

#### **IC 2-3.5-4**

#### **Chapter 4. Legislators' Defined Benefit Plan**

#### **IC 2-3.5-4-1**

##### **Application**

Sec. 1. This chapter applies to each member of the general assembly who:

- (1) is serving on April 30, 1989; and
- (2) files an election under IC 2-3.5-3-1(b).

*As added by P.L.6-1989, SEC.1.*

#### **IC 2-3.5-4-2**

##### **Members 65 and older; monthly retirement benefit; conditions**

Sec. 2. A participant who is at least sixty-five (65) years of age is entitled for the remainder of the participant's life to a monthly retirement benefit computed under section 3 of this chapter, beginning on the date specified by the participant in a written application, if all of the following conditions are met on the date on which the benefit begins:

- (1) The participant's service as a member of the general assembly is terminated.
- (2) The participant:
  - (A) has at least ten (10) years of service as a member of the general assembly; or
  - (B) meets the requirements for disability benefits under section 5 of this chapter.
- (3) The participant is not receiving and is not entitled to receive a salary from the state.
- (4) The participant is not receiving and has not previously received a reduced monthly retirement benefit under section 4 of this chapter.

*As added by P.L.6-1989, SEC.1. Amended by P.L.13-2001, SEC.1.*

#### **IC 2-3.5-4-3**

##### **Monthly retirement benefit; computation**

Sec. 3. The monthly retirement benefit payable for life to a participant who is eligible under section 2 of this chapter is the lesser of:

- (1) forty dollars (\$40) multiplied by the total years of service completed by the participant as a member of the general assembly before November 8, 1989; or
- (2) the highest consecutive three (3) year average annual salary of the participant attributable to the participant's service as a legislator, as reported on the participant's W-2 federal income tax withholding statement and determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code, at the date the participant's service as a member of the general assembly is terminated, divided by

twelve (12).  
*As added by P.L.6-1989, SEC.1. Amended by P.L.5-1992, SEC.2;  
P.L.4-1992, SEC.3.*

#### **IC 2-3.5-4-4**

##### **Participants 55 and older; reduced monthly retirement benefit; computation**

Sec. 4. (a) A participant who is at least fifty-five (55) years of age is entitled, for the remainder of the participant's life, to a reduced monthly retirement benefit computed under subsection (b), beginning on the date specified by the participant in a written application, if all of the following conditions are met on the date on which the benefit begins:

- (1) The participant's service as a member of the general assembly is terminated.
- (2) The participant has at least ten (10) years of service as a member of the general assembly.
- (3) The participant is not receiving and is not entitled to receive a salary from the state.

(b) The reduced monthly benefit payable for life to a participant eligible under this section is the benefit calculated under section 3 of this chapter, multiplied by a percentage determined as follows:

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

STEP TWO:

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

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

STEP THREE: From one hundred percent (100%) subtract the appropriate (Y). This equals the percentage used to determine the reduced monthly benefit.

*As added by P.L.6-1989, SEC.1. Amended by P.L.13-2001, SEC.2.*

#### **IC 2-3.5-4-4.1**

##### **Monthly retirement benefit; conditions**

Sec. 4.1. (a) This section applies to a participant who:

- (1) is at least fifty-five (55) years of age and whose years of service as a member of the general assembly plus years of age are equal to at least eighty-five (85); or
- (2) is at least sixty (60) years of age and has at least fifteen (15) years of service as a member of the general assembly.

(b) A participant who is described in subsection (a) is entitled, for the remainder of the participant's life, to a monthly retirement benefit

calculated under section 3 of this chapter, if all of the following conditions are met on the date on which the benefit begins:

- (1) The participant's service as a member of the general assembly is terminated.
- (2) The participant has at least ten (10) years of service as a member of the general assembly.
- (3) The participant is not receiving and is not entitled to receive a salary from the state.

(c) A participant who receives a benefit under this section is not entitled to a benefit under section 4 of this chapter.

*As added by P.L.10-1995, SEC.1. Amended by P.L.13-2001, SEC.3.*

#### **IC 2-3.5-4-5**

##### **Disabled participant; benefits; transcripts, records, and other materials**

Sec. 5. (a) Except as provided in subsection (b), a participant who becomes disabled while in active service as a member of the general assembly may retire for the duration of the disability, beginning on the date specified by the participant in a written application, if:

- (1) the participant has at least five (5) years of service;
- (2) the participant has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and
- (3) at least one (1) time each year until the participant becomes sixty-five (65) years of age, a representative of the board verifies the continued disability.

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

(b) Benefits may not be provided under this chapter for a disability:

- (1) resulting from an intentionally self-inflicted injury of attempted suicide while sane or insane; or
- (2) resulting from the participant's commission or attempted commission of a felony.

(c) The disability benefit provided under this section is equal to the benefit computed under section 3 of this chapter.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, records, and other material generated to prove that an individual is qualified for disability benefits under this section shall be:

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

*As added by P.L.6-1989, SEC.1. Amended by P.L.4-1992, SEC.4.*

#### **IC 2-3.5-4-6**

##### **Surviving spouse; benefits**

Sec. 6. (a) The surviving spouse of a participant who:

- (1) dies; and
- (2) on the date of death:
  - (A) was receiving benefits under this chapter;
  - (B) had completed at least ten (10) years of service as a member of the general assembly; or
  - (C) had a permanent disability and was receiving benefits under section 5 of this chapter;

is entitled, regardless of the participant's age, to the benefit prescribed by subsection (b).

(b) The surviving spouse is entitled to a benefit for life equal to fifty percent (50%) of the amount of retirement benefit that:

- (1) the participant was receiving at the time of death; or
- (2) the participant would have been entitled to receive at fifty-five (55) years of age, or at the date of death, whichever is later.

*As added by P.L.6-1989, SEC.1. Amended by P.L.99-2007, SEC.2.*

#### **IC 2-3.5-4-7**

##### **Dependent children; benefits**

Sec. 7. (a) If a participant's spouse would have qualified for a benefit under section 6 of this chapter, but the spouse does not survive the participant, the dependent child of the participant is, upon the death of the participant, entitled to the same benefit the participant's spouse would have received under section 6 of this chapter.

(b) If a surviving spouse of a decedent participant dies while receiving benefits under section 6 of this chapter, and a dependent child of both the surviving spouse and the decedent participant survives them, that dependent child is entitled to receive the same benefit the spouse was receiving under section 6 of this chapter.

(c) If there is more than one (1) dependent child qualified for the benefit under subsection (a) or (b), the dependent children are entitled to share the monthly benefit equally.

(d) Each dependent child is entitled to receive the child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability (using disability guidelines established by the Social Security Administration), whichever period is longer.

*As added by P.L.6-1989, SEC.1.*

#### **IC 2-3.5-4-8**

##### **Manner of payment; application for benefits; termination**

Sec. 8. (a) All benefits payable under this chapter shall be paid in equal monthly installments. The date on which payments begin must be the first day of a month and must be after the date on which the participant's service as a member of the general assembly is terminated.

(b) Retirement dates specified by a participant under sections 2, 4, and 5 of this chapter may not be more than six (6) months before the

date the retirement application is received by the board.

(c) All applications for benefits under this chapter must be made on forms provided by the board.

(d) If a participant who is receiving retirement benefits under this chapter again becomes a member of the general assembly, the participant's retirement benefit shall stop. Upon the participant's subsequent retirement or death, the participant's benefits shall be recalculated on an actuarial basis, taking into account:

- (1) benefit payments previously received; and
- (2) the date of subsequent termination of employment as a member of the general assembly.

*As added by P.L.6-1989, SEC.1.*

#### **IC 2-3.5-4-9**

##### **Actuarial valuation; annual determinations**

Sec. 9. Based on an actuarial valuation, the board shall annually determine:

- (1) the normal contribution;
- (2) the unfunded accrued liability of the defined benefit fund, which is the amount by which the defined benefit plan's total accrued liability exceeds the fund's total assets; and
- (3) the payments necessary to amortize the unfunded accrued liability over a term determined by the board that does not exceed thirty (30) years.

*As added by P.L.6-1989, SEC.1. Amended by P.L.111-2015, SEC.1.*

#### **IC 2-3.5-4-10**

##### **Biennial appropriations**

Sec. 10. (a) For purposes of this chapter, there is appropriated for each biennium the following sums of money:

- (1) From the state general fund, the amount required to actuarially fund participants' retirement benefits under this chapter, as determined by the board on the recommendation of an actuary.
- (2) From the defined benefit fund, the amount required for administration of this chapter.

(b) The biennial appropriation provided in this section shall be credited to the defined benefit fund annually in equal installments in the month of July of each year of the biennium.

*As added by P.L.6-1989, SEC.1.*

#### **IC 2-3.5-4-11**

##### **Exemptions; criminal taking of state property**

Sec. 11. All benefits and assets in the defined benefit fund are exempt from levy, sale, garnishment, attachment, or other legal process. However, a participant's benefits may be transferred to reimburse the state for loss resulting from the participant's criminal taking of state property if the board receives adequate proof of the loss. The loss must be proven by conviction of a felony or

misdemeanor.

*As added by P.L.6-1989, SEC.1.*

#### **IC 2-3.5-4-12**

##### **Assignment of benefits**

Sec. 12. A participant or beneficiary may not assign any payment under this chapter except for:

- (1) premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in whole or in part by a state agency; and
- (2) dues to an association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the retired participants in the legislators' defined benefit plan.

*As added by P.L.6-1989, SEC.1.*

#### **IC 2-3.5-4-13**

##### **Benefit increases payable after June 30, 1992; calculation**

Sec. 13. Subject to IC 2-3.5-3-3(7), the monthly benefit payable under this chapter after June 30, 1992, to participants, survivors, and beneficiaries shall be increased by the same percentages and under the same conditions as monthly benefits are increased under IC 5-10.2-5 for members of the public employees' retirement fund and their survivors and beneficiaries.

*As added by P.L.6-1992, SEC.1.*