

IC 5-10.3-6

Chapter 6. Participation by Political Subdivisions

IC 5-10.3-6-1

Admission to fund

Sec. 1. (a) By ordinance or resolution of the governing body specifying by departmental, occupational, or other definable classification the employees who will become members of the fund, a political subdivision may become a participant in the fund if the ordinance or resolution is filed with and approved by the board.

(b) A governing body may include in its ordinance or resolution adopted under subsection (a) a determination of the date from which prior service for its employees will be computed. Creditable service for these employees is determined under IC 5-10.3-7-7.5.

(c) The effective date of participation is the earlier of January 1 or July 1 after the date of approval. However, no retirement benefit may be paid until six (6) months after the effective date of participation.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.60-1987, SEC.1.

IC 5-10.3-6-1.5

Authorized agent in third class city or town

Sec. 1.5. (a) This section applies to a third class city or a town.

(b) The clerk-treasurer of a city or town is that city's or town's authorized agent for all matters concerning the fund.

As added by P.L.69-1995, SEC.1.

IC 5-10.3-6-2

Preliminary survey

Sec. 2. The governing body may request a preliminary survey, at its expense as determined by the board, to determine the estimated cost of participation. The board and its actuary shall give an estimate of the costs, the benefits, and other appropriate information.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.246-2001, SEC.10; P.L.23-2011, SEC.17.

IC 5-10.3-6-3

Powers of governing body

Sec. 3. Powers of the Governing Body. After a political subdivision becomes a participant, its governing body may make appropriations, make payments, and do all things required by this article.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-4

Accounts

Sec. 4. The board shall maintain separate accounts for each contribution rate group. Credits and charges to these accounts shall be made as prescribed in IC 5-10.2-2.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.23-2011, SEC.18.

IC 5-10.3-6-5

Repealed

(Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-6-6

Appropriations and payments by school corporations

Sec. 6. Appropriations and Payments by School Corporations. A school corporation shall make the appropriations and payments required of participating political subdivisions from its general fund.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-7

Collection of payments

Sec. 7. (a) If the employer or political subdivision fails to make payments required by this chapter, the amount payable may be:

- (1) withheld by the auditor of state from moneys payable to the employer or subdivision and transferred to the fund; or
- (2) recovered in a suit in the circuit or superior court of the county in which the political subdivision is located. The suit shall be an action by the state on the relation of the board, prosecuted by the attorney general.

(b) If:

- (1) service credit is verified for a member who has filed an application for retirement benefits; and
- (2) the member's employer at the time the service credit was earned has not made contributions for or on behalf of the member for the service credit;

liability for the unfunded service credit shall be charged against the employer's account and collected by the fund as provided in subsection (a). Processing of a member's application for retirement benefits may not be delayed by an employer's failure to make contributions for the service credit earned by the member while the member was employed by the employer.

(c) If the employer or political subdivision fails to file the reports or records required by this chapter or by IC 5-10.3-7-12.5, the auditor of state shall:

- (1) withhold the penalty described in IC 5-10.3-7-12.5 from money payable to the employer or the political subdivision; and
- (2) transfer the penalty to the fund.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.195-1999, SEC.20; P.L.115-2009, SEC.11.

IC 5-10.3-6-8

Withdrawal of political subdivision

Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

- (1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.
- (2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.
- (3) Stop the political subdivision's participation in the fund by:
 - (A) selling all of the political subdivision's assets; or
 - (B) ceasing to exist as a political subdivision.

(c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:

- (1) The withdrawing political subdivision has provided written notice of the following to the board:
 - (A) The withdrawing political subdivision's intent to cease participation.
 - (B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.
- (2) The expiration of:
 - (A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that ceases to exist as a political subdivision; or
 - (B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.
- (3) The withdrawing political subdivision takes all actions required in subsections (d) through (h).

(d) With respect to retired members who have creditable service with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(e) A member who is an employee of the political subdivision as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ten (10) years of service. The

benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing political subdivision and who are not employees as of the date of the notice under subsection (c), the withdrawing political subdivision must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(h) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny a political subdivision permission to withdraw if the denial is necessary to achieve compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.28-1984, SEC.5; P.L.22-1993, SEC.4.

IC 5-10.3-6-8.5

Certain state university employees involved in health care

Sec. 8.5. (a) This section only applies if:

(1) certain employees of a state university in a departmental, occupational, or other definable classification involved in health care are terminated from employment with the state university as a result of:

(A) a lease or other transfer of university property to a nongovernmental entity; or

(B) a contractual arrangement with a nongovernmental entity to perform certain state university functions;

(2) the state university requests coverage under this section from the board; and

(3) the board approves the request.

(b) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The state university has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state university to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state university fully complies with subsection (c).

(c) A member who is an employee of the state university

described in subsection (a) as of the date of the notice under subsection (b) and who is listed in the notice under subsection (b) is vested in the pension portion of the member's retirement benefit. The state university must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state university must be made in a lump sum or in a series of payments determined by the board.

(d) A member who is covered by subsection (c) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has less than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(e) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

As added by P.L.38-1996, SEC.1.

IC 5-10.3-6-8.9

State employee terminations resulting from lease or contractual arrangement with nongovernmental entity

Sec. 8.9. (a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are terminated from employment with the state as a result of:

- (1) a lease or other transfer of state property to a nongovernmental entity; or
- (2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (k), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

- (1) is at least fifty (50) years of age; and
- (2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

- (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.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The governor has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsections (g) and (i).

(g) A member who:

(1) is an employee of the state described in subsection (a) with at least twenty-four (24) months of creditable service as of the date of the notice under subsection (f); and

(2) is listed in the notice under subsection (f);

is vested in the pension portion of the member's retirement benefit. The state must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state must be made in a lump sum or in a series of payments determined by the board. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(h) A member who is covered by subsection (g) and who is at least sixty-five (65) years of age as of the date of the notice under subsection (f) may elect to retire under IC 5-10.2-4-1 even if the member has less than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(i) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (j) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this

subsection.

(j) The amounts that the state is required to contribute to the fund under subsection (i) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (i).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (i), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (i) in the next biennial state budget.

(k) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

As added by P.L.47-2006, SEC.3 and P.L.158-2006, SEC.3.

IC 5-10.3-6-9

Participation of political subdivision with retirement system

Sec. 9. Participation of Political Subdivision with Retirement Systems. If a political subdivision has a retirement system for its employees, it must conduct a referendum, at which seventy-five percent (75%) of all active and retired members vote for participation, before it may follow the procedures in this chapter for participation.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-10

Transfer of assets

Sec. 10. (a) If a political subdivision with a retirement system becomes a participant, the moneys and securities in the retirement system shall be transferred to the fund. If the securities to be transferred are not acceptable to the board, they shall be converted to cash, which shall be transferred to the fund.

(b) If there are insufficient funds transferred under subsection (a), then the political subdivision shall pay the fund, either in a single

payment or in installment payments approved by the board, the amount needed. If the political subdivision is unable to make any payment, the board may reduce proportionately each benefit payable to retired members.

(c) The liabilities of a retirement system which is transferred to the fund are not liabilities of the fund, except as provided by agreement between the fund and the political subdivision.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.23-2011, SEC.19.

IC 5-10.3-6-11

Repealed

(Repealed by P.L.16-1986, SEC.85.)