

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. 406

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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 5-10-5.5-0.1, AS ADDED BY P.L.220-2011, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 0.1. (a) As used in this section, "plan" refers to the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan established by section 2 of this chapter.

(b) The following amendments to this chapter apply as follows:

- (1) The addition of section 7.5 of this chapter by P.L.180-2007 applies after June 30, 2007, to active participants of the plan.
- (2) The amendments made to section 8 of this chapter by P.L.180-2007 apply after June 30, 2007, to active participants of the plan.
- (3) The amendments made to sections 10, 11, and 12 of this chapter by P.L.180-2007 apply to participants of the plan who retire after June 30, 2007.
- (4) The amendments made to sections 7 and 13.5 of this chapter by P.L.180-2007 apply to participants of the plan who become disabled after June 30, 2007.
- (5) The addition of section 22 of this chapter by P.L.128-2008 applies only to a participant in the plan who is in active service after June 30, 2008.
- (6) The amendments made to sections 9 and 10 of this chapter by

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P.L.128-2008 apply only to a participant in the plan who is in active service after June 30, 2008.

**(7) The amendments made to section 22 of this chapter during the 2020 regular session of the general assembly apply only to a participant who:**

**(A) enters the DROP, before, on, or after June 30, 2020; and**

**(B) dies after June 30, 2020.**

SECTION 2. IC 5-10-5.5-22, AS ADDED BY P.L.128-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 22. (a) As used in this section, "DROP" refers to a deferred retirement option plan established under this section.

(b) As used in this section, "DROP entry date" means the date that a participant's election to enter a DROP becomes effective.

(c) As used in this section, "DROP frozen benefit" refers to an annual retirement allowance computed under section 10 of this chapter based on a participant's:

- (1) average annual salary; and
- (2) years of creditable service;

on the date the participant enters the DROP.

(d) As used in this section, "DROP retirement date" means the future retirement date selected by a participant at the time the participant elects to enter the DROP.

(e) Only a participant who is eligible to receive an unreduced annual retirement allowance immediately upon termination of employment may elect to enter a DROP. A participant who elects to enter the DROP must agree to the following:

- (1) The participant shall execute an irrevocable election to retire on the DROP retirement date and must remain in active service until that date.
- (2) While in the DROP, the participant shall continue to make contributions under section 8 of this chapter.
- (3) The participant shall select a DROP retirement date not less than twelve (12) months and not more than thirty-six (36) months after the participant's DROP entry date.
- (4) The participant may not remain in the DROP after the date the participant reaches the mandatory retirement age under section 9 of this chapter.
- (5) The participant may make an election to enter the DROP only once in the participant's lifetime.

(f) Contributions or payments provided by the general assembly under section 4(b)(4) of this chapter continue for a participant while

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the participant is in the DROP.

(g) A participant shall exit the DROP on the earliest of the following:

- (1) The participant's DROP retirement date.
- (2) Thirty-six (36) months after the participant's DROP entry date.
- (3) The participant's mandatory retirement age.
- (4) The date the participant retires because of a disability as provided by subsection (k).

(h) A participant who retires on the participant's DROP retirement date or on the date the participant retires because of a disability as provided by subsection (k) may elect to receive an annual retirement allowance:

- (1) computed under section 10 of this chapter as if the participant had never entered the DROP; or
- (2) consisting of:
  - (A) the DROP frozen benefit; plus
  - (B) an additional amount, paid as the participant elects under subsection (i), determined by multiplying:
    - (i) the DROP frozen benefit; by
    - (ii) the number of months the participant was in the DROP.

(i) The participant shall elect, at the participant's retirement, to receive the additional amount calculated under subsection (h)(2)(B) in one (1) of the following ways:

- (1) A lump sum paid on:
  - (A) the participant's DROP retirement date; or
  - (B) the date the participant retires because of a disability as provided by subsection (k).
- (2) Three (3) equal annual payments:
  - (A) commencing on:
    - (i) the participant's DROP retirement date; or
    - (ii) the date the participant retires because of a disability as provided by subsection (k); and
  - (B) thereafter paid on:
    - (i) the anniversary of the participant's DROP retirement date; or
    - (ii) the date the participant retires because of a disability as provided by subsection (k).

(j) A cost of living increase determined under section 21(c) of this chapter does not apply to the additional amount calculated under subsection (h)(2)(B) at the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k). No cost of living increase is applied to a DROP frozen



benefit while the participant is in the DROP. After the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k), cost of living increases determined under section 21(c) of this chapter apply to the participant's annual retirement allowance computed under this section.

(k) If a participant becomes disabled, in the line of duty or other than in the line of duty while in the DROP, the participant's annual retirement allowance is computed as follows:

(1) If the participant retires because of a disability less than twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated as if the participant had never entered the DROP.

(2) If the participant retires because of a disability at least twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated under this section, and the participant's retirement date is the date the member retires because of a disability rather than the participant's DROP retirement date.

(l) If, before payment of the participant's annual retirement allowance begins, the participant dies in the line of duty or other than in the line of duty, death benefits are payable **to the participant's surviving spouse. If there is no surviving spouse, the death benefits must be divided equally among the participant's surviving children. If there are no surviving children, the death benefits are paid to the participant's parents. If there are no surviving parents, the death benefits are paid to the participant's estate. The death benefits are determined** as follows:

(1) **If the participant dies less than twelve (12) months after the date the participant enters the DROP, the death benefits are calculated as if the participant had never entered the DROP.**

(2) **If the participant dies at least twelve (12) months after the date the participant enters the DROP, the death benefits consist of both of the following:**

(+) **(A) At the election of the survivor or survivors to whom the benefit is payable, the benefit calculated under subsection (h)(2)(B) is paid in either:**

(i) a lump sum; to the participant's surviving spouse. If there is no surviving spouse, the lump sum must be divided equally among the participant's surviving children. If there are no surviving children, the lump sum is paid to the participant's parents. If there are no surviving parents, the



lump sum is paid to the participant's estate; or  
**(ii) three (3) equal annual payments, the first as soon as practicable after the date of the participant's death, the second on the first anniversary of the participant's death, and the third on the second anniversary of the participant's death.**

~~(2)~~ **(B)** A benefit is paid on the DROP frozen benefit under the terms of the retirement plan created by this chapter.

(m) Except as provided under subsections (k) and (l), the annual retirement allowance for a participant who exits the DROP for any reason other than retirement on the participant's DROP retirement date is calculated as if the participant had never entered the DROP.

SECTION 3. IC 36-8-8.5-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 0.1. The amendments made to section 15 of this chapter during the 2020 regular session of the general assembly apply only to a member who:**

- (1) enters the DROP, before, on, or after June 30, 2020; and**
- (2) dies after June 30, 2020.**

SECTION 4. IC 36-8-8.5-14, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. (a) Subject to subsection (b), a member who enters the DROP established by this chapter shall exit the DROP at the earliest of:

- (1) the member's DROP retirement date;
- (2) thirty-six (36) months after the member's DROP entry date;
- (3) the mandatory retirement age applicable to the member, if any; **or**
- (4) the date the member retires because of a disability as provided under section 16.5(d) of this chapter. ~~or~~
- ~~(5) the date determined under IC 36-8-8-24.8 (before its expiration).~~

(b) A member of the 1925 fund, the 1937 fund, or the 1953 fund who enters the DROP established by this chapter must exit the DROP on the date the authority of the board of trustees of the Indiana public retirement system to distribute from the pension relief fund established under IC 5-10.3-11-1 to units of local government (described in IC 5-10.3-11-3) amounts determined under IC 5-10.3-11-4.7 expires.

SECTION 5. IC 36-8-8.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 15. **(a)** If a member dies

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- (+) in the line of duty or
- (-) other than in the line of duty

while the member is in the DROP, benefits for the member's survivors are calculated under the provisions of the applicable fund as follows:

**(1) If the member dies less than twelve (12) months after the date the member enters the DROP, the benefits for the member's survivors are calculated as if the member had never entered the DROP.**

**(2) If the member dies at least twelve (12) months after the date the member enters the DROP, the benefits for the member's survivors consist of both of the following:**

**(A) A benefit for the member's survivors paid by and calculated under the provisions of the applicable fund as if the member had never entered the DROP.**

**(B) An additional, separate amount that is not calculated as a part of a benefit for the member's survivors from the applicable fund and that is:**

- (i) calculated under subsection (b); and**
- (ii) paid to the member's survivors in accordance with the survivor's election under subsection (c).**

**(b) The additional, separate amount of the benefit for a member's survivors that is described in subsection (a)(2)(B) is equal to:**

- (1) the amount of the DROP frozen benefit; multiplied by**
- (2) the number of months that the member was in the DROP.**

**(c) The survivors of a member who are eligible to receive the additional, separate amount described in subsection (a)(2)(B) must elect to receive the additional, separate amount by either of the following methods:**

- (1) A lump sum paid as soon as practicable after the member's death.**
- (2) Three (3) equal annual payments, the first as soon as practicable after the date of the member's death, the second on the first anniversary of the member's death, and the third on the second anniversary of the member's death.**



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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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