing on proposed administrative rules regarding elective payroll deductions for additional contributions to members' annuity savings accounts. Copies of these rules are now on file at the Board of Trustees of the Public Employees' Retirement Fund, Harrison Building, 143 West Market Street, Fifth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Craig Hartzer
Executive Director
Board of Trustees of the Public Employees' Retirement Fund