

IC 5-10.2-4

Chapter 4. Retirement and Disability Benefits

IC 5-10.2-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made by P.L.45-1988 to STEP TWO of section 4(b) of this chapter (formerly section 4(a) of this chapter):

(A) apply only to retirement benefits paid after March 3, 1988; and

(B) do not require retroactive increases in any benefits paid before March 3, 1988.

(2) The amendments made to section 3 of this chapter by P.L.95-2004 apply only to members of the Indiana state teachers' retirement fund who retire after May 31, 2004.

(3) The amendments made to section 8 of this chapter by P.L.62-2005 apply to:

(A) fiscal years that begin after June 30, 2005, for teachers' retirement fund members; and

(B) calendar years that begin after December 31, 2005, for public employees' retirement fund members.

(4) The amendments made to section 6 of this chapter by P.L.124-2008 apply to disability retirement benefits payable by the Indiana state teachers' retirement fund and the public employees' retirement fund after December 31, 2007.

As added by P.L.220-2011, SEC.73.

IC 5-10.2-4-0.3

Consideration of certain claims for benefits

Sec. 0.3. The board may consider a claim for benefits under section 6(a) of this chapter, as amended by P.L.22-1998, even if the disability of the member making the claim arose from events occurring after March 31, 1994, and before April 2, 1998. A benefit claim approved by the board under this section is payable after the later of April 1, 1998, or the date of the member's claim.

As added by P.L.220-2011, SEC.74.

IC 5-10.2-4-1

Eligibility for normal and early retirement

Sec. 1. (a) This subsection applies to:

(1) members of the public employees' retirement fund who retire before July 1, 1995; and

(2) members of the Indiana state teachers' retirement fund who retire before May 2, 1989.

A member who has reached age sixty-five (65) and has at least ten (10) years of creditable service is eligible for normal retirement.

(b) This subsection applies to members of the Indiana state teachers' retirement fund who retire after May 1, 1989, and to

members of the public employees' retirement fund who retire after June 30, 1995, except as provided in section 1.7 of this chapter. A member is eligible for normal retirement if:

- (1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;
- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or
- (3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(c) A member who has reached age fifty (50) and has at least fifteen (15) years of creditable service is eligible for early retirement with a reduced pension.

(d) A member who is eligible for normal or early retirement is entitled to choose a retirement date on which the member's benefit begins if the following conditions are met:

- (1) The application for retirement benefits and the choice of the date is filed on a form provided by the board.
- (2) The date must be after the cessation of the member's service and be the first day of a month.
- (3) The retirement date is not more than six (6) months before the date the application is received by the board. However, if the board determines that a member is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the member became incompetent.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1980, P.L.28, SEC.5; P.L.48-1985, SEC.1; P.L.342-1989(ss), SEC.2; P.L.4-1990, SEC.7; P.L.10-1995, SEC.4; P.L.73-2002, SEC.2.

IC 5-10.2-4-1.2

Direct deposit of benefits; waiver of direct deposit requirement

Sec. 1.2. (a) Each fund shall adopt a policy that requires direct deposit or another method approved by the board as the preferred way for members and beneficiaries to receive monthly benefits.

(b) A member or beneficiary who does not wish to have payments to the person deposited by direct deposit or another method approved by the board under subsection (a) may request the board or a designee of the board to grant a waiver of the requirement of direct deposit or another method approved by the board. The member or beneficiary must:

- (1) state the reason to the board for requesting the waiver; and
- (2) sign a waiver form.

(c) The board or a designee of the board shall grant the member's or beneficiary's request for a waiver, approval of which shall not be unreasonably denied, if any of the following apply:

- (1) The member or beneficiary currently does not have a savings or checking account.
- (2) The member or beneficiary is unable to establish a savings or checking account within the geographic area of the home of

the member or beneficiary without payment of a service fee. In support of this reason, the member or beneficiary must submit a written statement of the inability to establish the account without the payment of a fee with the waiver request.

(3) The home of the member or beneficiary is too remote to have access to a financial institution where direct deposit or another method approved by the board may be made.

(4) The financial institution of the member or beneficiary is unable to:

(A) accept direct deposit or another method approved by the board; or

(B) process electronic withdrawal.

The member or beneficiary must submit with the waiver a written statement from the financial institution of the member or beneficiary that the financial institution is unable to accept direct deposit or another method approved by the board or process electronic withdrawal.

(5) The board determines that the facts of the particular case warrant a waiver of the requirement of direct deposit or another method approved by the board.

(d) The policy of the board must provide that a member or beneficiary who is in pay status as of July 1, 2009, and is receiving monthly benefits in a manner other than direct deposit or another method approved by the board shall not have the monthly benefits stopped for receiving monthly benefits in a manner other than direct deposit or another method approved by the board.

As added by P.L. 47-2003, SEC. 1. Amended by P.L. 115-2009, SEC. 3.

IC 5-10.2-4-1.3

Application procedure

Sec. 1.3. (a) A member who files an application for retirement benefits must provide the following information on the application form:

(1) The retirement date chosen by the member.

(2) If the member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, whether the member chooses:

(A) an annuity purchased from the amount credited to the member in the annuity savings account;

(B) a total or partial distribution from the annuity savings account under section 2(b) of this chapter; or

(C) a deferral of the payment of any benefits from the annuity savings account under section 2(c) of this chapter.

(3) The name of the beneficiary or beneficiaries designated by the member with respect to the pension portion of the member's retirement benefit.

(4) The name of the beneficiary or beneficiaries designated by the member with respect to the annuity portion of the member's retirement benefit, unless the member chooses total distribution under section 2 of this chapter.

(b) A member's designation of beneficiaries in the application for retirement benefits supersedes any previous designation of beneficiaries by the member.

(c) A member must indicate the name, address, date of birth, and Social Security number of each designated beneficiary and provide proof of birth of each designated beneficiary.

(d) Each board shall adopt a form for the application for retirement benefits that meets the requirements of this section.

As added by P.L.195-1999, SEC.13. Amended by P.L.115-2008, SEC.9.

IC 5-10.2-4-1.4

Direct deposit benefit notice

Sec. 1.4. (a) This section applies to a member or a beneficiary of the fund who receives a monthly benefit by direct deposit.

(b) The fund shall furnish to the member or beneficiary:

(1) before each change in the amount of the member's or beneficiary's benefit; or

(2) once every twelve (12) months, if the member's or beneficiary's benefit amount does not change;

a written notice showing the member's or beneficiary's benefit amount, including any cost of living increase or other adjustment to the benefit amount, and a summary of the member's or beneficiary's benefit payment history since the member's or beneficiary's last written notice.

As added by P.L.47-2003, SEC.2. Amended by P.L.115-2009, SEC.4.

IC 5-10.2-4-1.5

Estimated benefit payments

Sec. 1.5. (a) A fund may calculate and pay an estimated retirement benefit of the pension portion to a member if:

(1) the member has applied for a retirement benefit and has chosen a retirement date on which the retirement benefit is to begin;

(2) the member's membership records are incomplete or have not been certified; and

(3) the member's membership records that have been submitted to the fund establish that the member is entitled to a retirement benefit.

(b) After June 30, 2009, if a fund calculates and pays an estimated benefit under this section, the estimated benefit must be at least eighty-five percent (85%) of the pension portion of the benefit determined under the fund's records on service and compensation information.

(c) If an estimated benefit is paid to a member under this section, the fund shall, after all membership records have been submitted to the fund and certified, determine the actual retirement benefit to which the member is entitled. After determining the actual retirement benefit to which the member is entitled, the fund shall temporarily adjust the actual retirement benefit that is paid to the member to

reconcile any underpayment or overpayment of benefits to the member that resulted from the payment of estimated benefits. The fund may make the temporary adjustment to the member's actual retirement benefit over a reasonable time, as determined by the board.

As added by P.L.195-1999, SEC.14. Amended by P.L.115-2009, SEC.5.

IC 5-10.2-4-1.7

Elected county official eligibility for normal retirement

Sec. 1.7. (a) This section applies only to members of the public employees' retirement fund who retire after June 30, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 2 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as an elected county official; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC 5-10.2-1-8(b)(3)) and meets the requirements of section 1 of this chapter.

As added by P.L. 73-2002, SEC.3. Amended by P.L.88-2005, SEC.2.

IC 5-10.2-4-1.9

Eligibility of certain state officers for normal retirement

Sec. 1.9. (a) This section applies only to a member of the public employees' retirement fund:

(1) who has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) whose term of office as a state officer commenced after the election held on November 5, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have

served at least eight (8) years as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted to establish uniform dates for beginning the terms of state officers listed in Article 6, Section 1 of the Constitution of the State of Indiana; and
(2) is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC 5-10.2-1-8(a)) and meets the requirements of section 1 of this chapter.

As added by P.L.115-2008, SEC.10.

IC 5-10.2-4-2

Annuity or distribution benefits; choice of plans; contributions paid as lump sum

Sec. 2. (a) Unless a member elects otherwise under this section or has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account. If a member has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the member's retirement benefit is equal to the pension provided by employer contributions, unless the member has transferred the creditable service earned under the public employees' retirement fund to another governmental retirement plan under IC 5-10.2-3-1(i). Regardless of a member's election under this section, contributions totaling not more than one thousand dollars (\$1,000) that are posted to a member's annuity savings account after the final date on which the member's retirement benefit is processed may be distributed to the member as a lump sum payment.

(b) If a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose at retirement or upon a disability retirement to receive a distribution of:

(1) the entire amount credited to the member in the annuity savings account; or

(2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an

annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), if a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

(1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of each board, to receive a distribution of:

(A) the entire amount credited to the member in the annuity savings account; or

(B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3. However, each board may by rule provide for an alternate valuation date.

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-1985, SEC.12; P.L.55-1989, SEC.16; P.L.59-1989, SEC.1; P.L.195-1999, SEC.15; P.L.62-2005, SEC.2; P.L.115-2008, SEC.11; P.L.115-2009, SEC.6.

IC 5-10.2-4-3

Average of the annual compensation

Sec. 3. (a) Except as provided in subsection (f), in computing the retirement benefit for a nonteacher member, "average of the annual compensation" means the average annual compensation calculated

using the twenty (20) calendar quarters of service in a position covered by the retirement fund before retirement in which the member's annual compensation was the highest. However, in order for a quarter to be included in the twenty (20) calendar quarters, the nonteacher member must have performed service throughout the calendar quarter. All twenty (20) calendar quarters do not have to be continuous but they must be in groups of four (4) consecutive calendar quarters. The same calendar quarter may not be included in two (2) different groups.

(b) This subsection does not apply to a teacher member described in subsection (c). In computing the retirement benefit for a teacher member, "average of the annual compensation" means the average annual compensation for the five (5) years of service before retirement in which the member's annual compensation was highest. In order for a year to be included in the five (5) years, the teacher member must have received for the year credit under IC 5-10.4-4-2 for at least one-half (1/2) year of service. The five (5) years do not have to be continuous.

(c) This subsection applies to a member of the Indiana state teachers' retirement fund who serves in an elected position for which the member takes an unpaid leave of absence. In computing the retirement benefit for a teacher member described in this subsection for years of service to which IC 5-10.4-5-7 does not apply, "average of the annual compensation" means the annual compensation for the one (1) year of service before retirement in which the member's annual compensation was highest. In order for a year to be used, the teacher member must have received for the year credit under IC 5-10.4-4-2 for at least one-half (1/2) year of service.

(d) Subject to IC 5-10.2-2-1.5, "annual compensation" means:

(1) the basic salary earned by and paid to the member plus the amount that would have been part of that salary but for:

(A) the state's, a school corporation's, a participating political subdivision's, or a state educational institution's paying the member's contribution to the fund for the member; or

(B) the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code; and

(2) in the case of a member described in subsection (c) and for years of service to which IC 5-10.4-5-7 does not apply, the basic salary that was not paid during the year but would have been paid to the member during the year under the member's employment contracts, if the member had not taken any unpaid leave of absence to serve in an elected position.

The portion of a back pay award or a similar award that the board determines is compensation under an agreement or under a judicial or an administrative proceeding shall be allocated by the board among the years the member earned or should have earned the compensation. Only that portion of the award allocated to the year the award is made is considered to have been earned during the year

the award was made. Interest on an award is not considered annual compensation for any year.

(e) Compensation of not more than two thousand dollars (\$2,000) 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, may be included in the total annual compensation from which the average of the annual compensation is determined, if it is received:

- (1) before the member ceases service; or
- (2) within twelve (12) months after the member ceases service.

(f) This subsection applies to a member of the general assembly:

- (1) who is a participant in the legislators' retirement system established under IC 2-3.5;
- (2) who is also a member of the public employees' retirement fund or the Indiana state teachers' retirement fund; and
- (3) whose years of service in the general assembly may not be considered in determining the average of the annual compensation under this section, as provided in IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

The board shall use the board's actuarial salary increase assumption to project the salary for any previous year needed to determine the average of the annual compensation.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.28-1984, SEC.2; P.L.35-1985, SEC.13; P.L.55-1989, SEC.17; P.L.6-1989, SEC.2; P.L.4-1990, SEC.8; P.L.10-1993, SEC.4; P.L.95-2004, SEC.2; P.L.2-2006, SEC.24; P.L.2-2007, SEC.93.

IC 5-10.2-4-3.1

Compensation from two or more employers; computation of average

Sec. 3.1. For a member who receives annual compensation from two (2) or more employers, the average of the annual compensation shall be computed using the sum of the two (2) or more annual compensations if:

- (1) each of the employers and the member made all of the contributions required by IC 5-10.2; and
- (2) the member occupied at least one (1) position that normally required performance of service of more than six hundred (600) hours during the year.

As added by P.L.381-1987(ss), SEC.1.

IC 5-10.2-4-4

Retirement benefit computation

Sec. 4. (a) The computation of benefits under this section is subject to IC 5-10.2-2-1.5.

(b) For retirement benefits payable on and after July 1, 1975, for a member retired on and after January 1, 1956, the pension (p) is computed as follows:

STEP ONE: Multiply one and one-tenths percent (1.1%) times the average of the annual compensation (aac) and obtain a

product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on the member's retirement date.

Expressed mathematically:

$p = (.011) \text{ times (aac) times (scr)}$

(c) Unless the member:

(1) has chosen a lump sum payment under section 2(b) of this chapter;

(2) has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5; or

(3) elects to defer receiving in any form the member's annuity savings account under section 2(c) of this chapter;

the annuity is the amount purchasable on the member's retirement date by the amount credited to the member in the annuity savings account. The amount purchasable is based on actuarial tables adopted by the board under IC 5-10.2-2-10 at an interest rate determined by the board.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1980, P.L.28, SEC.6; P.L.35-1985, SEC.14; P.L.45-1988, SEC.1; P.L.55-1989, SEC.18; P.L.195-1999, SEC.16; P.L.115-2008, SEC.12.

IC 5-10.2-4-5

Early retirement percent reduction

Sec. 5. The retirement benefit (rb) payable on and after July 1, 1975, for a member who retired on and after January 1, 1956, before age sixty-five (65) is the sum of the pension (P), as specified in section 4 of this chapter and computed on the basis of the total creditable service and the average of the annual compensation at retirement, multiplied by a percent (p), plus the annuity (A), if any, purchasable by the amount credited to the member in the annuity savings account. This sum is obtained by the following STEPS:

STEP ONE: From seven hundred eighty (780) months, which equals sixty-five (65) years, subtract the age of the member at his retirement date expressed in whole months (retirement age in months) and obtain a remainder (X).

STEP TWO:

(i) If the remainder (X) is less than or equal to sixty (60), then multiply the remainder (X) times one-tenth percent (0.1%) and obtain a product (Y).

(ii) If the remainder (X) is greater than sixty (60), then multiply five-twelfths percent (5/12%) times the difference obtained by subtracting sixty (60) from the remainder (X) and obtain a product. Add to this six percent (6%) and obtain a sum (Y).

STEP THREE: From one hundred percent (100%) subtract the appropriate (Y) and obtain the percent (p).

STEP FOUR: The early retirement benefit equals (p) times (P) plus the annuity (A).

Expressed mathematically:

If " \leq " means "less than or equal to" and if ">" means "greater than"; then:

(I) $780 - (\text{retire age in months}) = X$;

(II) if $X \leq 60$, (X) times $(0.1\%) = Y$; or

if $X > 60$, $(5/12\%)$ times $(X-60) + 6\% = Y$

(III) $100\% - Y = p$

(IV) $rb = pP + A$

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-1985, SEC.15.

IC 5-10.2-4-6 Version a

Disability retirement

Note: This version of section amended by P.L.124-2008, SEC.2. See also following version of this section amended by P.L.131-2008, SEC.1.

Sec. 6. (a) A member who becomes disabled while receiving a salary or employer provided income protection benefits or who is on leave under the Family and Medical Leave Act may retire for the duration of the member's disability if:

(1) the member has at least five (5) years of creditable service before the:

(A) termination of a salary or employer provided income protection benefits or Family and Medical Leave Act leave;

or

(B) exhaustion of all worker's compensation benefits;

(2) the member has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and

(3) at least once each year until the member reaches age sixty-five (65) a representative of the board verifies the continued disability.

For the purposes of this section, a member of the public employees' retirement fund who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the member furnishes proof of the qualification to the board of the public employees' retirement fund.

(b) Benefits for disability shall be paid beginning with the month following the onset of disability as determined by the Social Security Administration. The benefit is the retirement benefit specified in section 4 of this chapter with the pension computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. However, the monthly disability retirement benefit may not be less than one hundred eighty dollars (\$180).

(c) The member may have the member's benefit paid under any of the retirement benefit options specified in section 7 of this chapter, except that the member may not choose to have the member's disability retirement benefit paid under the method specified under section 7(b)(3) of this chapter.

(d) This section applies to:

- (1) a member of the public employees' retirement fund who became disabled after June 30, 1973; and
- (2) a member of the Indiana state teachers' retirement fund who becomes disabled after June 30, 1984, and who chooses disability retirement under this section.

(e) To the extent required by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations to the Act, the transcripts, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

(f) A member may continue to receive disability benefits from the public employees' retirement fund or the Indiana state teachers' retirement fund so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under the Social Security guidelines. However, during a period of trial employment or rehabilitation, service credit may not be granted under the public employees' retirement fund or the Indiana state teachers' retirement fund.

(g) If the fund is authorized to make, in the form of a single check or a series of checks, a one (1) time distribution that does not increase the pension portion of the monthly benefit, the distribution must include members eligible for disability benefits. A member eligible for disability benefits is required to meet all additional requirements necessary to receive the check or series of checks issued by the fund under this subsection.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1978, P.L.24, SEC.2; P.L.29-1984, SEC.1; P.L.4-1992, SEC.9; P.L.22-1998, SEC.6; P.L.124-2008, SEC.2.

IC 5-10.2-4-6 Version b

Disability retirement

Note: This version of section amended by P.L.131-2008, SEC.1. See also preceding version of this section amended by P.L.124-2008, SEC.2.

Sec. 6. (a) A member who becomes disabled while receiving a salary or employer provided income protection benefits or who is on leave under the Family and Medical Leave Act may retire for the duration of the member's disability if:

- (1) the member has at least five (5) years of creditable service before the:
 - (A) termination of a salary or employer provided income protection benefits or Family and Medical Leave Act leave; or
 - (B) exhaustion of all worker's compensation benefits;
- (2) the member has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and
- (3) at least once each year until the member reaches age

sixty-five (65) a representative of the board verifies the continued disability.

For the purposes of this section, a member of the public employees' retirement fund who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the member furnishes proof of the qualification to the board of the public employees' retirement fund.

(b) Benefits for disability shall be paid beginning with the month following the onset of disability as determined by the Social Security Administration. The benefit is the retirement benefit specified in section 4 of this chapter with the pension computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. The monthly disability retirement benefit payable before July 1, 2008, may not be less than one hundred dollars (\$100). The monthly disability retirement benefit payable after June 30, 2008, may not be less than one hundred eighty dollars (\$180).

(c) The member may have the member's benefit paid under any of the retirement benefit options specified in section 7 of this chapter, except that the member may not choose to have the member's disability retirement benefit paid under the method specified under section 7(b)(3) of this chapter.

(d) This section applies to:

- (1) a member of the public employees' retirement fund who became disabled after June 30, 1973; and
- (2) a member of the Indiana state teachers' retirement fund who becomes disabled after June 30, 1984, and who chooses disability retirement under this section.

(e) To the extent required by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations to the Act, the transcripts, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

(f) A member may continue to receive disability benefits from the public employees' retirement fund or the Indiana state teachers' retirement fund so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under the Social Security guidelines. However, during a period of trial employment or rehabilitation, service credit may not be granted under the public employees' retirement fund or the Indiana state teachers' retirement fund.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1978, P.L.24, SEC.2; P.L.29-1984, SEC.1; P.L.4-1992, SEC.9; P.L.22-1998, SEC.6; P.L.131-2008, SEC.1.

IC 5-10.2-4-7

Retirement benefit payment options; changes to beneficiary designation or form of benefit; annual payment of monthly benefit

Sec. 7. (a) Benefits provided under this section are subject to

IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, or to a member of the public employees' retirement fund after June 30, 2008. If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either

for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary; the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

- (1) the member's retirement option under subsection (b);
- (2) the selection of a lump sum payment under section 2 of this chapter; or
- (3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

(f) Each board may adopt a policy to permit annual payment of a member's retirement benefit whenever the amount of the monthly retirement benefit to be paid to the member is not more than five dollars (\$5).

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1980, P.L.28, SEC.7; P.L.35-1985, SEC.16; P.L.59-1989, SEC.2; P.L.55-1989, SEC.19; P.L.59-1989, SEC.3; P.L.4-1990, SEC.9; P.L.195-1999, SEC.17; P.L.246-2001, SEC.5; P.L.190-2003, SEC.2; P.L.2-2006, SEC.25; P.L.149-2007, SEC.1; P.L.93-2008, SEC.1; P.L.115-2008, SEC.13; P.L.115-2009, SEC.7.

IC 5-10.2-4-7.2

Changes to beneficiary designation

Sec. 7.2. (a) This section applies to the following:

- (1) A member of the Indiana state teachers' retirement fund after June 30, 2007.
- (2) A member of the public employees' retirement fund after

June 30, 2008.

(b) Subject to subsection (g), if a member is receiving a benefit from the fund and:

- (1) the member's designated beneficiary dies;
- (2) the member and the member's designated beneficiary have been parties in an action for dissolution of marriage in which a final order has been issued after the member's first benefit payment is made. It is immaterial whether the final order was issued before, on, or after the date in subsection (a)(1) or (a)(2); or
- (3) the member marries after the member's first benefit payment is made, and:
 - (A) the member's designated beneficiary is not the member's current spouse; or
 - (B) the member has not designated a beneficiary;

the member may make the election described in subsection (c).

(c) A member described in subsection (b) may elect to:

- (1) change the member's designated beneficiary or form of benefit under section 7(b) of this chapter; and
- (2) receive an actuarially adjusted and recalculated benefit for the remainder of:
 - (A) the member's life; or
 - (B) the member's life and the life of the newly designated beneficiary.

(d) A member making the election under subsection (c) may not elect to change to a five (5) year guaranteed form of benefit under section 7(b) of this chapter.

(e) If a member elects a benefit under subsection (c)(2)(B), the member must indicate whether the newly designated beneficiary's benefit will equal:

- (1) the member's full recalculated benefit;
- (2) two-thirds ($\frac{2}{3}$) of the member's recalculated benefit; or
- (3) one-half ($\frac{1}{2}$) of the member's recalculated benefit.

(f) The member bears the cost of recalculating a benefit under subsection (c)(2), and the cost shall be included in the actuarial adjustment.

(g) A member may not make the election under subsection (c) if a final order or property settlement in an action for dissolution of marriage:

- (1) prohibits a change in the member's designated beneficiary; or
- (2) provides a right to a survivor benefit to a person who would be removed as the designated beneficiary.

(h) Benefits may be recalculated under this section only to the extent permitted by the Internal Revenue Code and applicable regulations.

(i) Before implementing this section, the board may obtain any approvals that the board considers necessary or appropriate from the Internal Revenue Service.

As added by P.L. 149-2007, SEC.2. Amended by P.L. 9-2008, SEC.1;

P.L.93-2008, SEC.2.

IC 5-10.2-4-7.5

School corporations participating in Section 401(a) plans; participation in plan under this chapter

Sec. 7.5. A member may participate in a plan described in IC 5-10-1.1-1(2) in addition to the plans set forth in this chapter.
As added by P.L.42-1988, SEC.3.

IC 5-10.2-4-8

Reemployment after retirement; when retirement benefits application void

Sec. 8. (a) Subject to subsection (f), if a member who is receiving retirement benefits becomes reemployed in a position covered by this article more than thirty (30) days after the member's retirement, the member's retirement benefit payments continue. Except for a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund, the member shall begin making contributions as required in IC 5-10.2-3-2, and the member's employer shall make contributions throughout the member's period of reemployment.

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

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

(d) Subject to subsection (f), the following apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund:

- (1) The member's retirement benefit payments continue during the member's period of reemployment without regard to the amount of the member's earnings from the covered position.
- (2) The member may not make contributions under IC 5-10.2-3-2 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 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) The thirty (30) day period provided for in this section may be implemented unless the board of trustees of the fund receives a determination from the Internal Revenue Service prohibiting the implementation.

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

- (1) If a member has received a retirement benefit:
 - (A) the member's retirement benefit shall stop; and
 - (B) the member shall repay the amount of the retirement benefit received.
- (2) The member shall make contributions as required by IC 5-10.2-3-2 throughout the period of the member's continued employment.
- (3) Employer contributions shall be made throughout the period of the member's continued employment.
- (4) The member shall earn creditable service under IC 5-10.2-3-1 for the member's continued employment.
- (5) When the period of the member's continued employment terminates, the member may again file an application for retirement benefits under this chapter.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.49-1985, SEC.1; P.L.195-1999, SEC.18; P.L.246-2001, SEC.6; P.L.62-2005, SEC.3; P.L.72-2007, SEC.5; P.L.76-2008, SEC.2; P.L.130-2008, SEC.1; P.L.115-2009, SEC.8.

IC 5-10.2-4-8.2

Election, appointment to elected position, or service in other position covered by this article

Sec. 8.2. (a) Notwithstanding section 8 of this chapter, if a member who is receiving retirement benefits is elected or appointed to an elected position covered by this article, the member shall file a written, irrevocable election with the board to continue or discontinue retirement benefits while the member holds the elected position.

- (b) If a member:
- (1) is elected or appointed to an elected position and:
 - (A) becomes at least fifty-five (55) years of age; and
 - (B) completes at least twenty (20) years of service; or
 - (2) is serving in any other position covered by this article and:
 - (A) becomes at least seventy (70) years of age; and
 - (B) completes at least twenty (20) years of service;

while holding the position, the member may file a written, irrevocable election to begin receiving, while holding the position, retirement benefits to which the member would be entitled by age and service. A member who does not make the irrevocable election while holding the position is entitled to retroactive payments to cover any period from the date the member qualifies to make the election under this subsection to the date the member files the election under this subsection.

(c) The form and content of an election shall be prescribed by the board. If the member elects to discontinue receiving retirement benefits, the member shall make contributions as required in IC 5-10.2-3-2. If the member elects to continue or begin receiving benefits:

- (1) the member may continue to make contributions under IC 5-10.2-3-2 but is not required to do so; and
- (2) the member waives the accrual of service credit and the right to any supplemental benefit from service in the position, except to the extent that the value of the accrual of additional service credit and any supplemental benefit exceeds the actuarial value of the benefits received under this chapter and that were continued or begun pursuant to an election under this section.

(d) Except to the extent of the liability for any additional benefit accrued under subsection (c)(2), the employer shall make the employer's contribution only for past service liability based on the salary for the position of a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.

(e) Section 10 of this chapter applies to a member who elects under subsection (a) to discontinue receiving retirement benefits. Section 10 of this chapter does not apply, while the member holds a position covered by this article, to a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.

As added by P.L.47-1985, SEC.4. Amended by P.L.60-1989, SEC.1; P.L.4-1990, SEC.10; P.L.25-1994, SEC.4; P.L.61-2002, SEC.6.

IC 5-10.2-4-8.4

Retirement while serving in elected position

Sec. 8.4. (a) This section does not apply to a member of the Indiana state teachers' retirement fund who is eligible to retire under IC 5-10.2-2-8(b).

- (b) A member of the Indiana state teachers' retirement fund who:
- (1) serves in an elected position; and
 - (2) after June 30, 2006, makes an election under section 8.2(b) of this chapter to begin receiving, while the member holds the elected position or not later than thirty (30) days after the day on which the member's elected term of office ends, the retirement benefits to which the member is entitled by age and service;

may choose at the member's retirement date whether to retire from

the Indiana state teachers' retirement fund or from the public employees' retirement fund.

(c) If the member described in subsection (b) chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided under this chapter, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

(1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and

(2) the proportionate actuarial cost of the member's pension.

As added by P.L.119-2006, SEC.2. Amended by P.L.93-2008, SEC.3.

IC 5-10.2-4-9

Death during reemployment

Sec. 9. (a) This section does not apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund.

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

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.47-1985, SEC.5; P.L.246-2001, SEC.7; P.L.72-2007, SEC.6; P.L.76-2008, SEC.3.

IC 5-10.2-4-10

Benefits after reemployment

Sec. 10. (a) This section does not apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund.

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

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

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

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

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

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

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

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

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

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

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.49-1985, SEC.2; P.L.40-1986, SEC.2; P.L.55-1989, SEC.20; P.L.22-1993, SEC.3; P.L.25-1994, SEC.5; P.L.246-2001, SEC.8; P.L.72-2007, SEC.7; P.L.76-2008, SEC.4.

IC 5-10.2-4-10.2

Repealed

(Repealed by P.L.40-1986, SEC.3.)