

SENATE BILL No. 150

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-23-5-13; IC 33-38.

Synopsis: Judges' and magistrates' pensions. Establishes the 2014 judges' retirement, disability, and death system (2014 judges' system), which conforms closely to the features of the prosecuting attorneys' retirement system. Provides that an individual who becomes a judge or a magistrate after June 30, 2014, shall participate in the 2014 judges' system.

Effective: July 1, 2014.

Boots

January 8, 2014, read first time and referred to Committee on Pensions and Labor.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 150



A BILL FOR AN ACT to amend the Indiana Code concerning pensions and to make an appropriation.

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

1 SECTION 1. IC 33-23-5-13, AS AMENDED BY P.L.122-2008,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 13. (a) Except as provided in ~~subsection (b)~~;
4 **subsections (b) and (c)**, a magistrate may:
5 (1) participate in the public employees' retirement fund as
6 provided in IC 5-10.3; or
7 (2) elect to remain in the judges' retirement system under
8 IC 33-38 if the magistrate had previously participated in the
9 system.
10 (b) A person who:
11 (1) is serving as a full-time magistrate on July 1, 2010, and makes
12 an election under IC 33-38-8-10.5; or
13 (2) begins serving as a full-time magistrate after July 1, 2010, **and**
14 **before July 1, 2014;**
15 shall, beginning January 1, 2011, participate in the judges' 1985 benefit
16 system under IC 33-38-8.



1 **(c) A person who begins serving as a full-time magistrate after**
 2 **June 30, 2014, shall participate in the judges' 2014 benefit system**
 3 **under IC 33-38-8.3.**

4 SECTION 2. IC 33-38-6-13 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. The fund must
 6 satisfy the qualification requirements in Section 401 of the Internal
 7 Revenue Code, as applicable to the fund. In order to meet those
 8 requirements, the fund is subject to the following provisions,
 9 notwithstanding any other provision of this chapter, IC 33-38-7, ~~or~~
 10 IC 33-38-8, **or IC 33-38-8.3:**

11 (1) The board shall distribute the corpus and income of the fund
 12 to participants and their beneficiaries in accordance with this
 13 chapter, IC 33-38-7, ~~and~~ IC 33-38-8, **and IC 33-38-8.3.**

14 (2) A part of the corpus or income of the fund may not be used or
 15 diverted to a purpose other than the exclusive benefit of the
 16 participants and their beneficiaries.

17 (3) Forfeitures arising from severance of employment, death, or
 18 for any other reason may not be applied to increase the benefits a
 19 participant would otherwise receive under the fund.

20 (4) If the fund is terminated or if all contributions to the fund are
 21 completely discontinued, the rights of each affected participant to
 22 the benefits accrued at the date of the termination or
 23 discontinuance, to the extent then funded, are nonforfeitable.

24 (5) All benefits paid from the fund shall be distributed in
 25 accordance with the requirements of Section 401(a)(9) of the
 26 Internal Revenue Code and the regulations under that section. In
 27 order to meet those requirements, the fund is subject to the
 28 following provisions:

29 (A) The life expectancy of a participant, the participant's
 30 spouse, or the participant's beneficiary shall not be
 31 recalculated after the initial determination, for purposes of
 32 determining benefits.

33 (B) If a participant dies before the distribution of the
 34 participant's benefits has begun, distributions to beneficiaries
 35 must begin not later than December 31 of the calendar year
 36 immediately following the calendar year in which the
 37 participant died.

38 (6) The board may not:

39 (A) determine eligibility for benefits;

40 (B) compute rates of contribution; or

41 (C) compute benefits of participants or beneficiaries;

42 in a manner that discriminates in favor of participants who are



1 considered officers, supervisors, or highly compensated, as
2 prohibited under Section 401(a)(4) of the Internal Revenue Code.

3 (7) The salary taken into account under this chapter, IC 33-38-7,
4 ~~or~~ IC 33-38-8, **or IC 33-38-8.3** may not exceed the applicable
5 amount under Section 401(a)(17) of the Internal Revenue Code.

6 SECTION 3. IC 33-38-6-15 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. (a) Conditions for
8 participation in the fund, contributions to the fund, withdrawal from the
9 fund, and eligibility for and computation of benefits for participants
10 and their survivors are governed by IC 33-38-7, ~~and~~ IC 33-38-8, **and**
11 **IC 33-38-8.3.**

12 (b) Notwithstanding any provision of this chapter, IC 33-38-7, ~~or~~
13 IC 33-38-8, **or IC 33-38-8.3**, the fund must be administered in a
14 manner consistent with the Family and Medical Leave Act of 1993
15 (29 U.S.C. 2601 et seq.). A participant on a leave of absence that
16 qualifies for the benefits and protections afforded by the Family and
17 Medical Leave Act is entitled to receive credit for vesting and
18 eligibility purposes to the extent required by the Family and Medical
19 Leave Act but is not entitled to receive credit for service for benefit
20 purposes.

21 (c) Notwithstanding any provision of this chapter, IC 33-38-7, ~~and~~
22 IC 33-38-8, **and IC 33-38-8.3**, a participant is entitled to service credit
23 and benefits in the amount and to the extent required by the Uniformed
24 Services Employment and Reemployment Rights Act (38 U.S.C. 4301
25 et seq.).

26 SECTION 4. IC 33-38-6-18 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 18. The amount
28 appropriated under section 17 of this chapter for participants'
29 retirement benefits shall be used for retirement benefits under
30 IC 33-38-7, ~~and~~ IC 33-38-8, **and IC 33-38-8.3.**

31 SECTION 5. IC 33-38-6-19 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19. The fund shall be
33 construed to be a trust, separate and distinct from all other entities,
34 maintained to secure payment of benefits to the participants and their
35 beneficiaries, as prescribed in IC 33-38-7, ~~and~~ IC 33-38-8, **and**
36 **IC 33-38-8.3.**

37 SECTION 6. IC 33-38-6-21.5, AS ADDED BY P.L.13-2011,
38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2014]: Sec. 21.5. (a) This section applies to reports, records,
40 and contributions submitted after December 31, 2011, under this
41 chapter, IC 33-38-7, ~~and~~ IC 33-38-8, **and IC 33-38-8.3.**

42 (b) An employer shall submit through the use of electronic funds



1 transfer:

2 (1) employer payments made to fund the retirement, disability,
3 and survivor benefits described in this chapter, IC 33-38-7, ~~and~~
4 IC 33-38-8, **and IC 33-38-8.3**; and

5 (2) contributions paid by or on behalf of a participant under
6 section 21 of this chapter, IC 33-38-7-10, ~~or~~ IC 33-38-8-11, ~~or~~
7 **IC 33-38-8.3-4**.

8 (c) An employer shall submit in a uniform format through a secure
9 connection over the Internet or through other electronic means
10 specified by the board the reports and records required by the board
11 under this chapter, IC 33-38-7, ~~or~~ IC 33-38-8, **or IC 33-38-8.3**.

12 (d) The board shall establish by rule the due dates for all reports,
13 records, and contributions required under this chapter, IC 33-38-7, ~~or~~
14 IC 33-38-8, **or IC 33-38-8.3**.

15 SECTION 7. IC 33-38-6-23, AS AMENDED BY P.L.35-2012,
16 SECTION 103, IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2014]: Sec. 23. (a) The board of trustees of the
18 Indiana public retirement system (referred to as "the system" in this
19 section) shall administer the fund, which may be commingled for
20 investment purposes with any public pension and retirement fund
21 administered by the system.

22 (b) The board shall do the following:

23 (1) Determine eligibility for and make payments of benefits under
24 IC 33-38-7, ~~and~~ IC 33-38-8, **and IC 33-38-8.3**.

25 (2) In accordance with the powers and duties granted it in
26 IC 5-10.3-3-7.1, IC 5-10.3-5-3 through IC 5-10.3-5-6,
27 IC 5-10.5-4, and IC 5-10.5-6, administer the fund.

28 (3) Provide by rule for the implementation of this chapter, ~~and~~
29 IC 33-38-7, ~~and~~ IC 33-38-8, **and IC 33-38-8.3**.

30 (4) Authorize deposits.

31 (c) A determination by the board may be appealed under the
32 procedures in IC 4-21.5.

33 (d) The powers and duties of:

34 (1) the director and the actuary of the board; and

35 (2) the attorney general;

36 with respect to the fund are those specified in IC 5-10.3-3, IC 5-10.3-4,
37 IC 5-10.5-4, and IC 5-10.5-6.

38 (e) The board may hire additional personnel, including hearing
39 officers, to assist it in the implementation of this chapter.

40 (f) Fund records of individual participants and participants'
41 information are confidential, except for the name and years of service
42 of a fund participant.



1 SECTION 8. IC 33-38-6-24 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 24. Notwithstanding
 3 any other provision of this chapter, IC 33-38-7, ~~or~~ IC 33-38-8, **or**
 4 **IC 33-38-8.3**, to the extent required by Internal Revenue Code Section
 5 401(a)(31) of the Internal Revenue Code, as added by the
 6 Unemployment Compensation Amendments of 1992 (P.L. 102-318),
 7 and any amendments and regulations related to Section 401(a)(31) of
 8 the Internal Revenue Code, the fund shall allow participants and
 9 qualified beneficiaries to elect a direct rollover of eligible distributions
 10 to another eligible retirement plan.

11 SECTION 9. IC 33-38-8.3 IS ADDED TO THE INDIANA CODE
 12 AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2014]:

14 **Chapter 8.3. 2014 Retirement, Disability, and Death System**

15 **Sec. 1. This chapter applies only to an individual who begins**
 16 **service as a judge or a full-time magistrate after June 30, 2014.**

17 **Sec. 2. (a) Except as otherwise provided in subsection (b), the**
 18 **definitions set forth in IC 33-38-6 apply throughout this chapter.**

19 **(b) The following definitions apply throughout this chapter:**

20 **(1) "Eligible position" means a position of employment as:**

21 **(A) a judge; or**

22 **(B) a full-time magistrate.**

23 **(2) "Service" refers to the period:**

24 **(A) beginning on the first day on which an individual**
 25 **becomes a judge or a full-time magistrate; and**

26 **(B) ending on the date under consideration.**

27 **The term includes all intervening employment as a judge or**
 28 **a full-time magistrate.**

29 **Sec. 3. A person who:**

30 **(1) begins service as a judge or a full-time magistrate after**
 31 **June 30, 2014; and**

32 **(2) is not a participant in the fund;**

33 **shall become a participant in the fund.**

34 **Sec. 4. (a) Except as otherwise provided in this section, a**
 35 **participant shall make contributions to the fund of six percent**
 36 **(6%) of each payment of salary received for services as a judge or**
 37 **a full-time magistrate.**

38 **(b) The employer may elect to pay the contribution for the**
 39 **participant as a pickup under Section 414(h) of the Internal**
 40 **Revenue Code.**

41 **(c) A participant is not required to contribute to the fund during**
 42 **any period in which the participant is not serving as a judge or**



1 full-time magistrate.

2 (d) After a participant has contributed to the fund for
3 twenty-two (22) years as provided in this section, the participant is
4 not required to make additional contributions to the fund.

5 (e) Participants' contributions, other than participants'
6 contributions paid by the employer, shall be deducted from the
7 monthly salary of each participant by the auditor of state and by
8 the county auditor and credited to the fund as provided in
9 IC 33-38-6-21 and IC 33-38-6-22.

10 (f) The auditor of state and the county auditor shall submit the
11 contributions paid by or on behalf of a participant under this
12 section by electronic funds transfer in accordance with
13 IC 33-38-6-21.5.

14 **Sec. 5. (a) A participant who:**

15 (1) ceases service as a judge or a full-time magistrate, other
16 than by death or disability; and

17 (2) is not eligible for a retirement benefit under this chapter;
18 is entitled to withdraw from the fund, beginning on the date
19 specified by the participant in a written application to the board.
20 The date upon which the withdrawal begins may not be before the
21 date of final termination of employment or the date thirty (30) days
22 before the receipt of the application by the board. Upon
23 withdrawal the participant is entitled to receive the total sum
24 contributed plus interest at a rate specified by rule by the board,
25 payable not later than sixty (60) days from the date of the
26 withdrawal application.

27 (b) Notwithstanding IC 33-38-6-11, a participant who
28 withdraws from the fund under subsection (a) and becomes a
29 participant again at a later date is not entitled to service credit for
30 years of service before the withdrawal, unless the participant pays
31 into the fund the full amount received by the participant when the
32 participant withdrew from the fund, plus interest at a rate
33 specified by rule by the board. The board shall grant a participant
34 service credit for years of service by the participant before the
35 participant's withdrawal from the fund if the participant makes
36 the repayment required by this subsection in a lump sum or a
37 series of payments determined by the board, not exceeding five (5)
38 annual installments.

39 **Sec. 6. (a) Interest shall be credited annually on June 30 at a**
40 **rate specified by rule by the board on all amounts credited to a**
41 **participant as of June 30 of the preceding year.**

42 (b) Contributions begin to accumulate interest at the beginning



1 of the fiscal year after the year in which the contributions are due.

2 (c) When a participant retires or withdraws, a proportional
3 interest credit determined under this chapter shall be paid for the
4 period elapsed since the last date on which interest was credited.

5 **Sec. 7.** A participant whose employment in an eligible position
6 is terminated is entitled to a retirement benefit computed under
7 section 8 or 10 of this chapter, beginning on the date specified by
8 the participant in a written application to the board, if all the
9 following conditions are met:

10 (1) The application for retirement benefits and the choice of
11 the retirement date is filed on a form provided by the board
12 and the retirement date is:

13 (A) after the cessation of the participant's service;

14 (B) on the first day of a month; and

15 (C) not more than six (6) months before the date the
16 application is received by the board.

17 However, if the board determines that a participant is
18 incompetent to file for benefits and choose a retirement date,
19 the retirement date may be any date that is the first of the
20 month after the time the participant became incompetent.

21 (2) The participant:

22 (A) is at least sixty-two (62) years of age and has at least
23 eight (8) years of service credit;

24 (B) is at least fifty-five (55) years of age and the
25 participant's age in years plus the participant's years of
26 service is at least eighty-five (85); or

27 (C) has become permanently disabled.

28 (3) The participant is not receiving and is not entitled to
29 receive any salary for services currently performed.

30 **Sec. 8.** (a) This section does not apply to a participant who
31 receives benefits for a permanent disability under section 10 of this
32 chapter.

33 (b) A participant who:

34 (1) applies for a retirement benefit; and

35 (2) is at least:

36 (A) sixty-five (65) years of age; or

37 (B) fifty-five (55) years of age and the participant's age in
38 years plus the participant's years of service is at least
39 eighty-five (85);

40 is entitled to an annual retirement benefit as calculated in
41 subsection (c).

42 (c) Except as provided in subsections (d), (e), and (f), the amount



1 of the annual retirement benefit to which a participant described
2 in subsection (b) is entitled equals the product of:

- 3 (1) the highest annual salary that was paid to the participant
4 before separation from service; multiplied by
5 (2) the applicable percentage prescribed in the following
6 table:

7	Participant's Years	Percentage
8	of Service	
9	Less than 8	0
10	8	24%
11	9	27%
12	10	30%
13	11	33%
14	12	50%
15	13	51%
16	14	52%
17	15	53%
18	16	54%
19	17	55%
20	18	56%
21	19	57%
22	20	58%
23	21	59%
24	22 or more	60%

25 If a participant has a partial year of service in addition to at least
26 eight (8) full years of service, an additional percentage is calculated
27 under this subsection by prorating between the applicable
28 percentages, based on the number of months in the partial year of
29 service.

30 (d) Except as provided in subsections (e) and (f), and section
31 11(c)(2)(B) of this chapter, a participant who:

- 32 (1) applies for a retirement benefit; and
33 (2) is not described in subsection (b);

34 is entitled to receive a reduced annual retirement benefit that
35 equals the benefit that would be payable if the participant were
36 sixty-five (65) years of age reduced by one-fourth percent (0.25%)
37 for each month that the participant's age at retirement precedes
38 the participant's sixty-fifth birthday.

39 (e) Except as provided in subsection (f), benefits payable to a
40 participant under this section are reduced by the pension, if any,
41 that would be payable to the participant from the public
42 employees' retirement fund if the participant had retired from the



1 public employees' retirement fund on the date of the participant's
 2 retirement from the judges' retirement fund. Benefits payable to
 3 a participant under this section are not reduced by annuity
 4 payments made to the participant from the public employees'
 5 retirement fund.

6 (f) This subsection applies to a participant who is a member of
 7 the public employees' defined contribution (annuity savings
 8 account only) plan established by IC 5-10.3-12-18. Benefits payable
 9 to a participant under this section are reduced by the pension
 10 portion of the retirement benefit, if any, that would be payable to
 11 the participant from the public employees' retirement fund if the
 12 participant:

- 13 (1) had not made an election under IC 5-10.3-12-20 to become
- 14 a member of the public employees' defined contribution
- 15 (annuity savings account only) plan; and
- 16 (2) had retired from the public employees' retirement fund on
- 17 the date of the participant's retirement from the judges'
- 18 retirement fund.

19 (g) If benefits payable from the public employees' retirement
 20 fund exceed the benefits payable from the judges' retirement fund,
 21 a participant is entitled at retirement to withdraw from the judges'
 22 retirement fund the total sum contributed plus interest at a rate
 23 specified by rule by the board.

24 Sec. 9. (a) A participant is considered to have a permanent
 25 disability if the board has received written certifications by at least
 26 two (2) licensed and practicing physicians, appointed by the board,
 27 that:

- 28 (1) the participant is totally incapacitated, by reason of
- 29 physical or mental infirmities, from earning a livelihood; and
- 30 (2) the condition is likely to be permanent.

31 (b) A participant found to have a permanent disability under
 32 subsection (a) must be reexamined by at least two (2) physicians
 33 appointed by the board, at the times the board designates but at
 34 intervals not to exceed one (1) year. If, in the opinion of these
 35 physicians, the participant has recovered from the participant's
 36 disability, benefits cease to be payable as of the date of the
 37 examination, unless on that date the participant is:

- 38 (1) at least sixty-five (65) years of age; or
- 39 (2) at least fifty-five (55) years of age and the participant's age
- 40 in years plus the participant's years of service is at least
- 41 eighty-five (85).

42 (c) To the extent required by the Americans with Disabilities



1 Act, the transcripts, reports, records, and other material generated
 2 to prove that a participant is qualified for disability benefits under
 3 this section must be:

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

6 Sec. 10. (a) Except as provided in subsections (b) and (c), a
 7 participant who becomes permanently disabled, as described in
 8 section 9 of this chapter, is entitled to an annual benefit equal to the
 9 product of:

- 10 (1) the annual salary that was paid to the participant at the
- 11 time of separation from service; multiplied by
- 12 (2) the percentage prescribed in the following table:

13 Participant's Years	Percentage
14 of Service	
15 0-12	50%
16 13	51%
17 14	52%
18 15	53%
19 16	54%
20 17	55%
21 18	56%
22 19	57%
23 20	58%
24 21	59%
25 22 or more	60%

26 If a participant has a partial year of service in addition to at least
 27 ten (10) years of service, an additional percentage is calculated
 28 under this subsection by prorating between the applicable
 29 percentages, based on the number of months in the partial year of
 30 service.

31 (b) Except as provided in subsection (c), benefits payable to a
 32 participant under this section are reduced by the amounts, if any,
 33 that are payable to the participant from the public employees'
 34 retirement fund.

35 (c) This subsection applies to a participant who is a member of
 36 the public employees' defined contribution (annuity savings
 37 account only) plan established by IC 5-10.3-12-18. Benefits payable
 38 to a participant under this section are reduced by the pension
 39 portion of the retirement benefit, if any, that would be payable to
 40 the participant from the public employees' retirement fund if the
 41 participant had not made an election under IC 5-10.3-12-20 to
 42 become a member of the public employees' defined contribution



1 (annuity savings account only) plan.

2 **Sec. 11. (a)** A participant may designate the participant's
3 surviving spouse or one (1) or more of the participant's surviving
4 dependent children to receive the benefit provided by this section
5 upon the death of the participant. A participant may designate a
6 trust or a custodian account under IC 30-2-8.5 that is established
7 for one (1) or more of the participant's surviving dependent
8 children to receive the benefit provided in this section instead of
9 designating one (1) or more of the participant's surviving
10 dependent children to receive the benefit directly.

11 **(b)** If a participant:

12 (1) dies; and

13 (2) on the date of death:

14 (A) was receiving benefits under this chapter;

15 (B) was in service in an eligible position and had completed
16 at least eight (8) years of service in an eligible position;

17 (C) had a permanent disability as described in section 9 of
18 this chapter; or

19 (D) was not in service in an eligible position, had completed
20 at least eight (8) years of service in an eligible position, and
21 was entitled to a future benefit;

22 the participant's beneficiary designated under subsection (a) is
23 entitled, regardless of the participant's age, to the benefit
24 prescribed by subsection (c), (e), or (f).

25 **(c)** The amount of the annual benefit payable to a beneficiary to
26 whom subsection (b) applies is equal to the greater of:

27 (1) twelve thousand dollars (\$12,000); or

28 (2) fifty percent (50%) of the amount of retirement benefit:

29 (A) the participant was drawing at the time of death; or

30 (B) to which the participant would have been entitled had
31 the participant retired and begun receiving retirement
32 benefits on the date of death. However, the reduction
33 described in section 8(d) of this chapter does not apply to
34 the calculation of a survivor benefit under this clause.

35 **(d)** A benefit payable under this section is subject to the
36 following:

37 (1) A surviving spouse designated as the beneficiary under
38 subsection (a) is entitled to receive the benefit for the
39 remainder of the spouse's life.

40 (2) The total monthly benefit payable to a surviving child or
41 children is equal to the same monthly benefit that was to have
42 been payable to the surviving spouse.



- 1 **(3) If there is more than one (1) child designated by the**
 2 **participant, the children are entitled to share the benefit in**
 3 **equal monthly amounts.**
- 4 **(4) A child entitled to a benefit shall receive the child's share**
 5 **until the child becomes eighteen (18) years of age or during**
 6 **the entire period of the child's physical or mental disability,**
 7 **whichever period is longer.**
- 8 **(5) Upon the cessation of benefits to one (1) designated child,**
 9 **if there are one (1) or more other children then surviving and**
 10 **still entitled to benefits, the remaining children shall share the**
 11 **benefit equally. If the surviving spouse of the participant is**
 12 **surviving upon the cessation of benefits to all designated**
 13 **children, the surviving spouse shall then receive the benefit**
 14 **for the remainder of the spouse's life.**
- 15 **(6) The benefit is payable to the participant's surviving spouse**
 16 **if any of the following occur:**
- 17 **(A) No child or children named as a beneficiary by the**
 18 **participant survives or survive the participant.**
- 19 **(B) No child or children designated by the participant is or**
 20 **are entitled to a benefit due to the age of the child or**
 21 **children at the time of death of the participant.**
- 22 **(C) A designation is not made.**
- 23 **(e) Except as provided in subsection (f), benefits payable to a**
 24 **designated beneficiary under this section are reduced by the**
 25 **amount, if any, that is payable to the surviving spouse or the**
 26 **surviving dependent children from the public employees'**
 27 **retirement fund as a result of the participant's death after**
 28 **subtracting the participant's contributions and earnings**
 29 **attributable to the participant's contributions in the participant's**
 30 **annuity savings account.**
- 31 **(f) This subsection applies to a surviving spouse of a participant**
 32 **who is a member of the public employees' defined contribution**
 33 **(annuity savings account only) plan established by IC 5-10.3-12-18.**
 34 **Benefits payable to a surviving spouse of a participant under this**
 35 **section are reduced by the pension portion of the retirement**
 36 **benefit, if any, that would be payable to the spouse from the public**
 37 **employees' retirement fund under the joint and survivor option**
 38 **under IC 5-10.2-4-7, computed at fifty percent (50%) of the**
 39 **participant's decreased retirement benefit, if the participant had**
 40 **not made an election under IC 5-10.3-12-20 to become a member**
 41 **of the public employees' defined contribution (annuity savings**
 42 **account only) plan.**



1 **Sec. 12. (a) If:**

2 (1) a participant's spouse does not survive the participant;
3 and

4 (2) the participant did not designate one (1) or more of the
5 participant's surviving dependent children to receive the
6 benefit provided in section 11 of this chapter;

7 the participant's surviving dependent children are, upon the death
8 of the participant, entitled to a benefit equal to the benefit the
9 participant's spouse would have received under section 11 of this
10 chapter.

11 (b) If a surviving spouse of a decedent participant dies and a
12 dependent child of the surviving spouse and the decedent
13 participant survives them, the dependent child is entitled to receive
14 a benefit equal to the benefit the spouse was receiving or would
15 have received under section 11 of this chapter.

16 (c) If there is more than one (1) dependent child under
17 subsection (b), the dependent children are entitled to share the
18 benefit equally.

19 (d) Each dependent child is entitled to receive that child's share
20 until the child becomes eighteen (18) years of age or during the
21 entire period of the child's physical or mental disability, whichever
22 period is longer.

23 (e) Except as provided in subsection (f), benefits payable to a
24 dependent child are reduced by the amount, if any, that is payable
25 to the dependent child from the public employees' retirement fund
26 after subtracting the participant's contributions and earnings
27 attributable to the participant's contributions in the participant's
28 annuity savings account.

29 (f) This subsection applies to a dependent child of a participant
30 who is a member of the public employees' defined contribution
31 (annuity savings account only) plan established by IC 5-10.3-12-18.
32 Benefits payable to a dependent child of a participant under this
33 section are reduced by the actuarial equivalent of the pension
34 portion of the retirement benefit, if any, that would be payable to
35 the spouse (assuming the spouse would have had the same birth
36 date as the participant) from the public employees' retirement fund
37 under the joint and survivor option under IC 5-10.2-4-7, computed
38 at fifty percent (50%) of the participant's decreased retirement
39 benefit, if the participant had not made an election under
40 IC 5-10.3-12-20 to become a member of the public employees'
41 defined contribution (annuity savings account only) plan.

42 **Sec. 13. (a) If benefits are not payable to the survivors of a**



1 participant who dies, and if a withdrawal application is filed with
2 the board by the survivors or the participant's estate, the total of
3 the participant's contributions, plus interest at a rate specified by
4 rule by the board and minus any payments made to the
5 participant, shall be paid to:

6 (1) the surviving spouse of the participant or the children of
7 the participant, as designated by the participant;

8 (2) any dependents of the participant, if a spouse or
9 designated child does not survive; or

10 (3) the participant's estate, if a spouse, designated child, or
11 other dependent does not survive.

12 (b) The amount owed to a spouse, designated children, other
13 dependents, or the estate under subsection (a) is payable not later
14 than sixty (60) days after the date of receipt of the withdrawal
15 application, or in monthly installments, as the recipient elects.

