

IC 5-10.3-7

Chapter 7. Membership; Creditable Service; Contributions; Withdrawal

IC 5-10.3-7-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 5 of this chapter by P.L.184-2001 apply only to members of the public employees' retirement fund or the Indiana state teachers' retirement fund who retire after June 30, 2001.

As added by P.L.220-2011, SEC.79.

IC 5-10.3-7-0.3

Legalization of certain actions under section 2 of chapter

Sec. 0.3. Actions taken before April 16, 1987, that would have been valid under section 2 of this chapter, as amended by P.L.62-1987, are legalized and validated.

As added by P.L.220-2011, SEC.80.

IC 5-10.3-7-1

Members of fund

Sec. 1. (a) This section does not apply to:

- (1) members of the general assembly; or
- (2) employees covered by section 3 of this chapter.

(b) An employee of the state or of a participating political subdivision who:

- (1) became a full-time employee of the state or of a participating political subdivision in a covered position; and
- (2) had not become a member of the fund;

before April 1, 1988, shall on April 1, 1988, become a member of the fund unless the employee is excluded from membership under section 2 of this chapter.

(c) Any individual who becomes a full-time employee of the state or of a participating political subdivision in a covered position after March 31, 1988, becomes a member of the fund on the date the individual's employment begins unless the individual is excluded from membership under section 2 of this chapter.

(d) For the purposes of this section, "employees of the state" includes:

- (1) employees of the judicial circuits whose compensation is paid from state funds;
- (2) elected and appointed state officers;
- (3) prosecuting attorneys and deputy prosecuting attorneys of the judicial circuits, whose compensation is paid in whole or in part from state funds, including participants in the prosecuting attorneys retirement fund established under IC 33-39-7;
- (4) employees in the classified service;
- (5) employees of any state department, institution, board, commission, office, agency, court, or division of state government receiving state appropriations and having the

- authority to certify payrolls from appropriations or from a trust fund held by the treasurer of state or by any department;
- (6) employees of any state agency which is a body politic and corporate;
 - (7) except as provided under IC 5-10.5-7-4, employees of the board of trustees of the Indiana public retirement system;
 - (8) persons who:
 - (A) are employed by the state;
 - (B) have been classified as federal employees by the Secretary of Agriculture of the United States; and
 - (C) are excluded from coverage as federal employees by the federal Social Security program under 42 U.S.C. 410;
 - (9) the directors and employees of county offices of family and children;
 - (10) employees of the center for agricultural science and heritage (the barn); and
 - (11) members and employees of the state lottery commission.

As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1978, P.L.24, SEC.4; Acts 1982, P.L.37, SEC.2; P.L.41-1983, SEC.7; P.L.31-1984, SEC.1; P.L.35-1985, SEC.23; P.L.16-1986, SEC.2; P.L.61-1987, SEC.1; P.L.46-1988, SEC.6; P.L.62-1989, SEC.1; P.L.4-1993, SEC.7; P.L.5-1993, SEC.18; P.L.98-2004, SEC.67; P.L.91-2004, SEC.1; P.L.35-2012, SEC.81; P.L.195-2013, SEC.9.

IC 5-10.3-7-2

Exclusions from membership

Sec. 2. The following employees may not be members of the fund:

- (1) Officials of a political subdivision elected by vote of the people, unless the governing body specifically provides for the participation of locally elected officials.
- (2) Employees occupying positions normally requiring performance of service of less than six hundred (600) hours during a year who:
 - (A) were hired before July 1, 1982; or
 - (B) are employed by a participating school corporation.
- (3) Independent contractors or officers or employees paid wholly on a fee basis.
- (4) Employees who occupy positions that are covered by other pension or retirement funds or plans, maintained in whole or in part by appropriations by the state or a political subdivision, except:
 - (A) the federal Social Security program; and
 - (B) the prosecuting attorneys retirement fund established by IC 33-39-7-9.
- (5) Managers or employees of a license branch of the bureau of motor vehicles commission, except those persons who may be included as members under IC 9-16-4.
- (6) Employees, except employees of a participating school corporation, hired after June 30, 1982, occupying positions normally requiring performance of service of less than one

thousand (1,000) hours during a year.

(7) Persons who:

- (A) are employed by the state;
- (B) have been classified as federal employees by the Secretary of Agriculture of the United States; and
- (C) are covered by the federal Social Security program as federal employees under 42 U.S.C. 410.

As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1978, P.L.24, SEC.5; Acts 1982, P.L.37, SEC.3; P.L.31-1984, SEC.2; P.L.42-1986, SEC.1; P.L.62-1987, SEC.1; P.L.61-1987, SEC.2; P.L.341-1989(ss), SEC.5; P.L.62-1989, SEC.2; P.L.2-1991, SEC.26; P.L.98-2004, SEC.68; P.L.195-2013, SEC.10.

IC 5-10.3-7-2.5

Constables

Sec. 2.5. Notwithstanding the provisions of section 2 of this chapter, any constable who:

- (1) is not otherwise eligible for membership in the public employees' retirement fund; and
- (2) was enrolled erroneously in the public employees' retirement fund as a contributing member;

is eligible for membership in the public employees' retirement fund and is entitled to receive the benefits provided by that fund.

As added by Acts 1981, P.L.51, SEC.1.

IC 5-10.3-7-2.7

Police officers and firefighters

Sec. 2.7. (a) This section applies only to an individual who:

- (1) began service as a police officer or firefighter and became a member of a police officers' pension fund or firefighters' pension fund before 1980;
- (2) began service in another position (referred to in this section as the "PERF position") and was enrolled erroneously as a contributing member of the public employees' retirement fund with respect to the PERF position before 1980;
- (3) made contributions to the public employees' retirement fund with respect to the PERF position as if the individual had been legally enrolled in that fund;
- (4) after 1991 was denied service credit in the public employees' retirement fund with respect to all or part of the individual's service in the PERF position because of the individual's service in the police officer or firefighter position described in subdivision (1); and
- (5) claims service credit in PERF and applies for membership in PERF before January 1, 2000.

(b) Notwithstanding the provisions of section 2 of this chapter, an individual described in subsection (a) who:

- (1) is not otherwise eligible for membership in the public employees' retirement fund; and
- (2) was enrolled erroneously in the public employees' retirement

fund as a contributing member;
is eligible for membership in the public employees' retirement fund
and is entitled to receive the benefits provided by that fund.
As added by P.L.195-1999, SEC.21.

IC 5-10.3-7-3

Optional membership

Sec. 3. (a) Members of the general assembly, including members
who:

- (1) completed their service before July 1, 1987; and
- (2) were not members of the fund during their service in the
general assembly;

are entitled to become, at their option, members of the fund. A
member of the general assembly who completed his service before
July 1, 1987, in order to become a member of the fund must apply to
the board for membership and must present evidence satisfactory to
the board of his prior service. Such a member of the general
assembly may become a member without any service after June 30,
1987.

(b) Notwithstanding the exclusion specified in section 2(4) of this
chapter, a member of the general assembly who is a member of the
Indiana state teachers' retirement fund and who retires after June 30,
1980, may choose at his retirement date to become a member of the
public employees' retirement fund and to receive his retirement
benefit from the fund.

(c) An employee who:

- (1) was hired before July 1, 1982; or
- (2) is employed by a participating school corporation;

and who is occupying a position normally requiring performance of
services of less than one thousand (1,000) hours a year may at his
option be a member of the fund.

*As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1980,
P.L.28, SEC.8; Acts 1982, P.L.37, SEC.4; P.L.30-1984, SEC.2;
P.L.381-1987(ss), SEC.2; P.L.46-1988, SEC.7.*

IC 5-10.3-7-3.5

State lottery commission members and employees

Sec. 3.5. (a) As used in this section, "commission" refers to the
state lottery commission established under IC 4-30-3-1.

(b) Not later than July 1, 2014, for each member or employee of
the commission who:

- (1) is a participant in a defined benefit retirement plan offered
by the commission before July 1, 2013; and
- (2) becomes a member of the fund on July 1, 2013, under
IC 4-30-3-14.5;

the commission shall transfer from the lottery commission defined
benefit retirement plan to the retirement allowance account of the
fund the amount required to fund the pension portion of each
participant's accrued retirement benefit, calculated as if the
participant had been in the fund during the participant's service with

the lottery commission as of July 1, 2013. If the assets in the lottery commission defined benefit retirement plan are not sufficient to fund the retirement benefit accrued as of July 1, 2013, for the participants described in this subsection, the commission shall pay to the fund, either in a single payment or in installment payments approved by the board, the amount needed to fund the accrued retirement benefits as described in this subsection.

(c) No amounts shall be transferred as of July 1, 2013, to the annuity savings account of the fund for a member described in subsection (b).

(d) A member or employee of the commission who becomes a member of the fund on July 1, 2013, is entitled to receive creditable service in the fund for all service performed for the commission before July 1, 2013.

(e) The liabilities of a retirement plan offered by the commission before July 1, 2013, whose participants are transferred on July 1, 2013, to the fund are not liabilities of the fund, except as provided by agreement between the fund and the commission.

(f) This section shall not be interpreted to diminish the amount of the benefits previously accrued by any member of the commission's plan who is transferred to the fund under this section. To the extent that the member's benefit exceeds the amount due from the fund, the remaining obligation shall be that of the commission alone.

(g) A member or employee of the commission who becomes a member of the fund on July 1, 2013, under IC 4-30-3-14.5 is vested in the pension portion of the member's retirement benefit from the fund. To the extent that the amount transferred to the fund under this section is not sufficient to fund the cost for vesting under this subsection, the remaining obligation shall be that of the commission alone.

As added by P.L.195-2013, SEC.11.

IC 5-10.3-7-4

Creditable service

Sec. 4. Except as provided in section 7.5 of this chapter, creditable service is determined as specified in IC 5-10.2-3-1. Members also receive credit for service as specified in this chapter. *As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.60-1987, SEC.2.*

IC 5-10.3-7-4.5

Out-of-state service credit purchase

Sec. 4.5. (a) As used in this section, "out-of-state service" means service in another state in a comparable position that would be creditable service if performed in Indiana.

(b) Subject to subsections (c) through (f), a member may purchase out-of-state service credit if the member meets the following requirements:

(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(c) Out-of-state years that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) At least ten (10) years of service in Indiana is required before a member may receive a benefit based on out-of-state service credits.

(e) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(f) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by P.L.5-1997, SEC.4. Amended by P.L.22-1998, SEC.8.

IC 5-10.3-7-4.6

In-state service credit purchase

Sec. 4.6. (a) Subject to the provisions of this section, a member may purchase service credit for the member's prior service in a position covered by the 1925 police pension fund under IC 36-8-6, the 1937 firefighters' pension fund under IC 36-8-7, or the 1953 police pension fund under IC 36-8-7.5 if the member meets the following requirements:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member has not attained vested status in and is not an active member of the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund.

(3) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The member has received verification from the fund that the service in the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund is, as of that date, valid.

(b) At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section.

(c) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(d) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by P.L.195-1999, SEC.22.

IC 5-10.3-7-4.8

State quasi-governmental entity service credit purchase

Sec. 4.8. (a) As used in this section, "state quasi-governmental entity service" means service in Indiana that would be considered creditable service if performed by an employee of a member of the fund by an individual who:

(1) provided the service as an employee of a body corporate and politic, nonprofit corporation established by the state, or other quasi-governmental entity that performed a state governmental function; and

(2) was not a member of the fund under section 1 of this chapter during the period of employment.

(b) A member may purchase state quasi-governmental entity service credit subject to the following:

(1) The member must have at least one (1) year of credited service in the fund.

(2) The member must have at least ten (10) years of in-state credited service before the member may claim the service credit.

(3) Before the member retires, the member must make contributions to the fund:

(A) that are equal to the product of:

(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of state quasi-governmental entity service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The member must provide verification of the service with the state quasi-governmental entity in a manner prescribed by the fund.

(c) State quasi-governmental entity service that qualifies a member for retirement in a private retirement system or a federal

retirement system may not be granted under this section.

(d) A member who:

- (1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or
- (2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by P.L.148-2007, SEC.1.

IC 5-10.3-7-5

Military service credit

Sec. 5. (a) A member who:

- (1) enters the United States armed services;
- (2) leaves his contributions in the fund;
- (3) except as provided in subsection (c), resumes service with his employer within one hundred twenty (120) days after his unconditional discharge; and
- (4) would be entitled to service credit for military service under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.) if the member had resumed service with the member's employer within ninety (90) days after discharge;

is entitled to service credit for the armed service.

(b) A state employee who left employment before January 1, 1946, or an employee of a political subdivision who left employment before the participation date, to enter the United States armed services is entitled to service credit for the armed service if he:

- (1) except as provided in subsection (c), resumes service with the employer within one hundred twenty (120) days after his unconditional discharge; and
- (2) would be entitled to service credit for military service under the applicable requirements of federal law in effect at the time of reemployment if the employee had resumed service with the employee's employer within ninety (90) days after discharge.

(c) The board shall extend the one hundred twenty (120) day reemployment requirement contained in subsection (a)(3) or (b)(1) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from resuming employment within one hundred twenty (120) days after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(d) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (c), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(e) Notwithstanding any provision of this section, a member is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(f) Subject to the provisions of this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that

time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(g) The following apply to the purchase of service credit under subsection (f):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.43-1991, SEC.5; P.L.5-1997, SEC.5; P.L.184-2001, SEC.8.

IC 5-10.3-7-6

Leave service credit

Sec. 6. Leave Service. (a) A member is entitled to service credit for adoption leave of not more than one (1) year and for leaves of absence, granted under rules in force at the time of the leave, totaling six (6) months or less during any period of four (4) consecutive years.

(b) A member may make contributions during the leave of absence based on his rate of compensation on the date his leave of absence began.

(c) Notwithstanding any law, this section must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act, but is not entitled to receive credit for service for benefit purposes unless the leave is described in subsection (a).

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.5-1997, SEC.6; P.L.195-1999, SEC.23.

IC 5-10.3-7-7

Service credits for public service

Sec. 7. (a) A member with at least one (1) year of service in a

position covered by the fund after January 1, 1946, shall receive credit for years of service at any time as any of the following:

- (1) A member of the general assembly.
- (2) An elected state official.
- (3) A prosecuting attorney of a judicial circuit.
- (4) A judge who is covered by the judges' retirement system but who is ineligible for its benefits.
- (5) A member of the armed services if the member joined the armed services while the member was a member of the general assembly, including credit for the unexpired term if the unexpired term of the member of the general assembly was longer than the armed service.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.381-1987(ss), SEC.3; P.L.5-1988, SEC.34.

IC 5-10.3-7-7.5

Exclusion of service before prior service credit date contained in resolution

Sec. 7.5. Notwithstanding IC 5-10.2-3-1, for the purpose of computing benefits the creditable service of a member covered by an ordinance or resolution adopted by a political subdivision's governing body under IC 5-10.3-6-1(b) excludes all service with the political subdivision before the prior service credit date contained in the resolution. However, service with the political subdivision before the prior service credit date shall be considered for the purpose of determining eligibility for benefits.

As added by P.L.60-1987, SEC.3.

IC 5-10.3-7-7.7

Employees of township trustee's office; service credit

Sec. 7.7. (a) For the purposes of computing benefits and determining eligibility, a member who:

- (1) has at least one (1) year of service in a position covered by the fund;
- (2) became a member of the fund after December 31, 1987;
- (3) was at least sixty (60) years of age when the member joined the fund; and
- (4) before January 1, 1988, was an employee of a township trustee's office:
 - (A) located in a county having a consolidated city; and
 - (B) participating in the fund;

is entitled to service credit as provided in subsections (b) and (c).

(b) A member who is qualified under subsection (a) is entitled to service credit for the time the member:

- (1) was an employee of a township trustee's office described in subsection (a)(4);
- (2) was employed in a position covered by the fund; and
- (3) was not a member of the fund.

(c) To receive service credit under this section, a member must pay into the fund the amount the member would have contributed if

the member had been a member of the fund for the period described in subsection (b).

As added by P.L.1-1990, SEC.59.

IC 5-10.3-7-7.8

Repealed

(Repealed by P.L.1-1990, SEC.60.)

IC 5-10.3-7-7.9

Service credits; eligibility; computation

Sec. 7.9. (a) This section applies to a person who is or was an employee of the office of a township executive in a county having a consolidated city.

(b) Except as provided in subsection (d), for the purposes of computing benefits and determining eligibility, a member who:

- (1) has at least one (1) year of service in a position covered by the fund;
- (2) became a member of the fund after December 31, 1987;
- (3) was at least sixty (60) years of age when the member joined the fund; and
- (4) was an employee of the state or a political subdivision participating in the fund, or both, before January 1, 1988;

is entitled to service credit as provided in subsection (c).

(c) A member who is qualified under subsection (b) is entitled to service credit for the time the member:

- (1) was an employee of the state or a political subdivision participating in the fund, or both;
- (2) was employed in a position covered by the fund; and
- (3) was not a member of the fund.

(d) To receive service credit under this section, a member must pay into the fund the amount the member would have contributed if the member had been a member of the fund for the period described in subsection (c).

As added by P.L.1-1990, SEC.61.

IC 5-10.3-7-8

Other service

Sec. 8. Other Service. The board may establish rules to govern the determination of service in cases not specifically provided for in this article or in IC 5-10.2-3.

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

IC 5-10.3-7-9

Member contributions

Sec. 9. (a) This section:

- (1) does not apply to a retired member who begins a period of reemployment in a covered position more than thirty (30) days after the member's retirement, except as provided in subdivision (2); or
- (2) applies to the entire period of reemployment for a retired

member of the public employees' retirement fund who, before July 1, 2013, begins a period of reemployment in a covered position.

(b) Each member shall contribute three percent (3%) of the member's compensation to the fund as specified in IC 5-10.2-3. However, for a member who is a state employee, the employer shall pay the contribution for the member, and for a member who is not a state employee, the employer may pay all or a part of the contribution for the member.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.41-1983, SEC.8; P.L.35-1985, SEC.22; P.L.55-1989, SEC.23; P.L.246-2001, SEC.11; P.L.195-2013, SEC.12.

IC 5-10.3-7-9.5

Rollover contributions; trustee to trustee transfers; liability for income tax consequences of transfers

Sec. 9.5. (a) The fund may accept cash rollover contributions from a member who is making payments for additional service credits under this chapter if the following conditions are met:

- (1) The rollover contribution must represent:
 - (A) all or a portion of the member's interest in a retirement plan of a former employer which is qualified under Section 401(a) of the Internal Revenue Code and which permits the interest to be transferred to the fund as a qualifying rollover contribution under the Internal Revenue Code;
 - (B) all or a portion of the member's interest from an individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code;
 - (C) all or a portion of the member's interest in:
 - (i) a qualified plan described in Section 403(a) of the Internal Revenue Code; or
 - (ii) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or
 - (D) all or a portion of the member's interest in an eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
- (2) The amount of the rollover contributions may not exceed the amount of payment required to purchase the service credits under this chapter.
- (3) The rollover contributions may contain only tax-deferred contributions and earnings on the contributions, and may not include any post-tax contributions.
- (4) The member must be otherwise eligible to purchase the service credit under this chapter.

(b) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from:

(1) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or

(2) an eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(c) The fund, the board, and their respective members, officers, and employees do not have any responsibility or liability with respect to the federal and state income tax consequences of any transfer made to the fund under this section. The board may require, as a condition to the fund's acceptance of a rollover contribution:

(1) satisfactory evidence that the proposed transfer is a qualifying rollover contribution under the Internal Revenue Code; and

(2) reasonable releases or indemnifications from the member against any and all liabilities that may be connected with the transfer.

(d) Cash transferred to the fund as a rollover contribution shall be deposited in the retirement allowance account.

(e) A member who terminates employment before satisfying the eligibility requirements necessary for a pension or disability benefit may withdraw the member's rollover contribution, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under IC 5-10.2-3 to be eligible for a refund of the member's rollover amount.

(f) Except as provided in this section, the fund shall not accept any other rollover contributions from a member.

(g) The board shall administer this section in accordance with the rollover provisions of the Internal Revenue Code and any applicable regulations.

As added by P.L.5-1997, SEC.7. Amended by P.L.61-2002, SEC.8.

IC 5-10.3-7-9.6

State required to make certain contributions

Sec. 9.6. (a) The state shall initiate the contributions required by section 9 of this chapter, as amended by P.L.35-1985, as part of salary and fringe benefit adjustments provided for state employees after June 30, 1986.

(b) The state shall initiate the contributions required by section 9 of this chapter for each governor, lieutenant governor, attorney general, and state superintendent of public instruction elected or appointed to office after November 7, 1988.

(c) The state shall initiate, for compensation paid after June 30, 1987, the contributions required under section 9 of this chapter for the following persons whose compensation is paid in whole or in part from state funds:

(1) Prosecuting attorneys.

(2) Deputy prosecuting attorneys.

(3) Juvenile court referees and full-time magistrates appointed under IC 31-6-9-2 (before its repeal, now codified at

IC 31-31-3).

(4) The master commissioners and full-time magistrates appointed under IC 33-4-1-2.1 (before its repeal, now codified at IC 33-33-2-3), IC 33-4-1-74.3 (before its repeal, now codified at IC 33-33-75-2), IC 33-4-1-75.1 (as amended by P.L.378-1987(ss), before its repeal, now codified at IC 33-33-71-3), and IC 33-4-1-82.1 (before its repeal, now codified at IC 33-33-82-3).

(5) The court commissioner and a full-time magistrate appointed under IC 33-5-29.5-7.1 (as amended by P.L.378-1987(ss), before its repeal, now codified at IC 33-33-45-10).

As added by P.L.220-2011, SEC.81.

IC 5-10.3-7-10

Membership records

Sec. 10. Each department shall submit to the board certified membership records containing the names, titles, rates of compensation, dates of birth, length of service, and other pertinent information required by the board about the department's employees. A department must submit the membership record to the board not more than thirty (30) days after the member's date of hire.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.195-1999, SEC.24.

IC 5-10.3-7-11

Payroll preparation

Sec. 11. The director shall certify to the department the names of the employees for whom deductions or payments of contributions must be made. In the preparation of payrolls, each department shall indicate:

- (1) the total compensation of each employee;
- (2) the amount of each member's contribution; and
- (3) the net amount payable to each member.

No compensation may be paid and no payroll may be processed unless the deduction or payment is made for members' contributions.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.41-1983, SEC.9; P.L.5-1990, SEC.10.

IC 5-10.3-7-12

Certification of deductions; transfer to fund

Sec. 12. A certified copy of each department's payroll or an equivalent certified list of members shall be sent to the board together with a warrant issued by the department for members' contributions.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.41-1983, SEC.10.

IC 5-10.3-7-12.5

Reports, records, or membership payments; failure to submit

Sec. 12.5. (a) An employer or department shall make the reports, membership records, or payments required by IC 5-10.3-6 or by sections 10 through 12 of this chapter:

- (1) not more than thirty (30) days after the end of the calendar quarter, if applicable;
- (2) another due date specified in sections 10 through 12 of this chapter; or
- (3) an alternate due date established by the rules of the board.

(b) If the employer or department does not make the reports, records, or payments within the time specified in subsection (a):

- (1) the board may fine the employer or department one hundred dollars (\$100) for each additional day that the reports, records, or payments are late, to be withheld under IC 5-10.3-6-7; and
- (2) if the employer or department is habitually late, as determined by the board, the board shall report the employer or the department to the auditor of state for additional withholding under IC 5-10.3-6-7.

(c) After December 31, 2009, an employer or department shall submit:

- (1) the reports and records described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and
- (2) both:
 - (A) employer contributions determined under IC 5-10.2-2-11; and
 - (B) contributions paid by or on behalf of a member under section 9 of this chapter;
by electronic funds transfer in accordance with IC 5-10.2-2-12.5.

As added by P.L.195-1999, SEC.25. Amended by P.L.165-2009, SEC.6.

IC 5-10.3-7-13

Suspension of membership; withdrawal of contributions

Sec. 13. Suspension of Membership; Withdrawal of Contributions. Each member who suspends his membership and withdraws his contributions plus interest credits is covered by IC 5-10.2-3.

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

IC 5-10.3-7-14

Governor's waiver of membership

Sec. 14. Governor's Waiver of Membership. A governor who makes an irrevocable choice under IC 4-3-3-1.1 to receive a retirement benefit other than the retirement benefit from the fund waives his right to membership in the fund and to any benefit from the fund on and after the date of his irrevocable choice. After the governor makes that irrevocable choice, he is entitled to withdraw in a lump sum from the fund the amount of his contributions plus

interest credited to him.
As added by Acts 1980, P.L.9, SEC.4.

IC 5-10.3-7-15

Reinstatements of eligibility

Sec. 15. A person who has fifteen (15) or more years of creditable service in the fund and has withdrawn from the fund before reaching the age of sixty-five (65) years may apply for reinstatement of eligibility, if the person:

- (1) makes the application before July 1, 1998, and within ninety (90) days after reaching the age of sixty-five (65) years; and
- (2) demonstrates that further employment with an employer covered by the fund is impractical due to health or other conditions as determined by the board.

The board has the ultimate authority whether to grant reinstatements of eligibility.

As added by P.L.5-1997, SEC.8.