

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1573**

Citations Affected: IC 5-10.2; IC 21-6.1-5-9.

Synopsis: PERF and TRF benefits. Conference committee report for EHB 1573. Provides for a cost of living adjustment for members of the public employees' retirement fund (PERF) (or their survivors or beneficiaries) for 2004. Provides for a minimum pension portion of the monthly benefit for a retired member of PERF with at least 10 years of creditable service, excluding members whose only creditable service was as an elected official. Provides that a surviving spouse or dependent entitled to a statutory benefit may be designated as a beneficiary for the annuity savings account of a member of PERF or the teachers' retirement fund (TRF). Permits a PERF or TRF member who is receiving a retirement benefit to change the member's payment option and beneficiary in certain circumstances. Eliminates the requirement that the last retirement benefit paid by TRF be prorated to terminate at the member's death. **(This conference committee report adds the contents of ESB 87, as follows: Provides that a surviving spouse or dependent entitled to a statutory benefit may be designated as a beneficiary for the annuity savings account of a member of PERF or TRF. Permits a PERF or TRF member who is receiving a retirement benefit to change the member's payment option and beneficiary in certain circumstances. Eliminates the requirement that the last retirement benefit paid by TRF be prorated to terminate at the member's death.)**

Effective: July 1, 2003.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1573 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-10.2-3-7.5, AS AMENDED BY P.L.118-2000,
- 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2003]: Sec. 7.5. (a) A surviving dependent or surviving
- 5 spouse of a member who dies in service is entitled to a survivor benefit
- 6 if:
- 7 (1) the member dies after March 31, 1990;
- 8 (2) the member has:
- 9 (A) at least ten (10) years of creditable service, if the member
- 10 died in service as a member of the general assembly;
- 11 (B) at least fifteen (15) years of creditable service, if the member
- 12 died in service in any other position covered by the retirement
- 13 fund; or
- 14 (C) at least ten (10) years but not more than fourteen (14) years
- 15 of creditable service if the member:
- 16 (i) was at least sixty-five (65) years of age; and
- 17 (ii) died in service in a position covered by the teachers'
- 18 retirement fund; and
- 19 (3) the surviving dependent or surviving spouse qualifies for a
- 20 survivor benefit under subsection (b) or (c).
- 21 (b) If a member described in subsection (a) dies with a surviving

1 spouse who was married to the member for at least two (2) years, the
2 surviving spouse is entitled to a survivor benefit equal to the monthly
3 benefit that would have been payable to the spouse under the joint and
4 survivor option of IC 5-10.2-4-7 upon the member's death following
5 retirement at:

- 6 (1) fifty (50) years of age; or
- 7 (2) the actual date of death;

8 whichever is later. However, benefits payable under this subsection are
9 subject to subsections (e) and (g).

10 (c) If a member described in subsection (a) dies without a surviving
11 spouse who was married to the member for at least two (2) years, but
12 with a surviving dependent, the surviving dependent is entitled to a
13 survivor benefit in a monthly amount equal to the actuarial equivalent
14 of the monthly benefit that would have been payable to the spouse
15 (assuming the spouse would have had the same birth date as the
16 member) under the joint and survivor option of IC 5-10.2-4-7 upon the
17 member's death following retirement at:

- 18 (1) fifty (50) years of age; or
- 19 (2) the actual date of death;

20 whichever is later. If there are two (2) or more surviving dependents,
21 the actuarial equivalent of the benefit described in this subsection shall
22 be calculated and, considering the dependents' attained ages, an equal
23 dollar amount shall be determined as the monthly benefit to be paid to
24 each dependent. Monthly benefits under this subsection are payable
25 until the date the dependent becomes eighteen (18) years of age or dies,
26 whichever is earlier. However, if a dependent is permanently and
27 totally disabled (using disability guidelines established by the Social
28 Security Administration) at the date the dependent reaches eighteen
29 (18) years of age, the monthly benefit is payable until the date the
30 dependent is no longer disabled (using disability guidelines established
31 by the Social Security Administration) or dies, whichever is earlier.
32 Benefits payable under this subsection are subject to subsections (e)
33 and (g).

34 (d) Except as provided in subsections (e) and (h), the surviving
35 spouse or surviving dependent of a member who is entitled to a
36 survivor benefit under subsection (b) or (c) or section 7.6 of this
37 chapter may elect to receive a lump sum payment of the total amount
38 credited to the member in the member's annuity savings account or an
39 amount equal to the member's federal income tax basis in the member's
40 annuity savings account as of December 31, 1986. A surviving spouse
41 or surviving dependent who makes such an election is not entitled to an
42 annuity as part of the survivor benefit under subsection (b) or (c) or
43 section 7.6 of this chapter to the extent of the lump sum payment.

44 (e) If a member described in subsection (a) or section 7.6(a) of this
45 chapter is survived by a designated beneficiary who is not a surviving
46 spouse or surviving dependent entitled to a survivor benefit under
47 subsection (b) or (c) or section 7.6 of this chapter, the following
48 provisions apply:

- 49 (1) If the member is survived by one (1) designated beneficiary, the
50 designated beneficiary is entitled to receive in a lump sum or over
51 a period of up to five (5) years, as elected by the designated

1 beneficiary, the amount credited to the member's annuity savings
2 account, less any disability benefits paid to the member.

3 (2) If the member is survived by two (2) or more designated
4 beneficiaries, the designated beneficiaries are entitled to receive in
5 a lump sum or over a period of up to five (5) years, as elected by
6 the designated beneficiary, equal shares of the amount credited to
7 the member's annuity savings account, less any disability benefits
8 paid to the member.

9 (3) If the member is also survived by a spouse or dependent who
10 is entitled to a survivor benefit under subsection (b) or (c) or
11 section 7.6 of this chapter, the surviving spouse or dependent is not
12 entitled to an annuity or a lump sum payment as part of the
13 survivor benefit, **unless the surviving spouse or dependent is**
14 **also a designated beneficiary.**

15 (f) If a member dies:

16 (1) without a surviving spouse or surviving dependent who
17 qualifies for survivor benefits under subsection (b) or (c) or section
18 7.6 of this chapter; and

19 (2) without a surviving designated beneficiary who is entitled to
20 receive the member's annuity savings account under subsection (e);
21 the amount credited to the member's annuity savings account, less any
22 disability benefits paid to the member, shall be paid to the member's
23 estate.

24 (g) Survivor benefits payable under this section or section 7.6 of this
25 chapter shall be reduced by any disability benefits paid to the member.

26 (h) Additional annuity contributions, if any, shall not be included in
27 determining survivor benefits under subsection (b) or (c) or section 7.6
28 of this chapter, but are payable in a lump sum payment to:

29 (1) the member's surviving designated beneficiary; or

30 (2) the member's estate, if there is no surviving designated
31 beneficiary.

32 (i) Survivor benefits provided under this section or section 7.6 of this
33 chapter are subject to IC 5-10.2-2-1.5.

34 (j) A benefit specified in this section shall be forfeited and credited
35 to the member's retirement fund if no person entitled to the benefit
36 claims it within three (3) years after the member's death. However, the
37 board may honor a claim that is made more than three (3) years after
38 the member's death if the board finds, in the board's discretion, that:

39 (1) the delay in making the claim was reasonable or other
40 extenuating circumstances justify the award of the benefit to the
41 claimant; and

42 (2) paying the claim would not cause a violation of the applicable
43 Internal Revenue Service rules.

44 SECTION 2. IC 5-10.2-4-7, AS AMENDED BY P.L.246-2001,
45 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
46 JULY 1, 2003]: Sec. 7. (a) Benefits provided under this section are
47 subject to IC 5-10.2-2-1.5.

48 (b) A member who retires is entitled to receive monthly retirement
49 benefits, which are guaranteed for five (5) years or until the member's
50 death, whichever is later. A member may select in writing any of the
51 following nonconflicting options for the payment of the member's

1 retirement benefits instead of the five (5) year guaranteed retirement
 2 benefit payments. The amount of the optional payments shall be
 3 determined under rules of the board and shall be the actuarial
 4 equivalent of the benefit payable under sections 4, 5, and 6 of this
 5 chapter.

6 (1) Joint and Survivor Option.

7 (A) The member receives a decreased retirement benefit during
 8 the member's lifetime, and there is a benefit payable after the
 9 member's death to a designated beneficiary during the lifetime
 10 of the beneficiary, which benefit equals, at the option of the
 11 member, either the full decreased retirement benefit or
 12 two-thirds (2/3) or one-half (1/2) of that benefit.

13 (B) If the member dies before retirement, the designated
 14 beneficiary may receive only the amount credited to the member
 15 in the annuity savings account unless the designated beneficiary
 16 is entitled to survivor benefits under IC 5-10.2-3.

17 (C) If the designated beneficiary dies before the member retires,
 18 the selection is automatically canceled and the member may
 19 make a new beneficiary election and may elect a different form
 20 of benefit under this subsection.

21 ~~(D) If:~~

22 ~~(i) the designated beneficiary dies while the member is~~
 23 ~~receiving benefits; or~~

24 ~~(ii) the member is receiving benefits; the member marries;~~
 25 ~~either for the first time or following the death of the member's~~
 26 ~~spouse; after the member's first benefit payment is made; and~~
 27 ~~the member's designated beneficiary is not the member's~~
 28 ~~current spouse or the member has not designated a beneficiary;~~
 29 ~~the member may elect to change the member's designated~~
 30 ~~beneficiary or form of benefit under this subsection and to~~
 31 ~~receive an actuarially adjusted and recalculated benefit for the~~
 32 ~~remainder of the member's life or for the remainder of the~~
 33 ~~member's life and the life of the newly designated beneficiary. If~~
 34 ~~the member's new election is the joint and survivor option, the~~
 35 ~~member shall indicate whether the designated beneficiary's~~
 36 ~~benefit shall equal, at the option of the member, either the~~
 37 ~~member's full recalculated retirement benefit or two-thirds (2/3)~~
 38 ~~or one-half (1/2) of this benefit. The cost of recalculating the~~
 39 ~~benefit shall be borne by the member and shall be included in~~
 40 ~~the actuarial adjustment.~~

41 (2) Benefit with No Guarantee. The member receives an increased
 42 lifetime retirement benefit without the five (5) year guarantee
 43 specified in this subsection.

44 (3) Integration with Social Security. If the member retires before
 45 the age of eligibility for Social Security benefits, in order to
 46 provide a level benefit during the member's retirement the member
 47 receives an increased retirement benefit until the age of Social
 48 Security eligibility and decreased retirement benefits after that age.

49 (4) Cash Refund Annuity. The member receives a lifetime annuity
 50 purchasable by the amount credited to the member in the annuity
 51 savings account, and the member's designated beneficiary receives

- 1 a refund payment equal to:
- 2 (A) the total amount used in computing the annuity at the
- 3 retirement date; minus
- 4 (B) the total annuity payments paid and due to the member
- 5 before the member's death.
- 6 ~~(c) A selection under subsection (b) may be made or revoked by the~~
- 7 ~~member on or before:~~
- 8 ~~(1) the retirement date selected under section 1 of this chapter; or~~
- 9 ~~(2) the date on which a retirement date is selected under section 1~~
- 10 ~~of this chapter;~~
- 11 ~~whichever is later.~~
- 12 **(c) If:**
- 13 **(1) the designated beneficiary dies while the member is**
- 14 **receiving benefits; or**
- 15 **(2) the member is receiving benefits, the member marries,**
- 16 **either for the first time or following the death of the member's**
- 17 **spouse, after the member's first benefit payment is made, and**
- 18 **the member's designated beneficiary is not the member's**
- 19 **current spouse or the member has not designated a**
- 20 **beneficiary;**
- 21 **the member may elect to change the member's designated**
- 22 **beneficiary or form of benefit under subsection (b) and to receive**
- 23 **an actuarially adjusted and recalculated benefit for the remainder**
- 24 **of the member's life or for the remainder of the member's life and**
- 25 **the life of the newly designated beneficiary. The member may not**
- 26 **elect to change to a five (5) year guaranteed form of benefit. If the**
- 27 **member's new election is the joint and survivor option, the**
- 28 **member shall indicate whether the designated beneficiary's benefit**
- 29 **shall equal, at the option of the member, either the member's full**
- 30 **recalculated retirement benefit or two-thirds (2/3) or one-half (1/2)**
- 31 **of this benefit. The cost of recalculating the benefit shall be borne**
- 32 **by the member and shall be included in the actuarial adjustment.**
- 33 **(d) Except as provided in subsection (c), a member who files for**
- 34 **regular or disability retirement may not change:**
- 35 **(1) the member's retirement option under subsection (b);**
- 36 **(2) the selection of a lump sum payment under section 2 of this**
- 37 **chapter; or**
- 38 **(3) the beneficiary designated on the member's application for**
- 39 **benefits if the member selects the joint and survivor option**
- 40 **under subsection (b)(1);**
- 41 **after the first day of the month in which benefit payments are**
- 42 **scheduled to begin. For purposes of this subsection, it is immaterial**
- 43 **whether a benefit check has been sent, received, or negotiated.**
- 44 ~~(d)~~ **(e) A member may direct that the member's retirement benefits**
- 45 **be paid to a revocable trust that permits the member unrestricted access**
- 46 **to the amounts held in the revocable trust. The member's direction is**
- 47 **not an assignment or transfer of benefits under IC 5-10.3-8-10 or**
- 48 **IC 21-6.1-5-17.**
- 49 SECTION 3. IC 5-10.2-5-33 IS ADDED TO THE INDIANA CODE
- 50 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 51 1, 2003]: **Sec. 33. (a) The pension portion (plus postretirement**

1 increases to the pension portion) provided by employer
 2 contributions of the monthly benefit payable after December 31,
 3 2003, to a member of the public employees' retirement fund (or to
 4 a survivor or beneficiary of a member of the public employees'
 5 retirement fund) who retired or was disabled before January 1,
 6 2003, shall be increased by two percent (2%).

7 (b) The monthly amount of the increase described in subsection
 8 (a) payable to a member of the public employees' retirement fund
 9 (or to a survivor or beneficiary of a member of the public
 10 employees' retirement fund) may not be less than five dollars (\$5).

11 (c) The increases specified in this section:

12 (1) are based upon the date of the member's latest retirement
 13 or disability;

14 (2) do not apply to benefits payable in a lump sum; and

15 (3) are in addition to any other increase provided by law.

16 SECTION 4. IC 5-10.2-5-34 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2003]: Sec. 34. (a) This section does not apply to a member of the
 19 public employees' retirement fund (or to a survivor or beneficiary
 20 of a member of the public employees' retirement fund) whose
 21 creditable service was earned only as an elected official.

22 (b) In addition to any other cost of living increase provided under
 23 this chapter, the pension portion (plus postretirement increases to
 24 the pension portion) provided by employer contributions of the
 25 monthly benefit payable after December 31, 2003, to a member of
 26 the public employees' retirement fund (or to a survivor or
 27 beneficiary of a member of the public employees' retirement fund)
 28 who was a retired member of the fund with at least ten (10) years
 29 of creditable service and was entitled to receive a monthly benefit
 30 on December 1, 2003, may not be less than one hundred eighty
 31 dollars (\$180).

32 (c) The increases specified in this section:

33 (1) are based upon the date of the member's latest retirement
 34 or disability;

35 (2) do not apply to benefits payable in a lump sum; and

36 (3) are in addition to any other increase provided by law.

37 SECTION 5. IC 21-6.1-5-9, AS AMENDED BY P.L.195-1999,
 38 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2003]: Sec. 9. (a) The first pension benefit payment after
 40 retirement shall be made not more than ninety (90) days after the
 41 completion and filing of the member's application for retirement
 42 benefits.

43 (b) After the first pension benefit payment, each person entitled to
 44 benefits shall receive the retirement benefits in installments payable by
 45 the tenth day of each month.

46 (c) The last retirement benefit payment must be prorated to terminate
 47 at the member's death.

48 SECTION 6. [EFFECTIVE JULY 1, 2003] IC 21-6.1-5-9, as
 49 amended by this act, applies to retirement benefits payable by the
 50 Indiana state teachers' retirement fund after June 30, 2003.

(Reference is to EHB 1573 as printed April 8, 2003.)

Conference Committee Report
on
Engrossed House Bill 1573

Signed by:

Representative Kromkowski
Chairperson

Senator Meeks R

Representative Scholer

Senator Hume

House Conferees

Senate Conferees