
HOUSE BILL No. 1302

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8-8; IC 5-10.2-4-3; IC 21-6.1-4-6.1.

Synopsis: Public employee pensions and health benefits. Permits the surviving spouse of a retired state employee to remain eligible for the retired employee's group health insurance until the surviving spouse remarries or becomes eligible for Medicare. (Current law terminates the surviving spouse's eligibility two years after the date of the employee's death.) Provides that up to \$5,000 (instead of \$2,000) of compensation received by a member of the public employees' retirement fund (PERF) or the Indiana state teachers' retirement fund (TRF) in contemplation of the member's retirement may be included in determining the average of the annual compensation for purposes of the PERF and TRF pension formulas. Provides military service credit under certain conditions for a member of TRF who completed his or her military service before beginning a four year approved teacher training program.

Effective: Upon passage.

Tincher

January 11, 2000, read first time and referred to Committee on Ways and Means.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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HOUSE BILL No. 1302



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 5-10-8-8, AS AMENDED BY P.L.233-1999,
- 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 8. (a) This section applies only to the state
- 4 and its employees who are not covered by a plan established under
- 5 section 6 of this chapter.
- 6 (b) After June 30, 1986, the state shall provide a group health
- 7 insurance plan to each retired employee:
- 8 (1) whose retirement date is:
- 9 (A) after June 29, 1986, for a retired employee who was a
- 10 member of the field examiners' retirement fund;
- 11 (B) after May 31, 1986, for a retired employee who was a
- 12 member of the Indiana state teachers' retirement fund; or
- 13 (C) after June 30, 1986, for a retired employee not covered by
- 14 clause (A) or (B);
- 15 (2) who will have reached fifty-five (55) years of age on or before
- 16 the employee's retirement date but who will not be eligible on that
- 17 date for Medicare coverage as prescribed by 42 U.S.C. 1395 et



- 1 seq.;
- 2 (3) who will have completed twenty (20) years of creditable
- 3 employment with a public employer on or before the employee's
- 4 retirement date, ten (10) years of which shall have been
- 5 completed immediately preceding the retirement; and
- 6 (4) who will have completed at least fifteen (15) years of
- 7 participation in the retirement plan of which the employee is a
- 8 member on or before the employee's retirement date.
- 9 (c) The state shall provide a group health insurance program to each
- 10 retired employee:
- 11 (1) who is a retired judge;
- 12 (2) whose retirement date is after June 30, 1990;
- 13 (3) who is at least sixty-two (62) years of age;
- 14 (4) who is not eligible for Medicare coverage as prescribed by 42
- 15 U.S.C. 1395 et seq.; and
- 16 (5) who has at least eight (8) years of service credit as a
- 17 participant in the Indiana judges' retirement fund, with at least
- 18 eight (8) years of that service credit completed immediately
- 19 preceding the judge's retirement.
- 20 (d) The state shall provide a group health insurance program to each
- 21 retired employee:
- 22 (1) who is a retired participant under the prosecuting attorneys
- 23 retirement fund;
- 24 (2) whose retirement date is after January 1, 1990;
- 25 (3) who is at least sixty-two (62) years of age;
- 26 (4) who is not eligible for Medicare coverage as prescribed by 42
- 27 U.S.C. 1395 et seq.; and
- 28 (5) who has at least ten (10) years of service credit as a participant
- 29 in the prosecuting attorneys retirement fund, with at least ten (10)
- 30 years of that service credit completed immediately preceding the
- 31 participant's retirement.
- 32 (e) The state shall make available a group health insurance program
- 33 to each former member of the general assembly or surviving spouse of
- 34 each former member, if the former member:
- 35 (1) is no longer a member of the general assembly;
- 36 (2) is not eligible for Medicare coverage as prescribed by 42
- 37 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the
- 38 surviving spouse is not eligible for Medicare coverage as
- 39 prescribed by 42 U.S.C. 1395, et. seq.; and
- 40 (3) has at least ten (10) years of service credit as a member in the
- 41 general assembly.
- 42 A former member or surviving spouse of a former member who obtains

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1 insurance under this section is responsible for paying both the
2 employer and the employee share of the cost of the coverage.

3 (f) The group health insurance program required under subsections
4 (b) through (e) must be equal to that offered active employees. The
5 retired employee may participate in the group health insurance program
6 if the retired employee pays an amount equal to the employer's and the
7 employee's premium for the group health insurance for an active
8 employee and if the retired employee within ninety (90) days after the
9 employee's retirement date files a written request for insurance
10 coverage with the employer. However, the employer may elect to pay
11 any part of the retired employee's premium.

12 (g) A retired employee's eligibility to continue insurance under this
13 section ends when the employee becomes eligible for Medicare
14 coverage as prescribed by 42 U.S.C. 1395 et seq., or when the
15 employer terminates the health insurance program. A retired employee
16 who is eligible for insurance coverage under this section may elect to
17 have the employee's spouse covered under the health insurance
18 program at the time the employee retires. If a retired employee's spouse
19 pays the amount the retired employee would have been required to pay
20 for coverage selected by the spouse, the spouse's subsequent eligibility
21 to continue insurance under this section is not affected by the death of
22 the retired employee. The surviving spouse's eligibility ends on the
23 earliest of the following:

24 (1) When the spouse becomes eligible for Medicare coverage as
25 prescribed by 42 U.S.C. 1395 et seq.

26 (2) When the employer terminates the health insurance program.

27 ~~(3) Two (2) years after the date of the employee's death.~~

28 ~~(4)~~ **(3)** The date of the spouse's remarriage.

29 (h) This subsection does not apply to an employee who is entitled
30 to group insurance coverage under IC 20-6.1-6-1(c). An employee who
31 is on leave without pay is entitled to participate for ninety (90) days in
32 any health insurance program maintained by the employer for active
33 employees if the employee pays an amount equal to the total of the
34 employer's and the employee's premiums for the insurance.

35 (i) An employer may provide group health insurance for retired
36 employees or their spouses not covered by this section and may provide
37 group health insurance that contains provisions more favorable to
38 retired employees and their spouses than required by this section. A
39 public employer may provide group health insurance to an employee
40 who is on leave without pay for a longer period than required by
41 subsection (h).

42 SECTION 2. IC 5-10.2-4-3 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as
 2 provided in subsection (e), in computing the retirement benefit for a
 3 nonteacher member, "average of the annual compensation" means the
 4 average annual compensation calculated using the twenty (20) calendar
 5 quarters of service in a position covered by the retirement fund before
 6 retirement in which the member's annual compensation was the
 7 highest. However, in order for a quarter to be included in the twenty
 8 (20) calendar quarters, the nonteacher member must have performed
 9 service throughout the calendar quarter. All twenty (20) calendar
 10 quarters do not have to be continuous but they must be in groups of
 11 four (4) consecutive calendar quarters. The same calendar quarter may
 12 not be included in two (2) different groups.

13 (b) In computing the retirement benefit for a teacher member,
 14 "average of the annual compensation" means the average annual
 15 compensation for the five (5) years of service before retirement in
 16 which the member's annual compensation was highest. In order for a
 17 year to be included in the five (5) years, the teacher member must have
 18 received for the year credit under IC 21-6.1-4-2 for at least one-half
 19 (1/2) year of service. The five (5) years do not have to be continuous.

20 (c) Subject to IC 5-10.2-2-1.5 "annual compensation" means the
 21 basic salary earned by and paid to the member plus the amount that
 22 would have been part of that salary but for:

23 (1) the state's, a school corporation's, a participating political
 24 subdivision's, or a state educational institution's (as defined in
 25 IC 20-12-0.5-1) paying the member's contribution to the fund for
 26 the member; or

27 (2) the member's salary reduction agreement established under
 28 Section 125, 403(b), or 457 of the Internal Revenue Code.

29 The portion of a back pay award or a similar award that the board
 30 determines is compensation under an agreement or under a judicial or
 31 an administrative proceeding shall be allocated by the board among the
 32 years the member earned or should have earned the compensation.
 33 Only that portion of the award allocated to the year the award is made
 34 is considered to have been earned during the year the award was made.
 35 Interest on an award is not considered annual compensation for any
 36 year.

37 (d) Compensation of no more than ~~two~~ **five** thousand dollars
 38 (~~\$2,000~~) (**\$5,000**) received from the employer in contemplation of the
 39 member's retirement, including severance pay, termination pay,
 40 retirement bonus, or commutation of unused sick leave or personal
 41 leave, may be included in the total annual compensation from which
 42 the average of the annual compensation is determined, if it is received:



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- 1 (1) before the member ceases service; or
 2 (2) within twelve (12) months after the member ceases service.
 3 (e) This section applies to a member of the general assembly:
 4 (1) who is a participant in the legislators' retirement system
 5 established under IC 2-3.5;
 6 (2) who is also a member of the public employees' retirement fund
 7 or the state teachers' retirement fund; and
 8 (3) whose years of service in the general assembly may not be
 9 considered in determining the average of the annual
 10 compensation under this section, as provided in
 11 IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

12 The board shall use the board's actuarial salary increase assumption to
 13 project the salary for any previous year needed to determine the
 14 average of the annual compensation.

15 SECTION 3. IC 21-6.1-4-6.1 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) This
 17 subsection applies to members who retire before July 1, 1980. A
 18 member who had completed four (4) years of approved college teacher
 19 training before voluntary or involuntary induction into the military
 20 services is entitled to credit for that service as if the member had begun
 21 teaching before the induction. A member who serves in military service
 22 is considered a teacher and is entitled to the benefits of the fund if for
 23 or during the leave of absence the member pays into the fund the
 24 member's contributions. Time served by a member in military service
 25 for the duration of the hostilities or for the length of active service in
 26 the hostilities and the necessary demobilization time after the hostilities
 27 is not subject to the one-seventh rule specified in section 5 of this
 28 chapter.

29 (b) This subsection applies to members who retire after June 30,
 30 1980. A member who had completed four (4) years of approved college
 31 teacher training before voluntary or involuntary induction into military
 32 service is entitled to credit for the member's active military service as
 33 if the member had begun teaching before the induction. A member who
 34 serves in military service is considered a teacher and is entitled to the
 35 benefits of the fund if:

- 36 (1) the member has an honorable discharge; and
 37 (2) except as provided in subsection ~~(f)~~, (g), the member returns
 38 to active teaching service within eighteen (18) months after the
 39 completion of active military service.

40 The time served by a member in military service for the duration of the
 41 hostilities or for the length of active service in the hostilities and the
 42 necessary demobilization time after the hostilities is not subject to the

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1 one-seventh rule specified in section 5 of this chapter. However, not
 2 more than six (6) years of military service credit may be granted under
 3 this subsection. In order to be eligible for any military service credit
 4 under this subsection, a member must have at least ten (10) years of
 5 in-state service credit.

6 (c) This subsection applies to members who retire after May 1,
 7 1989. A member who had begun but had not completed four (4) years
 8 of approved college teacher training before voluntary or involuntary
 9 induction into the military services is entitled to service credit in an
 10 amount equal to the duration of the member's active military service if
 11 the following conditions are met:

12 (1) The member has an honorable discharge.

13 (2) Except as provided in subsection (f), (g), the member returns
 14 to a four (4) year approved college teacher training program
 15 within eighteen (18) months after the completion of active
 16 military service and subsequently completes that program.

17 (3) The member has at least ten (10) years of in-state service
 18 credit.

19 (d) This subsection applies to members who retire after May 1,
 20 1991, and who are employed at state institutions of higher education.
 21 A member who had begun but had not completed baccalaureate or
 22 post-baccalaureate training before voluntary or involuntary induction
 23 into military service is entitled to the member's active military service
 24 credit for the member's active military service in an amount equal to
 25 the duration of the member's military service if the following
 26 conditions are met:

27 (1) The member received an honorable discharge.

28 (2) Except as provided in subsection (f), (g), the member returns
 29 to baccalaureate or post-baccalaureate training within eighteen
 30 (18) months after completion of active military service and
 31 subsequently completes that training.

32 (3) The member has at least ten (10) years of in-state service
 33 credit.

34 (e) **This subsection applies to members who retire after May 1,
 35 2000. A member is entitled to service credit in an amount equal to
 36 the duration of the member's active military service before
 37 beginning study at a four (4) year approved teacher training
 38 program if the following conditions are met:**

39 (1) **The member has an honorable discharge.**

40 (2) **Subsequent to the honorable discharge, the member begins
 41 study at a four (4) year approved teacher training program
 42 and completes that program.**



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1 **(3) The member has at least ten (10) years of in-state service**
 2 **credit.**

3 **For purposes of this subsection, the time served by the member in**
 4 **active military service for the length of active service in hostilities**
 5 **and necessary demobilization is not subject to the one-seventh rule**
 6 **in section 5 of this chapter.**

7 (f) The maximum amount of service credit that may be granted to
 8 a member who meets the conditions of subsection (c), or (d) is six (6)
 9 years. However, for purposes of subsection (c), or (d), the time served
 10 by the member in active military service for the length of active service
 11 in hostilities and necessary demobilization is not subject to the
 12 one-seventh rule specified in section 5 of this chapter.

13 ~~(f)~~ (g) The board shall extend the eighteen (18) month deadline
 14 contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines
 15 that an illness, an injury, or a disability related to the member's military
 16 service prevented the member from returning to active teaching service
 17 or to a teacher training program within eighteen (18) months after the
 18 member's discharge from military service. However, the board may not
 19 extend the deadline beyond thirty (30) months after the member's
 20 discharge.

21 ~~(g)~~ (h) If a member retires, and the board subsequently determines
 22 that the member is entitled to additional service credit due to the
 23 extension of a deadline under subsection ~~(f)~~; (g), the board shall
 24 recompute the member's benefit. However, the additional service credit
 25 may be used only in the computation of benefits to be paid after the
 26 date of the board's determination, and the member is not entitled to a
 27 recomputation of benefits received before the date of the board's
 28 determination.

29 ~~(h)~~ (i) Notwithstanding any provision of this section, a member is
 30 entitled to military service credit and benefits in the amount and to the
 31 extent required by the Uniformed Services Employment and
 32 Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later
 33 amendments.

34 **SECTION 4. An emergency is declared for this act.**

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