

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. 181

---

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 FEBRUARY 1, 2018 (RETROACTIVE)]: 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

SEA 181



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

**(c) Notwithstanding any other law, if a participant dies in the line of duty after January 31, 2018, and before April 1, 2020, and a survivors' benefit is paid under section 17(b) of this chapter to the participant's survivor, either:**

**(1) the survivor may repay the full amount distributed under section 17(b) of this chapter and the board shall provide the full annual survivors' allowance allowed under section 16.6 of this chapter; or**

**(2) the board may adjust the amount of the full annual survivors' allowance allowed under section 16.6 of this chapter to account for any amount distributed under section 17(b) of this chapter.**

SECTION 2. IC 5-10-5.5-1, AS AMENDED BY P.L.35-2012, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 1, 2018 (RETROACTIVE)]: Sec. 1. ~~As used in~~ **The following definitions apply throughout** this chapter, and unless the context clearly denotes otherwise:

**(1) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.**

**(2) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.**

~~(3)~~ **(3) "Board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.**

**(4) "Commission" means the alcohol and tobacco commission.**

~~(5)~~ **(5) "Department" means the Indiana department of natural resources.**

~~(3)~~ **"Commission" means the alcohol and tobacco commission.**

**(6) "Dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the participant, in the participant's capacity as an officer:**

**(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or**

**(B) performs in the course of controlling or reducing crime or enforcing the criminal law.**



**The term includes a death presumed incurred in the line of duty under IC 5-10-13 for an officer who is an Indiana state excise police officer or an Indiana state conservation enforcement officer.**

**(7) "Interest" means the rate of interest specified by rule by the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.**

~~(4)~~ **(8) "Officer" means any Indiana state excise police officer, any Indiana state conservation enforcement officer, any gaming agent, or any gaming control officer.**

~~(5)~~ **(9) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.**

~~(6)~~ **"Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.**

~~(7)~~ **"Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.**

~~(8)~~ **(10) "Public employees' retirement act" means IC 5-10.3.**

~~(9)~~ **(11) "Public employees' retirement fund" means refers to the public employees' retirement fund created by IC 5-10.3-2.**

~~(10)~~ **"Interest" means the rate of interest specified by rule by the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.**

~~(11)~~ **"Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.**

~~(12)~~ **"Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.**

~~(12)~~ **(13) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.**

SECTION 3. IC 5-10-5.5-15, AS AMENDED BY P.L.136-2018, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018 (RETROACTIVE)]: Sec. 15. **(a) This subsection**



**applies to participants who die before February 1, 2018.** Surviving mothers, fathers, surviving spouses or unmarried children under the age of eighteen (18) years, of participants who have accrued at least fifteen (15) years of creditable service and who die, shall be entitled to receive survivors' benefits in the amount provided in this chapter. ~~Survivor's~~ **Survivors'** benefits shall be paid to such of the above enumerated persons as the participant shall nominate by written direction duly acknowledged and filed with the board.

**(b) This subsection applies to participants who die after January 31, 2018. Only surviving mothers, fathers, surviving spouses, or unmarried children under the age of eighteen (18) years of participants who die are eligible to receive survivors' benefits in the amount provided by this chapter. Survivors' benefits shall be paid to those eligible persons whom the participant nominates by written direction duly acknowledged and filed with the board.**

SECTION 4. IC 5-10-5.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 1, 2018 (RETROACTIVE)]:  
Sec. 16. (a) **This section applies to participants who die before February 1, 2018.**

**(b)** Benefits provided under this section are subject to section 2.5 of this chapter.

~~(b)~~ **(c)** A surviving mother or father nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance for life equal to fifty percent (50%) of the amount the participant would have been entitled to if ~~he~~ **the participant** had retired.

~~(c)~~ **(d)** A surviving spouse nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount the participant would have been entitled to if ~~he or she~~ **the participant** had retired. In the case of a surviving spouse who is more than five (5) years younger than the deceased participant at the time of the participant's death, the amount of the annual survivors' allowance shall be reduced actuarially, without regard to the sex of the spouse or the participant. In all cases the survivors' allowance to a surviving spouse shall cease with the last payment prior to the surviving spouse's death.

~~(d)~~ **(e)** A surviving child eligible and nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount the participant would have been entitled to if ~~he~~ **the participant** had retired. If more than one (1) surviving child is



eligible and nominated to receive survivors' benefits, the annual allowance shall be divided equally between or among such children. In all cases, the survivors' allowance to a child shall cease when the child attains the age of eighteen (18) years or marries, whichever occurs first. Where a survivors' allowance is divided between or among more than one (1) child, and payments to one (1) or more children cease, the total annual allowance payable shall be divided evenly among or between such of the remaining children who are eligible therefor.

(e) (f) In the event that no nomination is made by an eligible participant, or in the event that the nominated survivor predeceases the participant and no contingent survivor is nominated and an eligible participant dies, no survivors' allowance shall be payable. In such case, the board shall make a lump sum payment to the estate of the deceased participant equal to the total of all funds standing to the credit of the participant in the participant's savings fund plus accumulated interest thereon.

(f) (g) A survivor's allowance under this section that was terminated because of a surviving spouse's remarriage shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

SECTION 5. IC 5-10-5.5-16.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 1, 2018 (RETROACTIVE)]: **Sec. 16.3. (a)**

**This section applies to:**

- (1) an active participant, regardless of the participant's years of creditable service; and**
- (2) an inactive participant with at least fifteen (15) years of creditable service;**

**who dies other than in the line of duty after January 31, 2018.**

**(b) Benefits provided under this section are subject to section 2.5 of this chapter.**

**(c) A surviving mother or father nominated by the participant to receive survivors' benefits under the provisions of this chapter is entitled to an annual survivors' allowance for life equal to fifty percent (50%) of the amount to which the participant would have been entitled if the participant had retired with twenty-five (25) years of service at fifty (50) years of age.**

**(d) A surviving spouse nominated by the participant to receive survivors' benefits under the provisions of this chapter is entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount to which the participant would have been entitled if the participant had retired with twenty-five (25) years of service at fifty (50) years of age. A survivors' allowance payable to a**



surviving spouse under this subsection ends with the last payment before the surviving spouse's death.

(e) An eligible surviving child who is nominated by the participant to receive survivors' benefits under this chapter is entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount to which the participant would have been entitled if the participant had retired with twenty-five (25) years of service at fifty (50) years of age. If more than one (1) eligible surviving child is nominated to receive survivors' benefits, the annual survivors' allowance shall be divided equally between or among the eligible surviving children who were nominated to receive survivors' benefits. A survivors' allowance to a child ends when the child attains the age of eighteen (18) years or marries, whichever occurs first. If a survivors' allowance is divided between or among more than one (1) child, and payments to one (1) or more children receiving the survivor's allowance cease because of the age, marriage, or death of the child, the total annual survivors' allowance payable under this subsection shall be divided evenly among or between the surviving children, if any, who remain eligible to receive the survivors' allowance.

SECTION 6. IC 5-10-5.5-16.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 1, 2018 (RETROACTIVE)]: **Sec. 16.6. (a) This section applies to participants who die in the line of duty after January 31, 2018.**

(b) Benefits provided under this section are subject to section 2.5 of this chapter.

(c) A surviving mother or father nominated by the participant to receive survivors' benefits under the provisions of this chapter is entitled to an annual survivors' allowance for life equal to one hundred percent (100%) of the amount to which the participant would have been entitled if the participant had retired with twenty-five (25) years of service at fifty (50) years of age.

(d) A surviving spouse nominated by the participant to receive survivors' benefits under the provisions of this chapter is entitled to an annual survivors' allowance equal to one hundred percent (100%) of the amount to which the participant would have been entitled if the participant had retired with twenty-five (25) years of service at fifty (50) years of age. A survivors' allowance payable to a surviving spouse under this subsection ends with the last payment before the surviving spouse's death.

(e) An eligible surviving child who is nominated by the



participant to receive survivors' benefits under this chapter is entitled to an annual survivors' allowance equal to one hundred percent (100%) of the amount to which the participant would have been entitled if the participant had retired with twenty-five (25) years of service at fifty (50) years of age. If more than one (1) eligible surviving child is nominated to receive survivors' benefits, the annual survivors' allowance shall be divided equally between or among the eligible surviving children who were nominated to receive survivors' benefits. A survivors' allowance to a child ends when the child attains the age of eighteen (18) years or marries, whichever occurs first. If a survivors' allowance is divided between or among more than one (1) child, and payments to one (1) or more children receiving the survivor's allowance cease because of the age, marriage, or death of the child, the total annual survivors' allowance payable under this subsection shall be divided evenly among or between the surviving children, if any, who remain eligible to receive the survivors' allowance.

SECTION 7. IC 5-10-5.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 1, 2018 (RETROACTIVE)]:  
 Sec. 17. Any participant whose employment as an officer is terminated before accumulating fifteen (15) years of creditable service and ~~before attaining the age of forty-five (45) years~~ **and is not receiving a disability benefit under this chapter** shall be entitled to a lump-sum refund of all contributions standing to ~~his~~ **the participant's** credit in the participants' savings fund plus accumulated interest thereon.

(b) **This subsection applies to participants who die before February 1, 2018.** If a participant dies before accumulating fifteen (15) years of creditable service, all contributions standing to ~~his~~ **the participant's** credit in the participants' savings fund plus the accumulated interest thereon shall be paid by the board to the person the participant shall nominate by written direction duly acknowledged and filed with the board. The payment may be in the form of a lump sum or a series of payments, at the discretion of the board.

(c) If a participant dies before accumulating fifteen (15) years of creditable service and has nominated no beneficiary, or in the event that the participant's nominee predeceases ~~him~~, **the participant**, all contributions standing to ~~his~~ **the participant's** credit in the participants' savings fund, plus accumulated interest thereon shall be paid by the board to the estate of the deceased participant. The payment may be in the form of a lump sum or a series of payments, at the discretion of the board.

(d) If a participant terminates ~~his~~ **the participant's** employment



after accumulating fifteen (15) years of creditable service, but before becoming eligible for any benefits under this chapter, no refund of contributions and interest shall be allowed. In such case, the participant's contributions shall be retained by the board until the participant becomes eligible for benefits. At that time, benefits shall be paid to, or on behalf of the participant in the same manner and in the same amount as all similar benefits are paid.

**SECTION 8. An emergency is declared for this act.**





---

President of the Senate

---

President Pro Tempore

---

Speaker of the House of Representatives

---

Governor of the State of Indiana

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

**SEA 181**

