

IC 2-3.5-5

Chapter 5. Legislators' Defined Contribution Plan

IC 2-3.5-5-1

Application

Sec. 1. This chapter applies to:

- (1) each member of the general assembly who is serving on April 30, 1989, and who files an election under IC 2-3.5-3-1(b); and
- (2) each member of the general assembly who is elected or appointed after April 30, 1989.

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

IC 2-3.5-5-2

Defined contribution fund; content

Sec. 2. (a) The defined contribution fund consists of the following:

- (1) Each participant's contributions to the fund.
- (2) Contributions made to the fund on behalf of the participants under:
 - (A) section 5 of this chapter (before its repeal on January 1, 2009); or
 - (B) after December 31, 2008, section 5.5 of this chapter.
- (3) Amounts transferred to the fund under subsections (b) and (c).
- (4) All gifts, grants, devises, and bequests in money, property, or other form made to the fund.
- (5) All earnings on investments or on deposits of the funds.
- (6) All contributions or payments to the fund made in a manner provided by the general assembly.

(b) On any July 1 following the date a participant begins participation in the defined contribution fund, if the participant has been before that date a member of PERF, any amount in the PERF annuity savings account credited to the participant may at the participant's irrevocable option be transferred one (1) time to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in PERF, may such a transfer be made.

(c) On any July 1 following the date a participant begins participation in the defined contribution fund, if the participant has been before that date a member of TRF, the amount in the TRF annuity savings account credited to the participant may at the participant's irrevocable election be transferred one (1) time to the defined contribution fund for the benefit of the participant. At no other time, if the participant continues or begins to participate in TRF, may the transfer be made.

(d) Each participant shall be credited individually with:

- (1) the participant's contributions to the fund under section 4 of this chapter, which shall be credited to the participant's account;

(2) the contributions made to the fund on behalf of the participant under:

(A) section 5 of this chapter (before its repeal on January 1, 2009); or

(B) after December 31, 2008, section 5.5 of this chapter; which shall be credited to the participant's account;

(3) the amount transferred to the fund under subsections (b) and (c), which shall be credited to the participant's account; and

(4) the net earnings on the participant's accounts, determined under section 3 of this chapter.

As added by P.L.6-1989, SEC.1. Amended by P.L.195-1999, SEC.2 and P.L.205-1999, SEC.3; P.L.43-2007, SEC.2.

IC 2-3.5-5-3

Alternative investment programs

Sec. 3. (a) The board shall establish alternative investment programs within the fund, based on the following requirements:

(1) The board shall maintain at least one (1) alternative investment program that is an indexed stock fund, one (1) alternative investment program that is a bond fund, and one (1) alternative investment program that is a stable value fund. The board may maintain one (1) or more alternative investment programs that:

(A) invest in one (1) or more commingled or pooled funds that consist in part or entirely of mortgages that qualify as five star mortgages under the program established by IC 24-5-23.6; or

(B) otherwise invest in mortgages that qualify as five star mortgages under the program established by IC 24-5-23.6.

(2) The programs should represent a variety of investment objectives.

(3) The programs may not permit a member to withdraw money from the member's account, except as provided in section 6 of this chapter.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program.

(5) A valuation of each member's account must be completed as of:

(A) the last day of each quarter; or

(B) a time that the board may specify by rule.

(b) A member shall direct the allocation of the amount credited to the member among the available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by the board. The board shall allow a member to make a selection or change any existing selection at least once each quarter.

(2) The board shall implement the member's selection beginning on the first day of the next calendar quarter that begins at least

thirty (30) days after the selection is received by the board or on an alternate date established by the rules of the board. This date is the effective date of the member's selection.

(3) A member may select any combination of the available investment funds, in ten percent (10%) increments or smaller increments that may be established by the rules of the board.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on the market value on the effective date.

(6) If a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the board's general investment fund.

(7) All contributions to the member's account shall be allocated as of the last day of the quarter in which the contributions are received or at an alternate time established by the rules of the board in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection or at an alternate time established by the rules of the board. When a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date or at an alternate time established by the rules of the board.

(d) The board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

(1) The market value shall exclude the employer contributions and employee contributions received during the quarter ending on the current allocation date.

(2) The market value as of the immediately preceding quarter end date shall include the employer contributions and employee contributions received during that preceding quarter.

(3) The market value as of the immediately preceding quarter end date shall exclude benefits paid from the fund during the quarter ending on the current quarter end date.

As added by P.L.6-1989, SEC.1. Amended by P.L.205-1999, SEC.4; P.L.195-1999, SEC.3; P.L.118-2000, SEC.1; P.L.13-2001, SEC.4; P.L.30-2009, SEC.1; P.L.165-2009, SEC.1; P.L.1-2010, SEC.1; P.L.115-2010, SEC.1; P.L.35-2012, SEC.8.

IC 2-3.5-5-4

Participant contributions to the fund

Sec. 4. Each participant shall make contributions to the defined contribution fund of five percent (5%) of each payment of salary received for services after June 30, 1989. Contributions shall be deducted from the salary of each participant by the auditor of state. Contributions shall be credited to the fund on the June 30 following their deduction.

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

IC 2-3.5-5-5

Repealed

(As added by P.L.6-1989, SEC.1. Repealed by P.L.43-2007, SEC.13.)

IC 2-3.5-5-5.5

Contributions made to defined contribution fund after 12/31/08; "salary"; time for making contributions; determination of contribution percentage

Sec. 5.5. (a) This section applies to contributions to the defined contribution fund made by the state after December 31, 2008.

(b) This subsection applies after December 31, 2008. Notwithstanding IC 2-3.5-2-10, as used in this section, "salary" means the total of the following amounts paid to a participant by the state for performing legislative services in the year in which the amounts are paid, determined without regard to any salary reduction agreement established under Section 125 or Section 457 of the Internal Revenue Code:

- (1) Salary.
- (2) Business per diem allowance and allowances paid in lieu of the submission of claims for reimbursement (but excluding any allowances paid for mileage).
- (3) Allowances paid to officers of the house of representatives and the senate.

(c) This subsection applies after December 31, 2008. The state shall make a contribution to the defined contribution fund on behalf of each participant on June 30 of each year. The amount of the contribution is determined by multiplying the participant's salary for that year by a percentage determined for that year by the board under subsection (d).

(d) This subsection applies after December 31, 2008. The board shall use the following rates in determining the percentage described in subsection (c):

- (1) The rate of the state's normal contribution for its employees to PERF, as determined under IC 5-10.2-2-11.
- (2) The rate at which the state makes contributions to annuity savings accounts on behalf of state employees who are members of PERF, as specified in IC 5-10.2-3-2 and IC 5-10.3-7-9.

(e) This subsection applies after December 31, 2008. The budget

agency shall confirm the percentage determined by the board. The percentage confirmed by the budget agency may not exceed the total contribution rate paid that year by the state to PERF for state employees.

As added by P.L.43-2007, SEC.3. Amended by P.L.35-2012, SEC.9.

IC 2-3.5-5-6

Termination of service; withdrawal from the fund

Sec. 6. (a) A participant who terminates service as a member of the general assembly is entitled to withdraw both the participant's employee contribution account and employer contribution account from the defined contribution fund. The withdrawal shall be made not later than the required beginning date under the Internal Revenue Code. The amount available for the withdrawal shall be the fair market value of the participant's accounts on the last day of the quarter preceding the date of withdrawal plus employee contributions deducted and employer contributions made since the last day of the quarter preceding the date of withdrawal.

(b) The withdrawal amount shall be paid in a lump sum, a partial lump sum, a monthly annuity as purchased by the board with the remaining amount, or a series of monthly installment payments over sixty (60), one hundred twenty (120), or one hundred eighty (180) months, as elected by the participant. The forms of annuity and installments shall be established by the board by rule, in consultation with the system's actuary. The board shall give participants information on these forms of payments and the effects of various dates of withdrawal.

As added by P.L.6-1989, SEC.1. Amended by P.L.195-1999, SEC.4 and P.L.205-1999, SEC.5; P.L.13-2001, SEC.5; P.L.35-2012, SEC.10.

IC 2-3.5-5-7

Death of participant; designated beneficiaries; surviving spouse; dependent children

Sec. 7. (a) This section applies to a participant who dies while a member of the general assembly, or who dies after terminating service as a member of the general assembly and prior to withdrawing the participant's account from the defined contribution fund. The participant's employee contribution account and the participant's employer contribution account shall be paid to a beneficiary or the beneficiaries designated on a form prescribed by the board. The amount paid shall be the fair market value of the participant's accounts on the last day of the quarter preceding the date of payment, plus employee contributions deducted and employer contributions made since the last day of the quarter preceding the date of payment. If there is no properly designated beneficiary, or if no beneficiary survives the participant, the participant's accounts shall be paid to:

- (1) the surviving spouse of the participant;

(2) if there is no surviving spouse, a surviving dependent or the surviving dependents of the participant; or

(3) if there is no surviving spouse and no surviving dependent, the estate of the participant.

(b) Amounts payable under this section shall be paid in a lump sum, a partial lump sum, a monthly annuity as purchased by the board with the remaining amount, or a series of monthly installment payments over sixty (60) months, as elected by the recipient. The forms of annuity and installments available shall be established by the board by rule, in consultation with the system's actuary.

As added by P.L.6-1989, SEC.1. Amended by P.L.195-1999, SEC.5 and P.L.205-1999, SEC.6; P.L.13-2001, SEC.6; P.L.35-2012, SEC.11.

IC 2-3.5-5-8

Biennial appropriation

Sec. 8. (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 equal the contributions specified in:

(A) section 5 of this chapter (before its repeal on January 1, 2009); or

(B) after December 31, 2008, section 5.5 of this chapter.

(2) From the state general fund, the amount required for administration of this chapter.

(b) The biennial appropriation provided in this section shall be credited to the defined contribution fund annually in the month of July of each year of the biennium, based on the amounts specified in subsection (a).

As added by P.L.6-1989, SEC.1. Amended by P.L.43-2007, SEC.4.

IC 2-3.5-5-9

Exemptions; criminal taking of state property

Sec. 9. All benefits and assets in the defined contribution 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 2-3.5-5-10

Assignment of benefits

Sec. 10. 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 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 2-3.5-5-11

Loans

Sec. 11. Before January 1, 2002, the board shall adopt rules establishing procedures for making loans to a participant from the participant's employee contribution account and employer contribution account within the defined contribution fund. Rules adopted under this section must comply with the requirements of Section 72(p) of the Internal Revenue Code and must apply to each participant in the plan, regardless of whether the participant is serving in the general assembly at the time of the loan. A loan made in accordance with rules adopted under this section is not considered the receipt of retirement benefits for purposes of IC 5-10-8-1.

As added by P.L.184-2001, SEC.1. Amended by P.L.35-2012, SEC.12.

IC 2-3.5-5-12

Rollover distributions

Sec. 12. (a) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of any active member, a rollover distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3) 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.
- (4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(b) Any amounts rolled over under subsection (a) must be accounted for in a "rollover account" that is separate from the member's account.

(c) A member may direct the investment of the member's rollover account into any alternative investment option that the board may make available to the member's rollover account under section 3 of this chapter.

(d) A member may withdraw the member's rollover account from the fund in a lump sum at any time before retirement. At retirement, the member may withdraw the member's rollover account in accordance with the retirement options that are available for the member's account.

As added by P.L.61-2002, SEC.1.