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 2020 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 94

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 4-3-3-1.1, AS AMENDED BY P.L.13-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1.1. (a) An individual who holds the office of governor for any length of time during one (1) term of that office is entitled to receive an annual retirement benefit under subsection (e). However, an individual who succeeds to the office of governor without being elected is not entitled to an annual retirement benefit under this section unless such person serves for more than one (1) year of the term of the office.

- (b) An individual who holds the office of governor for any length of time during each of two (2) separate terms of that office is entitled to receive an annual retirement benefit under subsection (f).
- (c) If an individual who holds the office of governor resigns or is removed from office, during a term of that office, for any reason except a mental or physical disability that renders the individual unable to discharge the powers and duties of the office, then the term during which the individual resigned or was removed may not be considered for determining the individual's annual retirement benefit under this section.
- (d) The retirement benefit shall be paid in equal monthly installments by the treasurer of state on warrant of the auditor of state from the public employees' retirement fund after a claim has been



made for the retirement benefit to the auditor Indiana public retirement system by the governor or a person acting on the governor's behalf. A governor shall choose the date on which the governor will begin receiving the governor's retirement benefit. However, the date must be the first state employee payday day of a month. A governor may not receive the retirement benefit as long as the governor holds an elective position with any federal, state, or local governmental unit, and the governor may not receive the retirement benefit until the governor has reached at least age sixty-two (62) years of age. The governor's choice of initial benefit payment date and the governor's choice of benefit payment amount under subsections (e) and (f) are revocable until the governor receives the first monthly installment of the governor's retirement benefit. After that installment is received, the choice of date and the choice of amount are irrevocable.

- (e) With respect to a governor who is entitled to a retirement benefit under subsection (a):
  - (1) if the governor chooses to begin receiving the governor's retirement benefit on or after the date the governor reaches age sixty-two (62) years of age but before the governor reaches age sixty-five (65) years of age, the governor may choose to receive:
    - (A) the retirement benefits the governor is entitled to, if any, from the public employees' retirement fund; under IC 5-10.2-4 and IC 5-10.3-8; or
    - (B) thirty percent (30%) of the governor's annual salary set in IC 4-2-1-1 for the remainder of the governor's life; or
  - (2) if the governor chooses to begin receiving the governor's retirement benefit on or after the date the governor reaches age sixty-five (65) years of age, the governor may choose to receive:
    - (A) the retirement benefits the governor is entitled to, if any, from the public employees' retirement fund; under IC 5-10.2-4 and IC 5-10.3-8; or
    - (B) forty percent (40%) of the governor's annual salary set in IC 4-2-1-1 for the remainder of the governor's life.
- (f) With respect to a governor who is entitled to a retirement benefit under subsection (b):
  - (1) if the governor chooses to begin receiving the governor's retirement benefit on or after the date the governor reaches age sixty-two (62) years of age but before the governor reaches age sixty-five (65) years of age, the governor may choose to receive:
    - (A) the retirement benefits the governor is entitled to, if any, from the public employees' retirement fund; under IC 5-10.2-4 and IC 5-10.3-8; or



- (B) forty percent (40%) of the governor's annual salary set in IC 4-2-1-1 for the remainder of the governor's life; or
- (2) if the governor chooses to begin receiving the governor's retirement benefit on or after the date the governor reaches age sixty-five (65) years of age, the governor may choose to receive:
  - (A) the retirement benefits the governor is entitled to, if any, from the public employees' retirement fund; under IC 5-10.2-4 and IC 5-10.3-8; or
  - (B) fifty percent (50%) of the governor's annual salary set in IC 4-2-1-1 for the remainder of the governor's life.

SECTION 2. IC 4-3-3-2, AS AMENDED BY P.L.177-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) The surviving spouse of each individual who:

- (1) serves as governor; and
- (2) is entitled to a retirement benefit under section 1.1 of this chapter;

is entitled to an annual pension.

- (b) The pension to which a governor's surviving spouse is entitled under this section shall be paid in equal monthly installments by the treasurer of state on warrant of the auditor of state from the public employees' retirement fund established after a claim has been made for the pension to the auditor Indiana public retirement system by:
  - (1) the surviving spouse; or
  - (2) a person acting on behalf of the surviving spouse.
- (c) The annual pension to which a governor's surviving spouse is entitled under this section is equal to the following:
  - (1) For the surviving spouse of a governor who died before July
  - 1, 1998, the greater of:
    - (A) the annual retirement benefit received by the surviving spouse during the year beginning July 1, 1998; or
    - (B) ten thousand dollars (\$10,000).
  - (2) For the surviving spouse of a governor who dies after June 30, 1998, the greater of:
    - (A) fifty percent (50%) of the annual retirement benefit that the governor to whom the surviving spouse was married was receiving or was entitled to receive; on the date of the governor's death; or
    - (B) ten thousand dollars (\$10,000).

If a governor chooses to receive a retirement benefit under IC 5-10.2-4 and IC 5-10.3-8, the surviving spouse receives the survivor option, if any, selected by the governor under



## IC 5-10.2-4-7.

- (d) The surviving spouse of a governor must make the election required under subsection (e)(1) or (e)(2). Once a surviving spouse has received any pension payment under this section, the election is irrevocable.
- (e) (d) A governor's surviving spouse is entitled to receive the pension provided under this section for life.
- (f) (e) Notwithstanding any other law to the contrary, the pension provided under this section is in addition to any other retirement benefits a governor's surviving spouse is entitled to receive.
- SECTION 3. IC 4-3-3-3, AS AMENDED BY P.L.215-2016, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) This chapter applies to any governor of Indiana regardless of whether the governor's service occurred before, on, or after January 14, 1981, and to the surviving spouse of any governor.
- (b) The former governor and surviving spouse pension provided by this chapter is part of the public employees' retirement fund under IC 5-10.2 and IC 5-10.3. The biennial appropriation for the state's funding obligation to the public employees' retirement fund must include funding for these benefits.
- (c) To the extent that this chapter conflicts with IC 5-10.2 or IC 5-10.3, this chapter governs. However, if a benefit payable from the public employees' retirement fund under this chapter would jeopardize the qualified status of the public employees' retirement fund under Internal Revenue Code Section 401(a), the benefit payable from the public employees' retirement fund under this chapter must be reduced to the extent required to preserve the qualified status of the public employees' retirement fund under Internal Revenue Code Section 401(a).

SECTION 4. IC 5-10-8-8.5, AS AMENDED BY P.L.108-2019, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8.5. (a) The retiree health benefit trust fund is established to provide funding for a retiree health benefit plan developed under IC 5-10-8.5.

- (b) The trust fund shall be administered by the INPRS. The expenses of administering the trust fund shall be paid from money in the trust fund. The trust fund consists of cigarette tax revenues deposited in the fund under IC 6-7-1-28.1(7) and other appropriations, revenues, or transfers to the trust fund under IC 4-12-1.
- (c) The INPRS shall invest the money in the trust fund not currently needed to meet the obligations of the trust fund in the same manner and



with the same limitations described in IC 5-10.5-4-1 and IC 5-10.5-5-1.

- (d) The trust fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the trust fund by the state board of finance, the budget agency, or any other state agency.
- (e) The trust fund shall be established and administered in a manner that complies with Internal Revenue Code requirements concerning health reimbursement arrangement (HRA) trusts. Contributions by the state to the trust fund are irrevocable. All assets held in the trust fund must be held for the exclusive benefit of participants of the retiree health benefit plan developed under IC 5-10-8.5 and their beneficiaries. All assets in the trust fund:
  - (1) are dedicated exclusively to providing benefits to participants of the plan and their beneficiaries according to the terms of the plan; and
  - (2) are exempt from levy, sale, garnishment, attachment, or other legal process.
- (f) Money in the trust fund does not revert to the state general fund at the end of any state fiscal year.
- (g) The money in the trust fund is appropriated to the INPRS for providing the retiree health benefit plan developed under IC 5-10-8.5.
- (h) The budget agency may transfer appropriations from federal or dedicated funds to the retiree health benefit trust fund. SECTION 5. IC 5-10-8.5-9, AS AMENDED BY P.L.205-2013, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 9. (a) As used in this chapter, "retired participant" means the following:
  - (1) A participant who is eligible for and has applied to receive a normal, unreduced or disability retirement benefit (as determined by the Indiana public employee retirement fund of which the participant is a member) on the participant's last day of service.
  - (2) A participant who has completed at least ten (10) years of service as an elected or appointed officer on the participant's last day of service as an elected or appointed officer. For purposes of determining whether a participant has completed at least ten (10) years of service on the participant's last day of service for purposes of this subdivision, any partial year of service completed by the participant in the year in which the participant is appointed to fill a vacant elected office shall be considered to be one (1) complete year of service.
  - (3) A participant in PERF MyChoice who is at least normal retirement age on the participant's last day of service.



(b) For a participant described in subsection (a)(2) who has service with more than one (1) employer, the participant's years of service is the sum of all of the participant's years of service.

SECTION 6. IC 5-10-8.5-15, AS AMENDED BY P.L.108-2019, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 15. (a) Except as provided in subsections (c), (d), and (e), a participant's employer shall make contributions annually to the account on behalf of the participant sufficient to provide the benefit described in section 17 of this chapter. For a participant meeting the eligibility rules set forth in section 17 of this chapter, the amount credited to the participant's subaccount balance shall be the sum of annual contributions and earnings for each year of service. The amount of the contribution each fiscal year must equal **or exceed** the following, based on the participant's age on the last day of the calendar year that is in the fiscal year in which the contribution is made:

Participant's Age in Years	<b>Annual Contribution</b>
	Amount
Less than 30	\$ 500
At least 30, but less than 40	\$ 800
At least 40, but less than 50	\$ 1,100
At least 50	\$ 1,400

- (b) The INPRS shall determine by rule the date on which the contributions are credited to participants' subaccounts.
- (c) A contribution under this section shall not be made after June 30, 2011, to any of the following participants:
  - (1) A conservation officer of the department of natural resources.
  - (2) An employee of the state excise police.
  - (3) An employee of the state police department, other than the following:
    - (A) An employee of the state police department who waived coverage under a common and unified plan of self-insurance under IC 5-10-8-6 before July 1, 2011.
    - (B) An employee of the state police department who makes an election under IC 5-10-8.5-9.5.
    - (C) An employee of the state police department who makes an election under IC 5-10-8.5-9.6.
- (d) For individuals who are employed on June 30, 2011, the accrued annual contributions made in accordance with subsection (a) to an account described in section 14 of this chapter on behalf of the individuals for any years the individuals were employed as described in section 1(b)(1) through 1(b)(3) of this chapter shall be transferred to the respective plans described in IC 5-10-8-6(a) for those individuals



and shall be used only to reduce the unfunded other post-employment benefit (OPEB) liability of those plans and not to increase benefits or reduce premiums.

- (e) A contribution under this section shall not be made after June 30, 2017, to a participant who on June 30, 2017:
  - (1) is eligible for a normal, unreduced retirement benefit from the public employee retirement fund of which the participant is a member; and
  - (2) has completed:
    - (A) fifteen (15) years of service with the participant's employer; or
    - (B) ten (10) years of service as an elected or appointed officer.
- (f) At least every two (2) years and in every year in which benefits are changed under this chapter, the actuary shall make a valuation of the assets and liabilities of the retiree health benefit trust fund. The valuation must include a recommended amount to actuarially fund participants' benefits described in section 17 of this chapter. Each year, the INPRS shall:
  - (1) report the assets and liabilities of the retiree health benefit trust fund; and
  - (2) based on the assets and liabilities of the retiree health benefit trust fund, recommend an employer contribution amount to fund the participants' benefits described in section 17 of this chapter.

SECTION 7. IC 5-10.3-6-1.1, AS ADDED BY P.L.96-2020, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1.1. (a) This section applies to a political subdivision that is served by a volunteer fire department.

- (b) The following definitions apply throughout this section:
  - (1) "Nominal compensation" has the meaning set forth in IC 36-8-12-2.
  - (2) "Volunteer fire department" has the meaning set forth in IC 36-8-12-2.
- (c) The governing body of a political subdivision may adopt an ordinance or resolution specifying the departmental, occupational, or other definable classifications of members of the volunteer fire department that are required to become members of the plan. A political subdivision may become a participant in the plan if the ordinance or resolution is filed with and approved by the board.
- (d) The governing body of a political subdivision shall determine the amounts of the contributions that the political subdivision will make on behalf of the eligible members of the volunteer fire



department. However, the contributions that are made on behalf of each eligible member of the volunteer fire department in any specified departmental, occupational, or other definable classification must be equal. The governing body of the political subdivision shall specify the amounts of the contributions that the political subdivision will make for each departmental, occupational, or other definable classification of the members of the volunteer fire department in an ordinance or resolution adopted under subsection (c) and in any subsequent ordinance or resolution that changes the contribution amounts. If the governing body of the political subdivision changes the contribution amounts, the governing body shall file the ordinance or resolution with the board. The new contribution amounts become effective on the later of the date on which the ordinance or resolution is approved by the board or the effective date specified in the resolution.

- (e) Contributions made under this section on behalf of the eligible members of a volunteer fire department may not be considered in the computation of nominal compensation for purposes of IC 36-8-12.
- (f) An individual who participates in the plan under subsection (c) does not earn creditable service (as defined in IC 5-10.2-3-1) in the fund for the individual's service with a volunteer fire department.

SECTION 8. IC 5-10.3-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: 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 under IC 5-10.2 and this article waives his the governor's right to membership in the fund and to any pension benefit from the fund on and after the date of his the governor's irrevocable choice. After the governor makes that irrevocable choice, he the governor is entitled, as a member of the fund, to withdraw in a lump sum from the fund the amount of his contributions plus interest credited to him. required under sections 9 and 9.6 of this chapter. The retirement and surviving spouse benefits for a governor are determined in accordance with IC 4-3-3.

SECTION 9. IC 5-10.3-8-12, AS AMENDED BY P.L.99-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 12. (a) The board may stop a member's, survivor's, or beneficiary's benefit if either any of the following occurs: occur:

- (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) A survivor or beneficiary refuses to repay an overpayment of benefits while receiving the benefit or overpayment of benefits made to the member.
- (2) (3) The board has reasonable cause to believe:
  - (A) that the member, survivor, or beneficiary 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.
- (b) Except as provided in subsection (c), if an overpayment under this section occurs, the board may not require a member, survivor, or beneficiary to pay more than twenty-five percent (25%) of their monthly benefit toward the overpayment.
  - (c) If the overpayment described in subsection (a):
    - (1) began before July 1, 2015; and
    - (2) was caused by no fault of the member, survivor, or beneficiary;

the board may only require a member, survivor, or beneficiary to pay the amount of the overpayment of benefits received during the six (6) years before the date that the Indiana public retirement system discovers the overpayment and attempts to notify the member, survivor, or beneficiary of the overpayment. If an overpayment subject to this subsection occurs, the board may not require a member, survivor, or beneficiary to pay more than ten percent (10%) of their monthly benefit toward the overpayment. The board may not use any method to collect an overpayment of benefits under this subsection other than those specified in this section.

SECTION 10. IC 5-10.3-12-16, AS ADDED BY P.L.22-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. As used in this chapter, "years of participation" means all periods of participation in the plan in a covered position, plus any additional service for which this chapter provides years of participation credit, except that the term excludes periods of participation in the plan in a covered position for service described in section 1(a)(7) of this chapter.

SECTION 11. IC 5-10.4-5-15, AS AMENDED BY P.L.99-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 15. (a) The board may stop a member's benefit if the member does any of the following while receiving the benefit:



- (1) Fails to report for a required examination, unless excused by the board.
- (2) Disobeys the requirements of the board regarding the examination.
- (3) Refuses to repay an overpayment of benefits.
- (b) The board may stop a survivor's or beneficiary's benefit if the survivor or beneficiary refuses to repay an overpayment of benefits while receiving the benefit or overpayment of benefits made to the member.
- (b) (c) The board also may stop a member's, survivor's, or beneficiary's benefit if the board has reasonable cause to believe that:
  - (1) the member, survivor, or beneficiary has died; or
  - (2) in the case of a member receiving disability benefits under IC 5-10.2-4-6 or classroom disability benefits under section 1 of this chapter, the member no longer has a disability.
- (d) Except as provided in subsection (e), if an overpayment under this section occurs, the board may not require a member, survivor, or beneficiary to pay more than twenty-five percent (25%) of their monthly benefit toward the overpayment.
  - (e) If the overpayment described in subsection (a):
    - (1) began before July 1, 2015; and
    - (2) was caused by no fault of the member, survivor, or beneficiary;

the board may only require a member, survivor, or beneficiary to pay the amount of the overpayment of benefits received during the six (6) years before the date that the Indiana public retirement system discovers the overpayment and attempts to notify the member, survivor, or beneficiary of the overpayment. If an overpayment subject to this subsection occurs, the board may not require a member, survivor, or beneficiary to pay more than ten percent (10%) of their monthly benefit toward the overpayment. The board may not use any method to collect an overpayment of benefits under this subsection other than those specified in this section.

SECTION 12. IC 33-38-7-13, AS AMENDED BY P.L.16-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 13. (a) Except as otherwise provided in this chapter, a participant:

- (1) whose employment as a judge is terminated regardless of cause; and
- (2) who has less than twelve (12) years service; is entitled to withdraw from the fund, beginning on the date specified



by the participant in a written application. However, the date on which the withdrawal begins may not be before the date of final termination of employment of the participant, or the date thirty (30) days before the receipt of the application by the board.

- (b) Upon the withdrawal, a participant is entitled to receive out of the fund an amount equal to the total sum contributed to the fund on behalf of the participant plus interest at a rate specified by rule by the board, payable within sixty (60) days after date of the withdrawal application or in monthly installments as the participant may elect.
- (c) A participant who withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for the participant's years of service accrued before the withdrawal, unless the participant pays into the fund the full amount received by the participant when the participant withdrew from the fund plus interest at a rate specified by rule by the board. The board shall grant service credit to a participant for the years of service accrued by the participant before the participant's withdrawal from the fund if the participant makes the repayment required by this section in a lump sum or a series of payments determined by the board, not to exceed five (5) annual installments.

SECTION 13. IC 33-38-8-12, AS AMENDED BY P.L.16-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 12. (a) A participant who:

- (1) ceases service:
  - (A) as a judge; or
- (B) after December 31, 2010, as a judge or full-time magistrate; other than by death or disability; and
- (2) is not eligible for a retirement benefit under this chapter; is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.
- (b) Upon the withdrawal, the participant is entitled to receive the total sum contributed plus interest at a rate specified by rule by the board, payable within sixty (60) days from the date of the withdrawal application or in monthly installments as the participant may elect.
- (c) A participant who withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for the participant's years of service accrued before the withdrawal, unless the participant pays into the



fund the full amount received by the participant when the participant withdrew from the fund plus interest at a rate specified by rule by the board. The board shall grant service credit to a participant for the years of service accrued by the participant before the participant's withdrawal from the fund if the participant makes the repayment required by this section in a lump sum or a series of payments determined by the board, not to exceed five (5) annual installments.

SECTION 14. IC 33-39-7-14, AS AMENDED BY P.L.16-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 14. (a) Interest shall be credited **at least** annually on **or before** June 30 at a rate specified by rule by the board on all amounts credited to the member as of June 30 of the preceding year.

- (b) Contributions begin to accumulate interest at the beginning of the fiscal year after the year in which the contributions are due.
- (c) When a member retires or withdraws, a proportional interest credit determined under this chapter shall be paid for the period elapsed since the last date on which interest was credited.

SECTION 15. IC 36-8-8-8, AS AMENDED BY P.L.117-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. (a) Each fund member shall contribute during the period of the fund member's employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The employer shall send to the system board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, or an alternate date established by the rules of the system board, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

- (b) After December 31, 2011, an employer shall submit:
  - (1) the list described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the system board; and
  - (2) the contributions paid by or on behalf of a member under subsection (a) by electronic funds transfer.
- (c) Except as provided in section 7(n) or 7.2 of this chapter, if a fund member ends the fund member's employment other than by death or disability before the fund member completes twenty (20) years of



active service, the system board shall return to the fund member in a lump sum the fund member's contributions plus interest at a rate specified by rule by the system board. If the fund member returns to service, the fund member is entitled to credit for the years of service for which the fund member's contributions were refunded if the fund member repays the amount refunded to the fund member **plus interest** at a rate specified by rule by the system board in either a lump sum or a series of payments determined by the system board.



President of the Senate	
President Pro Tempore	
Speaker of the House of Represen	atatives
Governor of the State of Indiana	
Date:	Time:

