

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 10

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AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 2-3.5-5-6, AS AMENDED BY P.L.35-2012, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: 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.

**(c) Subject to the Pension Protection Act of 2006 and notwithstanding any state law, after December 31, 2020, an active**

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**member who is at least fifty-nine and one-half (59 1/2) years of age may withdraw all or part of the amount in the member's account without separating from a covered position.**

SECTION 2. IC 5-10.2-3-6.5, AS AMENDED BY P.L.27-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 6.5. (a) After ~~June 30, 2018~~, **December 31, 2020**, a member who meets all of the following requirements may elect to withdraw all or part of the amount in the member's annuity savings account:

(1) The member has terminated employment with the applicable fund and is not currently employed in a covered position for the applicable fund.

~~(2) The member has not performed any service in a position covered by the applicable fund or for the same employer for at least thirty (30) days after the date the member terminates employment.~~

~~(3)~~ **(2)** The member makes the election described in this subsection:

(A) after December 31, 2008, if the member is a member of the public employees' retirement fund; or

(B) after June 30, 2009, if the member is a member of the Indiana state teachers' retirement fund.

~~(4)~~ **(3)** Except as provided in subsection (b), the member is not eligible for:

(A) before July 1, 2011, a reduced or unreduced retirement; or

(B) after June 30, 2011, an unreduced retirement;

under IC 5-10.2-4 on the date the fund receives notice of the election described in this subsection.

(b) The requirement described in subsection ~~(a)(4)~~ **(a)(3)** does not apply to a member of the public employees' retirement fund who:

(1) was eligible for a reduced or unreduced retirement; and

(2) received a distribution under this section;

after December 31, 2008, and before June 30, 2010.

(c) A member who elects to withdraw all or part of the amount in the member's annuity savings account under subsection (a) shall provide notice of the election on a form provided by the board.

(d) The election to withdraw all or part of the amount in the member's annuity savings account is irrevocable.

(e) The board shall pay an amount withdrawn from the member's annuity savings account under this section as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member



becomes eligible to receive and applies for a retirement benefit under IC 5-10.2-4, a retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter; and

(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

(h) After June 30, 2019, a member's withdrawal of all or part of the member's annuity savings account under:

(1) this section; or

(2) rules adopted by the board with respect to the Pension Protection Act of 2006;

has no effect on the member's service credit or pension.

**(i) Subject to the Pension Protection Act of 2006 and notwithstanding any state law, after December 31, 2020, an active member who:**

**(1) becomes age and service eligible for normal retirement; and**

**(2) is at least fifty-nine and one-half (59 1/2) years of age;**

**may withdraw all or part of the amount in the member's annuity savings account without consequence to the member's pension benefit under the fund and without separating from a covered position.**

SECTION 3. IC 5-10.2-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 9. (a) This section applies if the following conditions are met. A member dies:

(1) after July 1, 1991; and

(2) while receiving or while eligible to receive retirement benefits under IC 5-10.2-4-1 from the fund.

(b) As used in this section, "minimum amount" means the entire amount credited to the member's annuity savings account at the time of:

(1) retirement; or

(2) death while entitled to retirement benefits;

minus all benefits paid to the member and the member's survivors.

(c) If the member dies without a survivor entitled to benefits and the member has not received payments equal to or more than the minimum amount, the difference shall be paid in a lump sum to the member's designated beneficiary or beneficiaries in equal shares. If the member



dies without a surviving designated beneficiary, the difference shall be paid in a lump sum to the member's estate.

(d) If the member dies with a survivor entitled to benefits, no payment under this section shall be calculated until after all survivors die. If, at the time of death of the last survivor, the member and all survivors have not received payments equal to or more than the minimum amount, the difference shall be paid in a lump sum to the survivor's estate.

**(e) The minimum benefit provided in this section shall not apply to an election under IC 5-10.2-4-7(g).**

SECTION 4. IC 5-10.2-4-7, AS AMENDED BY P.L.40-2017, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee



specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by all or part of the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

- (A) the total amount used in computing the annuity; minus
- (B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, or to a member of the public employees' retirement fund after June 30, 2008. If:

- (1) the designated beneficiary dies while the member is receiving benefits; or
- (2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds ( $2/3$ ) or one-half ( $1/2$ ) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

- (1) the member's retirement option under subsection (b);
- (2) the selection of a lump sum payment under section 2 of this chapter; or



(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.5.

(f) The board may adopt a policy to permit annual payment of a member's retirement benefit whenever the amount of the monthly retirement benefit to be paid to the member is not more than five dollars (\$5).

**(g) The board may provide an alternative option for the payment of the member's retirement benefits that does not include the minimum benefit option under IC 5-10.2-3-9.**

SECTION 5. IC 5-10.3-12-26, AS AMENDED BY P.L.27-2019, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 26. (a) **Subject After December 31, 2020, subject** to the provisions of the Internal Revenue Code applicable to qualified plan distributions, a member who

~~(1) terminates service in a covered position and~~

~~(2) does not perform any service in a position covered by the fund for at least thirty (30) days after the date on which the member terminates service;~~

is entitled to withdraw all or part of the amounts in the member's account to the extent the member is vested in the account. A member must make a required withdrawal from the member's account not later than the required beginning date under the Internal Revenue Code.

(b) The member may elect to have withdrawals paid as:

(1) a lump sum;

(2) a direct rollover to another eligible retirement plan; or

(3) if the member has attained normal retirement age, a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. The board shall give members information about these forms of payment and any information required by federal law to accompany such distributions.



(d) Unless otherwise required by federal or state law, the requirements and rules that apply to the distribution of the annuity savings account apply to distributions from a member's account.

**(e) Subject to the Pension Protection Act of 2006 and notwithstanding any state law, after December 31, 2020, an active member who:**

**(1) reaches normal retirement age; and**

**(2) has attained vested status in the fund;**

**may withdraw all or part of the amount in the member's account without separating from a covered position.**

SECTION 6. IC 5-10.4-8-12, AS AMENDED BY P.L.27-2019, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 12. (a) ~~Subject~~ **After December 31, 2020, subject** to the provisions of the Internal Revenue Code applicable to qualified plan distributions, a member who

~~(1) terminates service in a covered position and~~

~~(2) does not perform any service in a position covered by the fund for at least thirty (30) days after the date on which the member terminates service;~~

is entitled to withdraw all or part of the amounts in the member's account to the extent the member is vested in the account. A member must make a required withdrawal from the member's account not later than the required beginning date under the Internal Revenue Code.

(b) A member may elect to have withdrawals paid as:

(1) a lump sum;

(2) a direct rollover to another eligible retirement plan; or

(3) if the member has attained normal retirement age, a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. The board shall give members information about these forms of payment and any information required by federal law to accompany such distributions.

(d) Unless otherwise required by federal or state law, the requirements and rules that apply to the distribution of the annuity savings account apply to distributions from a member's account.

**(e) Subject to the Pension Protection Act of 2006 and notwithstanding any state law, after December 31, 2020, an active member who:**

**(1) reaches normal retirement age; and**

**(2) has attained vested status in the fund;**



**may withdraw all or part of the amount in the member's account without separating from a covered position.**





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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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