

## **IC 5-10-8.5**

### Chapter 8.5. Retirement Medical Benefits Account

#### **IC 5-10-8.5-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The amendments made to section 18 of this chapter by P.L.124-2008 apply to premiums paid after July 31, 2007, for individual or group health coverage for a retired participant and the spouse and dependents of a retired participant.

*As added by P.L.220-2011, SEC.69.*

#### **IC 5-10-8.5-1**

##### **Application of chapter**

Sec. 1. (a) Except as provided in this section, this chapter applies to an individual who is one (1) of the following:

- (1) An employee of the executive, legislative, or judicial branch of state government.
- (2) A state elected or appointed officer.
- (3) A member of the general assembly.
- (4) An elected officer paid by the state.
- (5) An officer paid by the state under IC 33-23-5-10, IC 33-38-5-7, or IC 33-39-6-2.

(b) An individual described in subsection (a) other than the following is a participant in the retirement medical benefits account:

- (1) A conservation officer of the department of natural resources.
- (2) An employee of the state excise police.
- (3) An employee of the state police department, other than the following:
  - (A) An employee of the state police department who waived coverage under a common and unified plan of self-insurance under IC 5-10-8-6 before July 1, 2011.
  - (B) An employee of the state police department who makes an election under IC 5-10-8.5-9.5.
  - (C) An employee of the state police department who makes an election under IC 5-10-8.5-9.6.

*As added by P.L.44-2007, SEC.1. Amended by P.L.229-2011, SEC.70.*

#### **IC 5-10-8.5-2**

##### **"Account"**

Sec. 2. As used in this chapter, "account" refers to the retirement medical benefits account established by section 11 of this chapter.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-3**

##### **"Budget agency"**

Sec. 3. As used in this chapter, "budget agency" refers to the budget agency established under IC 4-12-1-3.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-4**

##### **"Department"**

Sec. 4. As used in this chapter, "department" refers to the state personnel department established under IC 4-15-1.8-2.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-5**

##### **"Employer"**

Sec. 5. As used in this chapter, "employer" means the following:

(1) For an elected officer, appointed officer, or employee of the executive branch of state government who is a participant in the retirement medical benefits account, the state, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the state, having a payroll in relation to persons it immediately employs.

(2) For a member of the general assembly or an employee of the legislative branch of state government:

(A) the president pro tempore of the senate, for a member or an employee of the senate;

(B) the speaker of the house, for a member or an employee of the house of representatives; or

(C) the personnel subcommittee of the legislative council, for an employee of the legislative services agency.

(3) For:

(A) a justice;

(B) a judge;

(C) a prosecuting attorney;

(D) an officer described under section 1(a)(5) of this chapter; or

(E) an employee of the judicial branch of state government, including an employee of any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the judicial branch, having a payroll in relation to persons it immediately employs;

the Indiana supreme court.

*As added by P.L.44-2007, SEC.1. Amended by P.L.229-2011, SEC.71.*

#### **IC 5-10-8.5-6**

##### **"Fund"**

Sec. 6. As used in this chapter, "fund" refers to the public employees' retirement fund established under IC 5-10.3-2-1.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-7**

##### **"Internal Revenue Code"**

Sec. 7. As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect

September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-8**

##### **"Participant"**

Sec. 8. As used in this chapter, "participant" means an individual for whom a subaccount is established under section 14 of this chapter.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-9**

##### **"Retired participant"**

Sec. 9. (a) As used in this chapter, "retired participant" means:

(1) A participant who is eligible for and has applied to receive a normal, unreduced or disability retirement benefit (as determined by the Indiana public employee retirement fund of which the participant is a member) on the participant's last day of service.

(2) A participant who has completed at least ten (10) years of service as an elected or appointed officer on the participant's last day of service as an elected or appointed officer.

(b) For a participant described in subsection (a)(2) who has service with more than one (1) employer, the participant's years of service is the sum of all of the participant's years of service.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-9.5**

##### **Transfer of service credit; eligible employee**

Sec. 9.5. (a) This section applies only to a person who:

(1) was an employee of the executive, legislative, or judicial branch of state government (other than an employee described in section 1(b)(1) through 1(b)(3) of this chapter);

(2) after June 30, 2007, and before July 1, 2011, left employment in the position described in subdivision (1) and was employed by the state police department in a position other than as an eligible employee (as defined in IC 10-12-1-3); and

(3) on July 1, 2011, is employed by the state police department in a position other than as an eligible employee (as defined in IC 10-12-1-3).

(b) A person who satisfies the conditions of subsection (a) may after June 30, 2011, and before September 1, 2011, make a one (1) time irrevocable election to become a participant in the retirement medical benefits account. A person who makes an election under this subsection to become a participant in the retirement medical benefits account may not also be a participant in the state police retiree medical benefit plan.

*As added by P.L.229-2011, SEC.72.*

#### **IC 5-10-8.5-9.6**

##### **Transfer of service credit; position other than eligible employee**

Sec. 9.6. (a) This section applies only to a person who:

- (1) is an employee of the executive, legislative, or judicial branch of state government (other than an employee described in section 1(b)(1) through 1(b)(3) of this chapter); and
- (2) after June 30, 2011, leaves employment in the position described in subdivision (1) and becomes employed by the state police department in a position other than as an eligible employee (as defined in IC 10-12-1-3).

(b) A person who satisfies the conditions of subsection (a) may, not more than sixty (60) days after leaving employment as described in subsection (a)(1) and becoming employed by the state police department in a position other than as an eligible employee (as defined in IC 10-12-1-3), make a one (1) time irrevocable election to remain a participant in the retirement medical benefits account. A person who makes an election under this subsection to remain a participant in the retirement medical benefits account may not also be a participant in the state police retiree medical benefit plan.

*As added by P.L.229-2011, SEC.73.*

#### **IC 5-10-8.5-10**

##### **"Subaccount"**

Sec. 10. As used in this chapter, "subaccount" means a participant's allocable share of the account.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-11**

##### **Account established; administered by budget agency; specific appropriation required**

Sec. 11. (a) The budget agency shall adopt provisions to establish a retirement medical benefits account as a health reimbursement arrangement or as a separate fund under another applicable section of the Internal Revenue Code for the purpose of funding by an employer on a pretax basis benefits for sickness, accident, hospitalization, and medical expenses for a participant and the spouse and dependents of a participant after the participant's retirement.

(b) The budget agency shall administer the account and may request the assistance of the department, the fund, and other state agencies. The account shall be maintained as a separate account to pay benefits for sickness, accident, hospitalization, and medical expenses for retired participants and their spouses and dependents.

(c) Notwithstanding any other provision of this chapter, the budget agency may not establish the account or implement the health reimbursement arrangement unless the general assembly makes a specific appropriation to implement the health reimbursement arrangement.

(d) The budget agency may adopt rules under IC 4-22-2 that it considers appropriate or necessary to administer the account.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-12**

##### **Authorization to request Internal Revenue Service rulings**

Sec. 12. The budget agency may request from the Internal Revenue Service any rulings or determination letters that the budget agency considers necessary or appropriate in order to implement or administer the account.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-13**

##### **Management and pooling of account assets; confidentiality of account records**

Sec. 13. (a) The budget agency may designate the board of trustees of the fund to manage the assets in the account in the same manner and with the same limitations that apply to the management of the assets in the fund.

(b) The assets in the account may be commingled or pooled with other public funds for investment purposes.

(c) The account and subaccount records of individual participants and participants' information are confidential, except for the name and contributions made on behalf of the participant.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-14**

##### **Account; subaccounts; administrative costs**

Sec. 14. (a) The account consists of the following:

(1) Contributions made by a participant's employer to the account under section 15 or 16 of this chapter.

(2) All earnings on investments or deposits of the account.

(3) All contributions or payments to the account made in a manner provided by the general assembly.

(b) The administrative costs of the account shall be paid from the earnings of the account before the earnings are credited to participants' subaccounts.

(c) The budget agency shall establish a subaccount for each participant. Each participant's subaccount shall be credited with:

(1) the contributions made to the account on behalf of the participant under this chapter; and

(2) after the costs described in subsection (b) are paid, the earnings attributable to the balance of the subaccount.

*As added by P.L.44-2007, SEC.1.*

#### **IC 5-10-8.5-15**

##### **Annual employer contributions**

Sec. 15. (a) Except as provided in subsections (c) and (d), a participant's employer shall make contributions annually to the account on behalf of the participant. The amount of the contribution each fiscal year must equal the following, based on the participant's age on the last day of the calendar year that is in the fiscal year in

which the contribution is made:

Participant's Age in Years	Annual Contribution Amount
Less than 30	\$ 500
At least 30, but less than 40	\$ 800
At least 40, but less than 50	\$1,100
At least 50	\$1,400

(b) The budget agency shall determine by rule the date on which the contributions are credited to participants' subaccounts.

(c) A contribution under this section shall not be made after June 30, 2011, to any of the following participants:

(1) A conservation officer of the department of natural resources.

(2) An employee of the state excise police.

(3) An employee of the state police department, other than the following:

(A) An employee of the state police department who waived coverage under a common and unified plan of self-insurance under IC 5-10-8-6 before July 1, 2011.

(B) An employee of the state police department who makes an election under IC 5-10-8.5-9.5.

(C) An employee of the state police department who makes an election under IC 5-10-8.5-9.6.

(d) For individuals who are employed on June 30, 2011, the accrued annual contributions made in accordance with subsection (a) to an account described in section 14 of this chapter on behalf of the individuals for any years the individuals were employed as described in section 1(b)(1) through 1(b)(3) of this chapter shall be transferred to the respective plans described in IC 5-10-8-6(a) for those individuals and shall be used only to reduce the unfunded other post-employment benefit (OPEB) liability of those plans and not to increase benefits or reduce premiums.

*As added by P.L.44-2007, SEC.1. Amended by P.L.229-2011, SEC.74.*

#### **IC 5-10-8.5-16**

##### **Employer additional contribution; eligibility; computation; expiration date**

Sec. 16. (a) Except as provided in subsection (f), if a participant meets all of the following conditions, the participant is entitled to receive an additional contribution credited to the participant's subaccount and computed as described in subsection (b):

(1) The participant is:

(A) on the participant's last day of service with the participant's employer, eligible for and has applied to receive a normal, unreduced retirement benefit from the public employee retirement fund of which the participant is a member; or

(B) on the participant's last day of service, an elected or appointed officer.

(2) After June 30, 2007, and before July 1, 2017, the participant terminates service:

- (A) from the employer; or
- (B) as an elected or appointed officer.

(3) By the participant's last day of service, the participant has completed:

- (A) fifteen (15) years of service with the employer; or
- (B) ten (10) years of service as an elected or appointed officer.

(b) The amount of the contribution to a participant's subaccount under this section is the product of:

(1) the participant's years of service (rounded down to the nearest whole year):

- (A) with the participant's employer, determined on the participant's last day of service with the participant's employer; or
- (B) as an elected or appointed officer, determined on the participant's last day of service as an elected or appointed officer; multiplied by

(2) one thousand dollars (\$1,000).

(c) For a participant who has service with more than one (1) employer, the participant's years of service used in the computation under subsection (b)(1) is the sum of all of the participant's years of service.

(d) The participant's employer must credit the additional contribution made under this section to the participant's subaccount not later than sixty (60) days after the participant's last day of service.

(e) A participant who meets the requirements to receive an additional contribution under this section may receive the additional contribution only once, regardless of the participant's employment after the payment of the additional contribution.

(f) An additional contribution under this section shall not be made after June 30, 2011, to any of the following participants:

(1) A conservation officer of the department of natural resources.

(2) An employee of the state excise police.

(3) An employee of the state police department, other than the following:

(A) An employee of the state police department who waived coverage under a common and unified plan of self-insurance under IC 5-10-8-6 before July 1, 2011.

(B) An employee of the state police department who makes an election under IC 5-10-8.5-9.5.

(C) An employee of the state police department who makes an election under IC 5-10-8.5-9.6.

(g) This section expires July 1, 2017.

*As added by P.L.44-2007, SEC.1. Amended by P.L.3-2008, SEC.25; P.L.229-2011, SEC.75.*

### **IC 5-10-8.5-17**

#### **Eligibility for benefits**

Sec. 17. (a) A retired participant is entitled to receive a benefit from the account.

(b) A participant who is not a retired participant is not entitled to receive a benefit from the account when the participant separates from service.

(c) Years of service that accrued to an individual during the individual's service as an employee described in section 1(b)(1) through 1(b)(3) of this chapter may not be included in determining the individual's eligibility for the retirement medical benefits account under this chapter, regardless of whether the individual is a retired participant described in section 9 of this chapter.

*As added by P.L.44-2007, SEC.1. Amended by P.L.229-2011, SEC.76.*

### **IC 5-10-8.5-18**

#### **Account benefits; coverage**

Sec. 18. The balance in a retired participant's subaccount may be used by the retired participant and the spouse and dependents of the retired participant to pay premiums for individual or group health coverage.

*As added by P.L.44-2007, SEC.1. Amended by P.L.124-2008, SEC.1.*

### **IC 5-10-8.5-19**

#### **Surviving spouse or dependent use of account; forfeiture**

Sec. 19. (a) The surviving spouse or dependent of a retired participant may use amounts credited to the retired participant to pay health insurance and other health care related expenses to the same extent and in the same manner as the retired participant.

(b) If a retired participant dies without a surviving spouse or dependents, unused amounts credited to the retired participant are forfeited.

(c) Any forfeited amount may be used to reduce the contributions required under this chapter.

*As added by P.L.44-2007, SEC.1.*

### **IC 5-10-8.5-20**

#### **Budget committee annual review**

Sec. 20. The budget committee shall annually review the financial status of the account.

*As added by P.L.44-2007, SEC.1.*