

## **IC 5-10.3-8**

### **Chapter 8. Benefits**

#### **IC 5-10.3-8-0.1**

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

Sec. 0.1. The addition of section 13 of this chapter by P.L.191-2002 applies to monthly benefits payable by the public employees' retirement fund after December 31, 2002.

*As added by P.L.220-2011, SEC.82.*

#### **IC 5-10.3-8-1**

##### **Conditions and computation**

Sec. 1. Retirement and Retirement Benefits. The conditions for a member's retirement and the computation of his retirement benefit are stated in IC 5-10.2-4.

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

#### **IC 5-10.3-8-2**

##### **State legislators; average of annual compensation; computation**

Sec. 2. In computing the pension for a member of the general assembly, the average of the annual compensation is the highest compensation which the member received in any one (1) year while engaged in a position covered by the fund in state service, as a teacher, and in service with a political subdivision.

*As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.381-1987(ss), SEC.4.*

#### **IC 5-10.3-8-3**

##### **Retirement benefit options**

Sec. 3. Retirement Benefit Options. A member may have his retirement benefits paid under the options specified in IC 5-10.2-4-7.

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

#### **IC 5-10.3-8-4**

##### **Disability retirement; conditions; computation**

Sec. 4. Disability Retirement and Disability Retirement Benefit. The conditions for a member's disability retirement and the computation of his disability retirement benefit are stated in IC 5-10.2-4-6.

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

#### **IC 5-10.3-8-5**

##### **Claims of error**

Sec. 5. A member may petition the board to correct an error in the determination of the member's:

- (1) creditable service; or
- (2) benefit;

at any time. The petition must contain the necessary information to sustain the member's claim of error. The board shall investigate the claim and, if error is found, shall order the member's records

corrected. If no error is found and the member petitioned the board to correct the error within six (6) years after the determination of the member's creditable service or benefit, the member may appeal the board's decision under IC 4-21.5.

*As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.99-2010, SEC.4.*

#### **IC 5-10.3-8-6**

##### **Death settlements**

Sec. 6. Death Settlements. The conditions for payments upon the death of a member before retirement are stated in IC 5-10.2-3.

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

#### **IC 5-10.3-8-7**

##### **Re-employment of retired members**

Sec. 7. Re-employment of Retired Members. The re-employment of retired members is covered under IC 5-10.2-4.

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

#### **IC 5-10.3-8-8**

##### **Payment of retirement benefit**

Sec. 8. Except as provided under IC 5-10.2-4-7(f), the retirement benefit is payable in equal monthly installments. The benefit may not be increased, decreased, revoked or repealed except for error or by action of the general assembly.

*As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.115-2009, SEC.12.*

#### **IC 5-10.3-8-9**

##### **Benefits exempted from legal process; reimbursement of employers; withholding payments while charges of criminal taking from employer pending**

Sec. 9. (a) All benefits, refunds of contributions, and money in the fund are exempt from levy, sale, garnishment, attachment, or other legal process. However, the member's contributions or benefits, or both, may be transferred to reimburse the member's employer for loss resulting from the member's criminal taking of the employer's property by the board if the board receives adequate proof of the loss. The loss resulting from the member's criminal taking of the member's employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court following a felony or misdemeanor conviction.

(b) The board may withhold payment of a member's contributions and interest if the employer of the member notifies the board that felony or misdemeanor charges accusing the member of the criminal taking of the employer's property have been filed.

(c) The board may withhold payment of a member's contributions and interest under subsection (b) until the final resolution of the criminal charges.

*As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.28-1984,*

*SEC.6; P.L.22-1993, SEC.5; P.L.15-2013, SEC.2.*

**IC 5-10.3-8-10**

**Assignment of benefits**

Sec. 10. Assignment of Benefits. A member or a beneficiary may not assign any payment except for:

(1) premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in whole or in part by:

(A) a state agency; or

(B) any association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the number of the retired members of the fund; and

(2) dues to any association which proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the number of the retired members of the fund.

*As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1980, P.L.28, SEC.9; P.L.12-2008, SEC.2.*

**IC 5-10.3-8-11**

**Federal agricultural employees; federal and state portions of retirement or disability benefit; limitations**

Sec. 11. (a) The retirement or disability benefit (including the annuity) provided under this chapter at the date of retirement or disability to a member who:

(1) has been classified as a federal employee by the Secretary of Agriculture of the United States;

(2) was employed after July 1, 1955; and

(3) retires after December 31, 1978, and before July 1, 1987;

may not exceed at the date of retirement or disability, when added to his federal civil service benefit, seventy-four percent (74%) of the average of the annual compensation used in computing his benefit under this chapter. If the sum of his retirement or disability benefit and his federal civil service benefit does exceed seventy-four percent (74%), then the state pension portion of the benefit shall be reduced by the board so that the sum does not exceed that percent. In determination of the annual compensation under this section no more than two (2) tax supported retirement benefits shall be utilized. However, the annuity portion of the benefit may not be reduced by this subsection.

(b) The retirement or disability benefit (excluding the annuity) provided under this chapter at the date of retirement or disability to a member who:

(1) has been classified as a federal employee by the Secretary of Agriculture of the United States;

(2) was employed after July 1, 1955; and

(3) retires after June 30, 1987, and before July 1, 1995;

may not exceed at the date of retirement or disability, when added to the member's federal civil service benefit, eighty-five percent (85%) of the average of the annual compensation used in computing the member's benefit under this chapter. If the sum of the retirement or

disability benefit (excluding the annuity) and the federal civil service benefit exceeds eighty-five percent (85%), the state pension portion of the benefit shall be reduced by the board so that the sum does not exceed that percent.

(c) The retirement or disability benefit (excluding the annuity) provided under this chapter at the date of retirement or disability to a member who:

- (1) has been classified as a federal employee by the Secretary of Agriculture of the United States;
- (2) was employed after July 1, 1955; and
- (3) retires after June 30, 1995;

may not exceed at the date of retirement or disability, when added to the member's federal civil service benefit, one hundred percent (100%) of the average of the annual compensation used in computing the member's benefit under this chapter. If the sum of the retirement or disability benefit (excluding the annuity) and the federal civil service benefit exceeds one hundred percent (100%), the state pension portion of the benefit shall be reduced by the board so that the sum does not exceed that percent.

*As added by Acts 1978, P.L.24, SEC.6. Amended by P.L.61-1987, SEC.3; P.L.10-1995, SEC.5.*

#### **IC 5-10.3-8-12**

##### **Stopping member's benefit payments; grounds**

Sec. 12. The board may stop a member's benefit if either of the following occurs:

- (1) The member does any of the following while receiving the benefit:
  - (A) Fails to report for a required examination, unless excused by the board.
  - (B) Disobeys the requirements of the board regarding the examination.
  - (C) Refuses to repay an overpayment of benefits.
- (2) The board has reasonable cause to believe:
  - (A) that the member has died; or
  - (B) in the case of a member receiving disability benefits under IC 5-10.2-4-6, that the member no longer has a disability.

*As added by P.L.22-1993, SEC.6. Amended by P.L.99-2007, SEC.17.*

#### **IC 5-10.3-8-13**

##### **Public employees' retirement fund benefits; cost of living increase**

Sec. 13. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable to a member of the fund (or to a survivor or beneficiary of a member of the fund) shall be increased beginning on January 1, 2003, by the lesser of:

- (1) two percent (2%); or
- (2) the annual cost of living adjustment computed under 42 U.S.C. 415 and published in the Federal Register in accordance

with 42 U.S.C. 215(i)(2)(D).

(b) The increase described in subsection (a) is payable to a member of the fund (or to a survivor or beneficiary of a member of the fund) who has been retired or disabled for at least one (1) year on January 1, 2003.

*As added by P.L.191-2002, SEC.2.*

#### **IC 5-10.3-8-14**

##### **Retirement medical benefits account**

Sec. 14. (a) Except as provided in subsection (c), this section applies to employees of the state (as defined in IC 5-10.3-7-1(d)) who are:

- (1) members of the fund; and
- (2) paid by the auditor of state by salary warrants.

(b) Except as provided in subsection (c), this section does not apply to the employees of the state (as defined in IC 5-10.3-7-1(d)) employed by:

- (1) a body corporate and politic of the state created by state statute; or
- (2) a state educational institution (as defined in IC 21-7-13-32).

(c) The chief executive officer of a body or institution described in subsection (b) may elect to have this section apply to the employees of the state (as defined in IC 5-10.3-7-1(d)) employed by the body or institution by submitting a written notice of the election to the director. An election under this subsection is effective on the later of:

- (1) the date the notice of the election is received by the director; or
- (2) July 1, 2013.

(d) The board shall adopt provisions to establish a retirement medical benefits account within the fund under Section 401(h) or as a separate fund under another applicable section of the Internal Revenue Code for the purpose of converting unused excess accrued leave to a monetary contribution for an employee of the state to fund on a pretax basis benefits for sickness, accident, hospitalization, and medical expenses for the employee and the spouse and dependents of the employee after the employee's retirement. The state may match all or a portion of an employee's contributions to the retirement medical benefits account established under this section.

(e) The board is the trustee of the account described in subsection (d). The account must be qualified, as determined by the Internal Revenue Service, as a separate account within the fund whose benefits are subordinate to the retirement benefits provided by the fund.

(f) The board may adopt rules under IC 5-10.5-4-2 that it considers appropriate or necessary to implement this section after consulting with the state personnel department. The rules adopted by the board under this section must:

- (1) be consistent with the federal and state law that applies to:
  - (A) the account described in subsection (d); and

- (B) the fund; and
  - (2) include provisions concerning:
    - (A) the type and amount of leave that may be converted to a monetary contribution;
    - (B) the conversion formula for valuing any leave that is converted;
    - (C) the manner of employee selection of leave conversion; and
    - (D) the vesting schedule for any leave that is converted.
  - (g) The board may adopt the following:
    - (1) Account provisions governing:
      - (A) the investment of amounts in the account; and
      - (B) the accounting for converted leave.
    - (2) Any other provisions that are necessary or appropriate for operation of the account.
  - (h) The account described in subsection (d) may be implemented only if the board has received from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate.
  - (i) To the extent allowed by:
    - (1) the Internal Revenue Code; and
    - (2) rules adopted by:
      - (A) the board under this section; and
      - (B) the state personnel department under IC 5-10-1.1-7.5;
- employees of the state may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10-1.1-7.5.
- (j) To the extent allowed by the Internal Revenue Code, the account described in subsection (d) must include provisions that:
    - (1) require an employee of the state to convert to a monetary contribution to the account at retirement the balance, but not more than thirty (30) days, of unused vacation leave for which the state would otherwise pay an employee in good standing at separation from service (as determined by state personnel department rule); and
    - (2) allow the state to contribute to the account on the employee's behalf an amount not to exceed two (2) times the amount of the employee's contribution under subdivision (1).
  - (k) The account described in subsection (d) must be implemented on July 1, 2014.

*As added by P.L.220-2005, SEC.6. Amended by P.L.44-2007, SEC.2; P.L.35-2012, SEC.82; P.L.54-2013, SEC.1; P.L.205-2013, SEC.76.*

### **IC 5-10.3-8-15**

#### **Allocation of benefits; distribution of death benefit**

Sec. 15. (a) The board may adopt rules to allow a member who designates more than one (1) beneficiary to allocate benefit shares in percentage increments.

(b) This subsection applies in the case of a member who dies after June 30, 2013. Notwithstanding a contrary collateral agreement, court order, process, attachment, or levy, the right to receive a death

benefit under IC 5-10.2 or this article vests with the designated beneficiary on file with the fund at the time of the member's death. The fund shall distribute the death benefit to the designated beneficiary or the designated beneficiary's estate in accordance with IC 5-10.2 and this article.

*As added by P.L.99-2010, SEC.5. Amended by P.L.15-2013, SEC.3.*