

BOARD OF TRUSTEES OF THE INDIANA PUBLIC RETIREMENT SYSTEM

Resolution No. 2012-12-01

Adopting rules related to the administration of the System as described herein.

WHEREAS, the Indiana Public Retirement System exists to provide retirement benefits to its members, their survivors, and beneficiaries;

WHEREAS, the Board of Trustees of the Indiana Public Retirement System, by statute, administers the funds listed in [IC 5-10.5-2-2](#);

WHEREAS, the Board of Trustees, pursuant to [IC 5-10.5-4-2](#), may establish and amend rules and regulations for the administration of the funds without adopting a rule under Indiana Code 4-22-2; and

WHEREAS, the Board of Trustees of the Indiana Public Retirement System wishes to adopt, amend, and/or repeal certain rules contained or to be contained in the Indiana Administrative Code related to the administration of the Fund as described herein;

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Indiana Public Retirement System that:

SECTION 1. [35 IAC 1.2-1-6](#) IS ADDED TO READ AS FOLLOWS

[35 IAC 1.2-1-6](#) Interest on employees' contribution accounts administered by the Indiana public retirement system

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10-5.5](#); [IC 5-10.2](#); [IC 5-10.3](#); [IC 33-38](#); [IC 33-39](#); [IC 36-8](#)

Sec. 6. (a) This rule applies to all INPRS funds that have contribution accounts.

(b) Unless otherwise provided by law or rule of the board, when crediting interest on employee contribution accounts, INPRS shall do the following:

(1) With approval of the board, set the interest rate at least annually for the contribution accounts.

(2) For active members, credit interest at least once a year on the prior fiscal year-end balance.

(3) For members separated from service, members who die before vesting, and for survivors, the amount credited to the member's contribution account shall be the value of the member's contribution account plus interest valued the day before the member applies for a distribution or the date of death of the member plus contributions received after that date. No contribution account shall be valued under this provision prior to the effective date of the record keeper requirements to effectuate the implementation of this provision.

(4) Cease crediting interest to accounts which have no activity after ten (10) years after the last contribution posting and which have total service credit of less than twenty (20) years.

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-1-6](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 2. [35 IAC 1.2-2-1](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-2-1](#) Definitions

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3-2-1](#); [IC 5-10.3-7](#); [IC 5-10.5](#)

Sec. 1. The following definitions apply throughout this title, unless the context otherwise clearly requires:

(1) "After the member's retirement", for purposes of [IC 5-10.2-4-8\(b\)](#), means when a member separates from employment.

(2) "Annuity savings account" or "ASA" consists of the member's contributions whether paid by the member or picked up by the employer, additional annuity contributions, and interest credits on these contributions.

(3) "Board" means the board of trustees of the public employees' retirement fund of Indiana.

(4) "Ceases service", for purposes of [IC 5-10.2-4-3\(e\)](#) only, means when a member stops earning creditable service.

(5) "Contribution accounts" means accounts holding employee contributions other than those to the

annuity savings account.

~~(5)~~ **(6)** "De minimis account" or "de minimis amount" means an inactive, retired, retired for disability, suspended, or deceased member's ASA account whereby no regular and continuing contributions are being received and the account has a balance of which the value is less than the actual cost of making a distribution of the balance to the member or the member's beneficiary.

~~(6)~~ **(7)** "De minimis overpayment" means an active, inactive, retired, retired for disability, suspended, or deceased member's ASA account which received an overpayment totaling no more than ten dollars (\$10).

~~(7)~~ **(8)** "Employer" means the state for employees of the state and a participating political subdivision for its employees.

~~(8)~~ **(9)** "Employer contributions" means contributions made by the state and political subdivisions to the retirement allowance account.

~~(9)~~ **(10)** "ERM" means the employer reporting and maintenance system, a web-enabled software application that manages employer and member data and collects members' wages and contributions.

~~(10)~~ **(11)** "Full-time employee" means an employee occupying a position covered by the fund as set out in [IC 5-10.3-7](#).

~~(11)~~ **(12)** "Fund" means the public employees' retirement fund of Indiana.

~~(12)~~ **(13)** "Gender and number" means the masculine gender shall include the feminine, and the singular the plural as the context may require.

~~(13)~~ **(14)** "Governing body" means the county council, city council, trustees of a town, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.

~~(14)~~ **(15)** "Indiana pension administration system" or "INPAS" means the defined benefit system, a software application that manages employer and member data and calculates member retirement, disability, and survivor benefits.

~~(15)~~ **(16)** "INPRS" means the Indiana public retirement system established under [IC 5-10.5-2-1](#).

~~(16)~~ **(17)** "Member" means persons qualifying for membership under [IC 5-10.3-7-1](#).

~~(17)~~ **(18)** "Member's contribution" means contribution which each member shall, as a condition of employment, contribute to the fund, which is three percent (3%) of the member's compensation (basic salary as defined in [35 IAC 1.2-5-5](#)), and which includes contributions paid by the employer for the member pursuant to [IC 5-10.2-3-2](#) and [IC 5-10.3-7-9](#), and additional annuity contributions.

~~(18)~~ **(19)** "PERF" means the public employees' retirement fund.

~~(19)~~ **(20)** "Political subdivision" means a county, city, town, township, political body corporate, public school corporation, public library, public utility of a county, city, town, township, and any department of, or associated with, a county, city, town or township, which department receives revenue independently of, or in addition to, funds obtained from taxation.

(21) "Record keeper" means a third party service provider that provides bookkeeping services for PERF members' individual ASA investment trading transactions and individual accounts, including daily valuations of accounts.

~~(20)~~ **(22)** "Retirement allowance account" consists of employer contributions for pensions and separate accounts shall be maintained for contributions by the state and by each political subdivision.

~~(24)~~ **(23)** "Vested status" means the status of having ten (10) years of creditable service.

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-2-1](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1078; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Jun 11, 2010: [20100728-IR-035100467ONA](#); adopted Nov 19, 2010: [20101208-IR-035100722ONA](#); adopted Dec 17, 2010: [20101229-IR-035100777ONA](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#); adopted Jun 29, 2012: [20120718-IR-035120397ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 3. [35 IAC 1.2-3-5](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-3-5](#) Leave of absence

Authority: [IC 5-10.3-7-8](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3-7-6](#)

Sec. 5. (a) As used in this section, "FMLA" refers to the Family and Medical Leave Act (29 U.S.C. 2601 et seq.) and all applicable regulations and amendments.

(b) A member shall receive service credit for the period of time during which the member is granted a leave of absence under [IC 5-10.3-7-6](#) and for which applicable employer contributions have been made as follows:

(1) Except as otherwise required by the FMLA, the credit shall be allowed if a copy of the grant of the leave of absence is filed with PERF within ninety (90) days from the date the leave was authorized by the employer. No leave granted retroactively by the employer will be considered as creditable service. Furthermore, except as otherwise required by the FMLA or other federal or state laws that specifically require the granting of service credit for authorized unpaid leaves of absence, service credit shall not be granted for any unpaid leaves of absence taken on or after January 1, 2007, if employer contributions are not made for such periods of leave.

(2) A leave of absence will be treated as creditable service only if the member returns to employment for a period of not less than six (6) consecutive months; however, if the member shows to the satisfaction of the fund that there was a bona fide intent to return to employment and comply with this rule and the member was capable of performing such employment, but was prevented from working the full six (6) month period due to illness, injury, or death which occurred subsequent to the date of return to employment, then this six (6) month requirement shall be waived.

(c) This section and [IC 5-10.3-7-6](#) shall be administered in a manner consistent with the FMLA.

(d) If the member is compensated while on an FMLA-covered leave, the statutory contributions must be maintained. A member may make contributions as provided in [IC 5-10.3-7-6\(b\)](#) during an unpaid FMLA leave, although such contributions shall not result in service credit for benefit purposes unless employer contributions are made for such period of leave. The member's employer is not required to make contributions with respect to an unpaid FMLA leave; however, if employer contributions are not made, the member shall be entitled only to the eligibility service required by the FMLA.

(e) In calculating credit for vesting and eligibility purposes, time spent on an FMLA protected leave shall be counted, including any time spent receiving disability benefits while on such leave.

(f) A member seeking credit for an FMLA leave must provide documentary evidence demonstrating that the statutory requirements have been satisfied.

(g) Unless otherwise provided by law, a leave of absence is not a separation from service. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-3-5](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1079; filed May 7, 1998, 4:15 p.m.: 21 IR 3326; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Oct 20, 2006: [20061101-IR-035060500ONA](#); adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#)*)

SECTION 4. [35 IAC 1.2-5-1](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-1](#) Retirement options

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4](#); [IC 5-10.3](#); [IC 33-38-8-14](#)

Sec. 1. (a) A member who retires or becomes eligible for a disability retirement cannot change the retirement option, nor may a member who chooses a lump sum payment under [IC 5-10.2-4-2\(a\)](#) change this choice, nor may the beneficiary designation on the application for benefits be changed under joint and survivorship options 30, 40, or 50, after the first day of the month that benefit payments are scheduled to begin. It is immaterial whether or not a check has been sent, received, or negotiated. (See also section 13 of this rule.) A member of the fund after June 30, 2008, may change a beneficiary designation pursuant to [IC 5-10.2-4-7](#) or [IC 5-10.2-4-7.2](#).

(b) Under [IC 5-10.2-4-7](#), in the event that the increased retirement benefit under the integration with Social Security option prior to Social Security eligibility is calculated to be greater than an amount which is the actuarial equivalent of the retirement benefit under the normal guaranteed retirement benefit payable as a life annuity which ceases on the date of the member's death or, if later, the member's Social Security age of eligibility, then the increased retirement benefit shall be limited to such actuarial equivalent and there will be no retirement benefit payable after the age of Social Security eligibility. (In no event shall fewer than sixty (60) payments be made.)

~~(c) None of the retirement benefit payment options may be made in connection with any other retirement benefit payment option.~~

~~(d)~~ (c) Under [IC 33-38-8-14](#), a judges' retirement benefit is calculated upon the date the member applies to receive a retirement benefit. As used in [IC 33-38-8-14](#), "applies to receive a retirement benefit" is defined as the date upon which PERF receives and accepts a member retirement application. (*Board of Trustees of the Indiana*

Public Retirement System; [35 IAC 1.2-5-1](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1081; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Nov 21, 2008: [20090107-IR-035080955ONA](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 5. [35 IAC 1.2-5-2](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-2](#) Disability benefits; eligibility

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4-6](#); [IC 5-10.3](#)

Sec. 2. (a) **To be eligible to receive disability benefits, the member must have at least five (5) years of creditable service before the termination of a salary or employer provided income protection benefits, Family and Medical Leave Act leave, or exhaustion of all worker's compensation benefits.**

(b) Except as otherwise provided in law or these rules, the disability benefit is computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. For example, Ann has five (5) years of service credit. Ann's Social Security Administration disability onset date relates back to the end of her fourth year of service. Ann is eligible to receive disability benefits because she has at least five (5) years of creditable service, but only four (4) years of service credit is used to calculate the benefit.

(c) To be eligible to receive disability benefits, the member must be receiving salary, or **worker's compensation benefits, employer-provided income protection benefits, or on leave under the Family and Medical Leave Act on the date the Social Security Administration determines the member becomes disabled.**

~~(b)~~ **(d) A member may continue to receive PERF disability benefits so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under Social Security guidelines. However, during any such period, no service credit under PERF shall be granted.**

(e) A member, including a state employee receiving state sponsored long-term disability benefits, may not receive a distribution of their ASA until the member separates from covered service or the Social Security Administration determines that the member has become disabled and the member has applied for disability benefits.

(f) A member who is receiving a disability retirement shall be automatically converted to regular retirement benefits upon reaching age and service eligibility. *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-2](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; filed May 7, 1998, 4:15 p.m.: 21 IR 3326; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Apr 29, 2011: [20110511-IR-035110273ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))*

SECTION 6. [35 IAC 1.2-5-4](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-4](#) Disability alternatives

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3](#)

Sec. 4. (a) A member who is eligible for early retirement and who has on file with the fund a copy of application to Social Security for Social Security disability benefits may file for early retirement and retain his right to disability benefits. Under such circumstances, when the member notifies the fund that he qualifies for Social Security disability benefits, early retirement benefits shall cease and disability benefits shall begin.

(b) A member who has five (5) years of creditable service and who is not eligible for early retirement and has on file with the fund a copy of a request to Social Security for a disability determination may request a lump sum withdrawal of his annuity account without prejudice to his right to disability benefits under PERF should the Social Security Administration approve the request for disability within three (3) years from the date of the member's termination from employment.

(c) A member, including a state employee receiving state sponsored long-term disability benefits, may not receive a distribution of their ASA under subsection (a) or (b) until the member separates from covered service or the Social Security Administration determines that the member has become disabled

and the member has applied for disability benefits. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-4](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 7. [35 IAC 1.2-5-4.1](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-4.1](#) "State long-term disability benefits" defined

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10-8-7](#); [IC 5-10.2-4-6](#)

Sec. 4.1. "State long-term disability benefits" means any benefit paid to a member who is a state employee under a disability plan established under [IC 5-10-8-7](#). (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-4.1](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 8. [35 IAC 1.2-5-7](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-7](#) Service for disability and survivor benefits

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3](#)

Sec. 7. "In service" means that the member was in an employer-employee relationship as determined by the employer within established rules of the employer. Benefits for disability shall be paid beginning with the later of:

(1) that point in time when such employer-employee relationship no longer exists as determined by the employer; or

(2) the onset of disability as determined by the Social Security Administration.

For example, Mary has been determined to be disabled by the Social Security Administration. Mary is receiving employer provided disability insurance payments. Mary's disability for retirement benefits will not commence until her employer provided disability insurance payments cease. However, Mary's disability for retirement benefits will be paid back to the month following the onset of disability as determined by the Social Security Administration. In determining whether a member has achieved eligibility for disability benefits, periods of leave under the Family and Medical Leave Act (as defined in [35 IAC 1.2-3-5](#)) **and periods whereby the member was receiving salary, worker's compensation benefits, or employer-provided income protection benefits** shall be included. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-7](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; filed May 7, 1998, 4:15 p.m.: 21 IR 3327; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 9. [35 IAC 1.2-5-21](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-21](#) ASA valuation

Authority: [IC 5-10.2-2-1](#); [IC 5-10.2-2-3](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-3](#); [IC 5-10.2-4](#)

Sec. 21. (a) A member may direct an allocation in the amount credited to the member among the guaranteed program and any available alternative accounts subject to the following conditions:

(1) PERF shall allow a member to make a change or selection at least once a day.

(2) PERF shall implement the member's selection the same day the selection is received by PERF, unless such selection is received after 4:00 p.m. EST on a business day, or anytime on a weekend or holiday, or any other date the New York Stock Exchange is closed, then PERF shall implement the member's selection beginning the next business day after the selection is received. This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed program or any of the available alternative accounts in one percent (1%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, PERF shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

(A) for an alternative investment program balance, the **sum of the market value on the effective date, minus any applicable investment management fees**; and

(B) for any guaranteed program balance, the account balance on the effective date.

(b) When a member who participates in the alternative or guaranteed investment programs transfers the

amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the **sum of the** market value of the member's investment, as of the day before the effective date of the member's selection, **minus any applicable investment management fees**. When a member who participates in an alternative investment program retires, becomes disabled, or suspends membership and withdraws from the fund, the amount credited to the member shall be the **sum of the** market value of the member's investment as of the day before the member applies for distribution or annuitization at retirement, disability, or suspension and withdrawal, plus contributions received after that date, **minus any applicable investment management fees**.

(c) When a member who participates in an alternative investment program dies, within five (5) business days after the date of death notification is received by PERF, the entire amount in the member's annuity savings account will be moved into the guaranteed program or a fixed value account, set at the same rate as the guaranteed program. Such death notification shall be on a form or in a manner approved by PERF. The amount credited to the member's account and moved to the fixed value account shall be the **sum of the** market value of the member's investment as of the day the amount in the member's annuity savings account is moved to the fixed value account **minus any applicable investment management fees**.

(d) Subject to and in accordance with the distribution provisions of [IC 5-10.2-3](#) and [IC 5-10.2-4](#), in the event that the member has designated beneficiaries, beneficiary accounts will be established for each beneficiary and the pro rata share of all monies in the member's ASA will be moved to the respective beneficiary account and invested in the guaranteed program or a fixed value account, set at the same rate as the guaranteed program until claimed or forfeited under [IC 5-10.2-3](#). (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-21](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Sep 16, 2011: [20110928-IR-035110563ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 10. [35 IAC 1.2-5-24](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-24](#) Physicians appointed for the Judges' Retirement System

Authority: [IC 5-10.5-4-2](#); [IC 33-38-8](#)

Affected: [IC 33-38-8-15](#)

Sec. 24. For the administration of disability claims under [IC 33-38-8-15](#), a licensed treating physician of the member may be designated by INPRS as a physician appointed by the board of trustees. However such designation shall not entitle the treating physician to remuneration or other compensation paid from INPRS unless there is an express written agreement signed by the parties in advance of any compensable services provided by the treating physician. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-24](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 11. [35 IAC 1.2-5-25](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-25](#) Purchase of canceled service credit in the Judges' Retirement System

Authority: [IC 5-10.5-4-2](#); [IC 33-38-8](#)

Affected: [IC 33-38-8](#)

Sec. 25. (a) A member who had previous creditable service in the Judges' Retirement System (JRS) and who had cancelled such creditable service by terminating their membership in the JRS and who withdrew their contributions to their JRS account may restore such creditable service by:

- (1) returning to covered service in the JRS for at least one (1) year; and**
- (2) while actively serving in the JRS, purchase all or part of the previous service credit in one (1) year increments at a rate, determined by the actuary for INPRS, that is based on the actuarial factors at the time the member makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.**

(b) The following apply to the purchase of service credit under this rule:

- (1) The member may make periodic payments of the contributions required for the purchase of service credit. INPRS shall determine the length of the period during which the payments must be made. Such payments will be subject to the terms and conditions of a service purchase agreement as described in the INPRS rules for PERF and TRF.**
- (2) INPRS may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.**

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(c) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire contribution account to be eligible for a refund of the member's rollover amount. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-5-25](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 12. [35 IAC 1.2-6-14](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 1.2-6-14](#) Benefits payable to surviving spouse of the Prosecuting Attorneys' Retirement Fund (PARF)

Authority: [IC 5-10.5-4-2](#); [IC 33-39-7-11](#)

Affected: [IC 33-39-7-19](#)

Sec. 14. Benefits payable to a surviving spouse under [IC 33-39-7-19](#) are reduced by the amounts, if any, that are payable to the surviving spouse from the public employees' retirement fund as a result of the participant's death. When calculating this reduction, the amounts attributable from the annuity savings account, if any, are not to be included. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-6-14](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 13. [35 IAC 1.3-4-1](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-4-1](#) Members of the plan

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-2-1](#); [IC 5-10.3-12](#)

Sec. 1. (a) Members of the plan are determined by [IC 5-10.3-12](#) and these ~~these~~ **this** article.

(b) Eligible members must elect membership in the plan defined in [IC 5-10.3-12](#) within the first sixty (60) days of their employment, or the member will be defaulted to membership in PERF as defined within [IC 5-10.3-2-1](#). (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-4-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 14. [35 IAC 1.3-5-1](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-5-1](#) Member accounts

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-3-10](#); [IC 5-10.3-12](#)

Sec. 1. (a) Each member in the plan will have an account that includes the following subaccounts:

(1) A "member contribution subaccount" as defined in [IC 5-10.3-12-13](#).

(2) A An "employer contribution subaccount" as defined in [IC 5-10.3-12-9](#).

(b) To the extent a member has made rollover contributions to the plan, a "rollover account" as defined in [IC 5-10.3-12-22](#) and [IC 5-10.3-12-29](#) will be maintained on behalf of the member as a separate subaccount within the member's account. **Unless a member with a rollover account as defined within [IC 5-10.2-3-10](#) rolls over the account into a rollover account under this rule, and as defined within [IC 5-10.3-12](#), rollovers are to be maintained in separate subaccounts.**

(c) The accounts will be held and invested in the annuity savings account, subject to the provisions of [IC 5-10.3-12](#) and this title, and the plan shall be a component of the fund. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-5-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#)*)

SECTION 15. [35 IAC 1.3-6-1](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-6-1](#) Member distribution options

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-3-10](#); [IC 5-10.3-12](#)

Sec. 1. (a) As provided under [IC 5-10.3-12-26](#), [IC 5-10.3-12-29](#), and this article, a member who terminates service in covered employment is entitled to withdraw the vested portion of the member's account as:

- (1) a lump sum;
- (2) a direct rollover to an eligible retirement plan, as provided in 35 IAC Article 8 [[35 IAC 8](#)], and [35 IAC 10-1-4](#) and 10-1-5 [[35 IAC 10-1-5](#)]; or
- (3) if the member has attained normal retirement age, as defined in [IC 5-10.3-12-14](#), as a monthly annuity, subject to this article.

(b) For a member electing a distribution under subsection ~~(a)(1)~~, **(a)(3)**, the forms of monthly annuity payments that are available under the annuity savings account of the fund shall be available, pursuant to [IC 5-10.2-4-7](#), for the member's selection, provided that the amount of the member's account to be annuitized must be at least fifteen thousand dollars (\$15,000) in order for the annuity option to be available. **Amounts in a member's rollover account established under [IC 5-10.2-3-10](#) or [IC 5-10.3-12-29](#) may be rolled into the amount in the member's ASA account to meet the threshold amount described in this section.** (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#)*)

SECTION 16. [35 IAC 1.3-6-3](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-6-3](#) Disability benefits

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12-25](#); [IC 5-10.3-12-30](#)

Sec. 3. **(a)** A member who becomes disabled while in service in a covered position and who presents proof of the member's qualification for Social Security benefits to the INPRS board is entitled to withdraw the vested portion of the member's account as described in [IC 5-10.3-12-30](#), [35 IAC 1.3-6-1](#) [*section 1 of this rule*], provided that a monthly annuity shall be available as a distribution option regardless of whether the member has attained normal retirement age, if the minimum monthly annuity amount rule under [35 IAC 1.3-6-1](#)(b) [*section 1(b) of this rule*] is satisfied.

(b) Nonvested amounts at the time of the initial disability distribution are not forfeited under [IC 5-10.3-12-25](#)(e) at the time of the disability distribution. Except as provided in [35 IAC 1.3-6-3.1](#)(c) [*section 3.1(c) of this rule*], the disability retirement benefit shall be recalculated once the member is no longer receiving state disability payments so long as the member remains otherwise eligible for such disability retirement benefits. For example, Ann has two (2) years of service and goes on state long-term disability leave. Ann received a disability onset date by the Social Security Administration that coincides with the date she began receiving state long-term disability benefits. Ann may receive forty percent (40%) of the amounts in her ASA. Ann continues to receive state long-term disability benefits for two and a half (2 1/2) more years and terminates state employment. Ann may now receive one hundred percent (100%) of vested amounts in her ASA including the residual amounts not paid to her when she first applied for disability and any contributions and earnings since that time. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-3](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#)*)

SECTION 17. [35 IAC 1.3-6-3.1](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 1.3-6-3.1](#) Disability benefits effect of return to work or reemployment

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12-25](#); [IC 5-10.3-12-30](#)

Sec. 3.1. (a) If a member of the plan separates from employment with the state and later returns to state employment in a position covered by the plan, the member is entitled to receive credit for the member's years of participation in the plan before the member's separation. However, any amounts forfeited by the member under section [IC 5-10.3-12-25](#)(e) or these rules may not be restored to the member's account.

(b) When a disabled member of the plan receiving a disability annuity under [IC 5-10.3-12-30](#) and these rules returns to active duty state employment in a position covered by the plan, the member is entitled to continue receiving the disability annuity and the member is entitled to receive credit for the member's years of participation in the plan before the member's separation. However, any amounts forfeited by the member under section [IC 5-10.3-12-25](#)(e) or these rules may not be restored to the member's account.

(c) If a member receiving state long-term disability benefits returns to active duty state employment in a position covered by the plan prior to exhausting state long-term disability benefits, the member's benefit will not be recalculated upon termination of the state long-term disability benefits. No additional distribution shall be made except as otherwise provided by law and these rules. *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-3.1](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))*

SECTION 18. [35 IAC 1.3-6-4](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-6-4](#) In-service for disability and survivor benefits

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12](#)

Sec. 4. (a) "In service", for purposes of availability of account distribution under the plan, means that the member was in an employer-employee relationship as determined by the employer within established rules of the employer.

(b) To be eligible to receive disability benefits, the member must be determined to be disabled by the Social Security Administration while the member was receiving salary or state long-term disability benefits, Family and Medical Leave Act leave, or exhaustion of all worker's compensation benefits. *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-4](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))*

SECTION 19. [35 IAC 1.3-6-4.1](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 1.3-6-4.1](#) State long-term disability benefits

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10-8-7](#); [IC 5-10.3-12](#)

Sec. 4.1. "State long-term disability benefits" means any benefits paid to a member who is a state employee under a disability plan established under [IC 5-10-8-7](#). *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-4.1](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))*

SECTION 20. [35 IAC 1.3-7-4](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-7-4](#) Annuity savings account contributions received by PERF subsequent to processing of retirement benefit

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4-2](#)

Sec. 4. (a) Notwithstanding a member's election to receive an annuity provided by the amounts credited to the member's annuity savings account at retirement, annuity savings account contributions posted to a member's account subsequent to the final date on which the member's benefit is processed may be distributed to the member in a lump-sum payment.

(b) Pursuant to [IC 5-10.2-4-2](#)(b)(2), a member electing to fully or partially annuitize the member's annuity savings account in contemplation of separation from service and retirement, excluding state long-term disabilities, will have the entire amount in the member's annuity savings account moved into a fixed value account. Once the annuity savings account is moved into a fixed value account in contemplation of retirement, the

election cannot be changed. In addition, any annuity savings account contributions posted to a member's account subsequent to the final date on which the member's benefit is processed shall be held in a fixed value account, **payment of the first annuity check shall be held in an account valued at the PERF Money Market rate**, until such time as that amount is distributed to the member. **If the member cancels the retirement process, the member's account will be moved into the Money Market Fund until a new election is made by the member.**

(c) Pursuant to the provisions of the Internal Revenue Code applicable to qualified plan distributions, a member who:

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

is entitled to withdraw amounts in the member's account to the extent the member is vested in the account. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-7-4](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#)*)

SECTION 21. [35 IAC 2-3-3](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 2-3-3](#) Supplemental benefit computation

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-8-23](#)

Sec. 3. In determining the monthly supplemental benefit, the amount of the monthly benefit in step two of the formula described in [IC 36-8-8-23\(b\)](#) includes cost of living increases, if any. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-3-3](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#)*)

SECTION 22. [35 IAC 2-3-4](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 2-3-4](#) Birth date; proof required

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 34-28-1](#); [IC 36-8-8](#)

Sec. 4. (a) No retirement benefits shall be paid to a member until the member provides proof of date of birth in any one (1) of the following forms:

- (1) A birth certificate or registration from the public health department or other governmental entity.**
- (2) A court decree obtained under [IC 34-28-1](#) and certified by the clerk of the court.**
- (3) Other evidence relating to the member's date of birth may be submitted, and upon approval the board shall fix a date based thereon.**

(b) A member selecting a joint and survivor retirement option shall also provide evidence of the date of birth of the cosurvivor. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-3-4](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#)*)

SECTION 23. [35 IAC 2-5-5](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 2-5-5](#) 1977 Police Officers' and Firefighters' Pension and Disability Fund disability procedures

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 4-21.5](#); [IC 36-8-8-12.5](#); [IC 36-8-8-13.5](#)

Sec. 5. (a) The disability application process shall be as described as follows:

(1) The local board shall submit to the state board the following documents:

(A) A completed disability application form that includes the following:

- (i) The member's name, address, and Social Security number.**
- (ii) The date of the local board's hearing.**
- (iii) The date the local board determined a covered impairment exists.**

The local board shall use the applicable forms developed by the state board for this purpose.

(B) The applicable form developed by the state board shall require the following:

- (i) The local board to submit its determinations, including findings of fact, with regard to the existence of a covered impairment and the class of impairment for a fund member who was hired for the first time after December 31, 1989, or who had elected coverage under [IC 36-8-8-12.5](#) and [IC 36-8-8-13.5](#) (Class 1 duty related injury, Class 2 duty related disease, and Class 3 all other covered impairments).**
- (ii) A copy of the written job description for the member's position.**

- (iii) A statement from the local board that certifies that the member cannot perform the essential functions of the job as reflected on the written job description by identifying the specific functions the member is incapable of performing.
 - (iv) A statement from the appointing authority that certifies that there is no suitable and available work in the member's department for which the member is or may be capable of becoming qualified, considering reasonable accommodations to the extent required by the Americans with Disabilities Act.
 - (v) The local board's findings with respect to self-inflicted injury, attempted suicide, commission of felony, or preexisting conditions.
 - (vi) The local board's determination on whether the impairment resulted from an accidental injury.
 - (vii) A statement that certifies that the local board's decision was communicated, in writing, to the fund member and the appointing authority.
- (C) A transcript of the local board's hearing. The transcript should be signed by the person doing the transcription and by the pension secretary reflecting that the transcript is a true and accurate report of the testimony and exhibits presented during the local board's hearing.
- (D) Copies of all exhibits accepted by the local pension board. These exhibits would include the medical evaluations of the fund member. Tests and examination results must be included.
- (E) Certification by the appointing authority or the local board with regard to the fund member's last day of pay (including the last payment for any type and all forms of paid leave).
- (F) Certification by the appointing authority of years of service.
- (2) Unless the application is complete, the 1977 Fund will not accept the application. If the application is not accepted, the 1977 Fund shall do the following:
- (A) Determine whether the file is complete.
 - (B) Send a letter to the local board stating that either a complete file has been received or the file is incomplete and will not be accepted until the specified items have been received by the 1977 Fund. If the file is incomplete, the 1977 Fund will send a letter stating the file is complete after all previously specified items have been received by the 1977 Fund.
 - (C) Once a completed file is accepted, the 1977 Fund will give the completed file to the medical authority.
- (3) INPRS may make a provisional determination and invite the applicant to provide further records or evidence for review by INPRS before the initial determination is made.** The **PERF INPRS** board or its duly authorized representative will make an initial determination within sixty (60) days from the date the complete application is received by the 1977 Fund unless there is a delay attributable to the fund member or the appointing authority. The initial determination by the **PERF INPRS** board for members who were hired for the first time after December 31, 1989, or who had elected coverage under [IC 36-8-8-12.5](#) and [IC 36-8-8-13.5](#), shall include a determination of class of impairment and degree of impairment. In making this determination, the 1977 Fund shall treat a member as first hired using the member's first date of employment with the local unit where the member is currently employed. However, in the case of a fund member who directly transferred from covered employment with one (1) local unit to covered employment with another local unit, the fund member's date of employment with the first local unit shall be used. If the application is not accepted, the 1977 Fund shall do the following:
- (A) The 1977 Fund will not consider the sixty (60) day period to begin until a completed file is accepted.
 - (B) The initial determination will be mailed, by certified mail return receipt requested, to the member, the local board, and the appointing authority. An appeal of the initial determination must be filed within fifteen (15) days after receiving written notice of the initial determination pursuant to [IC 4-21.5](#).
 - (C) If the **PERF INPRS** board or its duly authorized representative does not make an initial determination within sixty (60) days and if the delay is not attributable to the fund member or the appointing authority, the local board's determination, or the fund member's statement in the case of an appeal of a local board determination, shall constitute the **PERF INPRS** board's initial determination. A letter confirming this initial determination shall be sent by the 1977 Fund to the local board, the fund member, and the appointing authority.
 - (D) The letter communicating the **PERF INPRS** board's initial determination shall inform the parties of the time limit on filing objections and shall clearly state that, if no objections are filed, the initial determination shall automatically become the state board's final order.
- (4) If no objection to the **PERF INPRS** board's initial determination is filed with the 1977 Fund within fifteen (15) days after the date of the **PERF INPRS** board's initial determination letter, the **PERF INPRS** board's initial determination shall become the **PERF INPRS** board's final order.
- (5) If a timely objection to the **PERF INPRS** board's initial determination is filed, the 1977 Fund shall follow an internal hearing procedure. The 1977 Fund shall notify the member if the appeal is not timely. Such notice will indicate that the initial determination automatically became the **PERF INPRS** board's final order.
- (6) After receiving a timely objection to the initial determination, the 1977 Fund shall designate a hearing officer to review the case. The hearing officer must make a recommendation to the 1977 Fund with regard to a final decision within sixty (60) days after the hearing. The hearing will be recorded and a transcript

prepared.

(7) Based upon the complete record and the recommendation from the hearing officer, the **PERF INPRS** board shall issue a final order. The **PERF INPRS** board may accept, but shall not be required to accept, the hearing officer's recommendation as its final order. The final order will be communicated in a letter, sent certified mail return receipt requested, to the fund member, the local board, and the appointing authority. In addition, the **PERF INPRS** board may do the following:

(A) The **PERF INPRS** board may request or accept additional information before issuing a final determination.

(B) The **PERF INPRS** board shall issue a final order within one hundred eighty (180) days from the date the complete application is received by the 1977 Fund unless there is a delay attributable to the fund member or the appointing authority. If an order is not issued within one hundred eighty (180) days and if the delay is not attributable to the fund member or the appointing authority, the initial determination statements shall constitute the **PERF INPRS** board's final order.

(b) The review of a fund member's impairment may be initiated by the 1977 Fund, the fund member, the safety board, or the local board. The review shall follow the procedure for disability applications. The cost of any medical examination required by the local board shall be paid by the party who petitioned for review.

(c) Requirements for recovered disabilitants shall be as follows:

(1) If there is a final determination that a disabilitant has recovered **as result of a review described in section (b) [subsection (b)]**, the 1977 Fund shall solicit a certification from the local authorities with regard to the existence of suitable and available work on the police or fire department.

(2) Benefits will be terminated if suitable and available work on the police or fire department has been offered to the member. Benefits shall terminate in such a case regardless of the member's decision to accept or reject the employment offer from the police or fire department.

(3) In the event that a recovered member returns to 1977 Fund covered duties by the employing unit as a result of being released to such reinstatement of duties by the member's treating physician, the employing unit shall notify INPRS in writing of such reinstatement and disability benefits shall stop beginning the first of the month following the date of such reinstatement. Any benefits paid to the member after the first of the month following reinstatement must be repaid to the 1977 Fund.

~~(3)~~ (4) A recovered member returning to the same department will not be treated as a new applicant and will not be subjected to the application process for new members in the fund.

~~(4)~~ (5) In the event a member recovers from a covered impairment, returns to active service with the police or fire department, and becomes unable to perform all suitable and available work on the police or fire department within two (2) years of returning to active duty due to a covered impairment that is based on the same condition or conditions for which disability benefits were previously paid to the member, the member shall be entitled to receive monthly disability benefits equal to the amount of the monthly disability benefits that were paid to the member at the time of the member's return to active service plus any applicable cost of living adjustments.

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-5-5](#); filed May 7, 1998, 4:15 p.m.: 21 IR 3329; readopted filed Oct 31, 2001, 2:21 p.m.: 25 IR 898; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Nov 21, 2008: [20090107-IR-035080955ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 24. [35 IAC 2-5-7](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 2-5-7](#) Line-of-duty review

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-8](#)

Sec. 7. After a hearing is conducted by the local board concerning determinations of impairment for fund members who:

(1) are hired for the first time before January 1, 1990; and

(2) do not choose coverage by sections [IC 36-8-8-12.5](#) and [IC 36-8-8-13.5](#) under section [IC 36-8-8-12.4](#), pursuant to [IC 36-8-8-12.7](#)(r);

the ~~1977 fund advisory committee~~ **INPRS board** shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall issue an initial determination regarding whether the covered impairment was incurred in the line of duty or not in the line of duty. If the ~~1977 fund advisory committee~~ **INPRS board** fails to issue an initial determination within forty-five (45) days after receiving the recommendation from the local board, the default award on whether the covered impairment was incurred in the line of duty will be the determination made by **PERF's INPRS'** medical authority. *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-5-7](#); adopted Nov 21, 2008: [20090107-IR-035080955ONA](#); adopted Dec 14,*

SECTION 25. [35 IAC 2-5-10](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 2-5-10](#) Public safety officer disability benefits

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-4-11](#); [IC 36-8-8-7](#)

Sec. 10. (a) "Public safety officer" means a member of the 1977 Fund who performs the functions of and is a regularly employed and qualified as a police officer and who also performs the functions of and is regularly employed and qualified as a firefighter by a single employing unit.

(b) Participating employing units shall designate and enroll public safety officers either as firefighters or police officers in accordance with [IC 36-8-8](#).

(c) Benefits and account administration of public safety officers shall be governed pursuant to and in accordance with the rules and regulations governing the member's enrollment designation. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-5-10](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 26. [35 IAC 14-5-5](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 14-5-5](#) Leave of absence due to pregnancy

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 20-28-10-5](#); [IC 5-10.4-4-7](#)

Sec. 5. (a) An active member shall be given credit for leaves of absence due to pregnancy only when leave is requested pursuant to the requirements found in [IC 20-28-10-5](#). Credit is limited to one-seventh (1/7) of the total years of service claimed for retirement purposes.

(b) If the member is compensated while on leave, the statutory contributions must be maintained.

(c) A member seeking credit for leave of absence due to pregnancy must provide documentary evidence demonstrating that the statutory requirements have been satisfied.

(d) Unless otherwise required by law, no request for credit for leaves of absence due to pregnancy shall be accepted by the Fund and no leave shall be credited to a member's account after the first day of the month in which retirement benefit payments are scheduled to begin.

(e) **Unless otherwise provided by law, a leave of absence for pregnancy is not a separation from service.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-5-5](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 708; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Jul 8, 2009: [20090715-IR-550090499FRA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-5-6](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-5-5](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 27. [35 IAC 14-5-6](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 14-5-6](#) Leave of absence due to sickness or disability

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.4-4-7](#); [IC 20-28](#)

Sec. 6. (a) If the member is compensated while on sickness or disability leave, the statutory contributions must be maintained.

(b) Except as provided by subsection (c), a member seeking credit for leave of absence due to sickness or disability must apply for such credit in a manner approved by TRF that contains written verification by an official of the member's employer that during the time that the leave was taken the leave was approved and taken pursuant to the sick leave policies and procedures of the employer.

(c) A member seeking credit for leave of absence due to sickness or disability who cannot obtain an employer verification described in subsection (b) due to a lack of employer records must provide documentary evidence demonstrating that the statutory requirements have been satisfied.

(d) Unless otherwise provided by law, a leave of absence is not a separation from service. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-5-6](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 708; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Nov 19, 2008: [20081126-IR-550080887ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))
NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-5-7](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-5-6](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 28. [35 IAC 14-9-3.1](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 14-9-3.1](#) "State long-term disability benefits" defined

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10-8-7](#); [IC 5-10.2-4-6](#)

Sec. 3.1. "State long-term disability benefits" means any benefits paid to a member who is a state employee under a disability plan established under [IC 5-10-8-7](#). (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-9-3.1](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#))

SECTION 29. [35 IAC 14-9-6](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 14-9-6](#) Disability benefits; benefit calculation and commencement

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4-4](#)

Sec. 6. (a) Except as provided in subsection (b), a member who becomes disabled and has sufficient credit for retirement is entitled to disability retirement benefits only after the member has ceased making contributions and receiving credit for service. Benefits shall commence the month after the onset date of the disability or the month after the member's last day of compensable service, whichever is later.

(b) The benefit is the retirement benefit specified [IC 5-10.2-4-4](#) with the pension computed using only the years of creditable service worked to the date of disability and without reduction for early retirement.

(c) Except as provided in subsection (c) [this subsection], members with five (5) years of creditable service, whose onset of disability is determined by the Social Security Administration to be prior to the member's five (5) years service anniversary, the benefit calculation will only include the creditable service earned prior to the onset of disability. For example, a member has four (4) years of active creditable service, becomes ill, applies for Social Security disability benefits, but continues in active service for one (1) more year. The member receives a disability onset date from the Social Security Administration that relates back to the member's fourth year service anniversary. The member is eligible for a disability benefit because the member earned five (5) years of service, but only (4) years of service is used in the benefit calculation. However, the member's disability for retirement benefits will be paid back to the month following the onset of disability as determined by the Social Security Administration.

(d) A member who is receiving a disability retirement shall be automatically converted to regular retirement benefits upon reaching age and service eligibility. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-9-6](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 713; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Nov 19, 2008: [20081126-IR-550080887ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-9-5](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-9-6](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 30. [35 IAC 2-2-2](#) IS REPEALED.

DATED: December 14, 2012
Kendall W. Cochran
Chairman of the Board of Trustees
Indiana Public Retirement System

Resolution adopted by 8 affirmative, 0 negative votes.

Posted: 12/26/2012 by Legislative Services Agency
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