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# SENATE BILL No. 19

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-8.1-2-7; IC 4-13-2-7; IC 5-10; IC 5-10.2; IC 10-12-2-12; IC 10-16-7-19; IC 33-38-8-13; IC 33-39-7-15; IC 36-8-8-10.5.

**Synopsis:** Direct deposit of public pension benefits. Requires all state administered public retirement and pension funds to pay benefits after December 31, 2009, by direct deposit using electronic funds transfer. Provides for a waiver of the direct deposit requirement in limited circumstances. Repeals provisions concerning the direct deposit of benefits by the public employees' retirement fund.

**Effective:** July 1, 2009.

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### Boots

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January 7, 2009, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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# SENATE BILL No. 19



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

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

- 1 SECTION 1. IC 4-8.1-2-7 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Except as
- 3 otherwise specified in this section, the treasurer of state may not pay
- 4 any money out of the state treasury except upon warrant of the auditor
- 5 of state based on an approved claim.
- 6 (b) The treasurer of state may transfer money invested or on deposit
- 7 in a public depository to any deposit account in the same or a different
- 8 public depository. A transfer between deposit accounts may be made
- 9 by warrant, check, or electronic funds transfer.
- 10 (c) If:
- 11 (1) a political subdivision (as defined in IC 36-1-2-13) elects to
- 12 receive distributions from the state; ~~or if~~
- 13 (2) a state employee elects to have wages deposited directly in a
- 14 financial institution under IC 4-15-5.9-2; ~~or~~
- 15 (3) **a member, survivor, or beneficiary of a public pension or**
- 16 **retirement fund authorizes the direct deposit of benefit**
- 17 **payments under IC 5-10-16;**



1 by means of an electronic transfer of funds, the treasurer of state shall  
2 have the funds transferred electronically.

3 (d) Notwithstanding any other law, if:  
4 (1) a vendor or claimant requests that one (1) or more payments  
5 be made by means of an electronic funds transfer; and  
6 (2) the auditor of state and the treasurer of state agree that  
7 payment by electronic funds transfer is advantageous to the state;  
8 the auditor of state may elect to authorize an electronic funds transfer  
9 method of payment. If authorized by the auditor of state, the treasurer  
10 of state may pay money from the state treasury by electronic funds  
11 transfer.

12 (e) With regard to electronic funds transfer, a record of each transfer  
13 authorization shall be made by the treasurer of state immediately  
14 following the authorization and shall be made in a form which  
15 conforms to accounting systems approved by the state board of  
16 accounts.

17 (f) As used in this section, "electronic funds transfer" means any  
18 transfer of funds, other than a transaction originated by check, draft, or  
19 similar paper instrument, that is initiated through an electronic  
20 terminal, telephone, or computer or magnetic tape for the purpose of  
21 ordering, instructing, or authorizing a financial institution to debit or  
22 credit an account.

23 SECTION 2. IC 4-13-2-7 IS AMENDED TO READ AS FOLLOWS  
24 [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Subject to this chapter and  
25 other laws not inconsistent with this chapter, the auditor of state shall,  
26 respecting all agencies of the state, do the following:

27 (1) Maintain the centralized accounting records for the state, keep  
28 the general books of accounts on a double entry basis, and  
29 maintain accounts as will reflect in detail or in summary, all  
30 assets, liabilities, reserves, surpluses, revenues and receipts,  
31 appropriations, allotments, expenditures, and encumbrances  
32 except as otherwise provided in this chapter. The accounting  
33 records and procedures must provide complete fiscal control over  
34 all agencies of the state and over all activities carried on by them  
35 and be upon forms, records, and systems approved by the state  
36 board of accounts.

37 (2) Examine every receipt, account, bill, claim, refund, and  
38 demand against the state arising from activities carried on by  
39 agencies of the state, approve each legal, correct, and proper  
40 claim, designate the account to be charged therefor, and issue the  
41 auditor's warrant in payment thereof. The auditor of state may  
42 authorize the disbursement through electronic funds transfer in

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1 conformity with IC 4-8.1-2-7. All warrants and electronic funds  
 2 transfers shall be payable to the vendor or claimant and in no  
 3 instance shall the auditor issue any warrant or make any  
 4 electronic funds transfer payable to an officer or agency in  
 5 payment of several claims where the officer is to distribute or pay  
 6 to the several claimants the amount due, except in the case of  
 7 special disbursement officers as provided for in this chapter.  
 8 However, the auditor of state shall not be required to audit claims  
 9 for any refunds made pursuant to IC 6-6-1.1 and IC 6-6-2.5.

10 (3) Examine each and every payroll or salary voucher submitted  
 11 for payment by each state officer or state agency and shall issue  
 12 the auditor's warrant in payment, payable to the officer or  
 13 employee or claimant, except as provided in subdivision (5). In no  
 14 instance shall the auditor issue the auditor's warrant payable to  
 15 any officer or agency in payment of a payroll or schedule to be  
 16 distributed or paid to employees by the officer or agency.

17 (4) Keep an earnings record for each employee that shows gross  
 18 compensation, net compensation, items withheld for federal tax,  
 19 public employees' retirement, teachers' retirement, or other  
 20 retirement, and any other deductions authorized to be deducted  
 21 from earnings, and shall, as required by law, make settlement with  
 22 the proper officers, agents, or agencies for the deductions.

23 (5) Authorize the electronic transfer of funds from the state  
 24 treasury to a designated deposit account in payment of a payroll  
 25 or salary voucher on behalf of a state employee who has given the  
 26 auditor written authorization to make the transfer under  
 27 IC 4-15-5.9-2.

28 **(6) Authorize the electronic transfer of benefit payments to a**  
 29 **member, survivor, or beneficiary of a public pension or**  
 30 **retirement fund who has authorized the direct deposit of**  
 31 **benefits under IC 5-10-16.**

32 ~~(6)~~ (7) Accept all documents and reports showing evidences of  
 33 the collection of state revenues by state agencies, evidences of the  
 34 deposit of the revenues, and evidences of the receipt thereof by  
 35 the treasurer of state and designate the fund or account to be  
 36 credited.

37 ~~(7)~~ (8) Have all other powers and duties respecting all agencies of  
 38 the state as may be imposed upon the auditor by law or transferred  
 39 to the auditor by this chapter.

40 (b) The auditor of state may issue a warrant or make an electronic  
 41 funds transfer in conformity with IC 4-8.1-2-7 to a person who:  
 42 (1) has a contract with the state; and

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- 1 (2) is entitled to payment under that contract;
- 2 without the certification required by IC 5-11-10-1.
- 3 (c) The auditor may not issue a warrant or make an electronic funds
- 4 transfer under subsection (b) except in accordance with procedures
- 5 adopted by the state board of accounts.
- 6 (d) The auditor is not personally liable for a warrant issued or an
- 7 electronic funds transfer made under subsection (b) if:
- 8 (1) the auditor complies with the procedures described in
- 9 subsection (c); and
- 10 (2) funds are appropriated and available to pay the warrant or
- 11 electronic funds transfer.
- 12 (e) This subsection applies to a payment of less than five thousand
- 13 dollars (\$5,000). Notwithstanding any other law, the auditor of state
- 14 may elect to:
- 15 (1) not preaudit a payment; and
- 16 (2) process the payment with the state agency authorizing the
- 17 payment.
- 18 The state agency is accountable to the state board of accounts under the
- 19 board's post payment auditing procedures.
- 20 SECTION 3. IC 5-10-5.5-23 IS ADDED TO THE INDIANA CODE
- 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 22 1, 2009]: **Sec. 23. IC 5-10-16 (direct deposit of pension and**
- 23 **retirement benefits) applies to benefits paid under this chapter.**
- 24 SECTION 4. IC 5-10-16 IS ADDED TO THE INDIANA CODE AS
- 25 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 26 1, 2009]:
- 27 **Chapter 16. Direct Deposit of Pension and Retirement Benefits**
- 28 **Sec. 1. This chapter applies after December 31, 2009, to the**
- 29 **following public pension and retirement funds:**
- 30 (1) **The public employees' retirement fund established under**
- 31 **IC 5-10.3-2-1.**
- 32 (2) **The Indiana state teachers' retirement fund established**
- 33 **under IC 5-10.4-2-1.**
- 34 (3) **The judges' retirement fund established under IC 33-38-6.**
- 35 (4) **The prosecuting attorneys retirement fund established**
- 36 **under IC 33-39-7.**
- 37 (5) **The state excise police, gaming agent, gaming control**
- 38 **officer, and conservation enforcement officers' retirement**
- 39 **fund established under IC 5-10-5.5.**
- 40 (6) **The state police department pension plan established**
- 41 **under IC 10-12-2.**
- 42 (7) **The pension benefit paid for the National Guard by the**

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- 1 state as established under IC 10-16-7.
- 2 (8) The 1977 police officers' and firefighters' pension and
- 3 disability fund established under IC 36-8-8.
- 4 (9) The former governor and surviving spouse pension
- 5 established under IC 4-3-3.
- 6 (10) The legislators' retirement system established under
- 7 IC 2-3.5.

8 **Sec. 2. As used in this chapter, "administrator" means the**  
 9 **following:**

- 10 (1) The board of trustees of the public employees' retirement
- 11 fund, for the following:
- 12 (A) The public employees' retirement fund established
- 13 under IC 5-10.3-2-1.
- 14 (B) The judges' retirement fund established under
- 15 IC 33-38-6.
- 16 (C) The prosecuting attorneys retirement fund established
- 17 under IC 33-39-7.
- 18 (D) The state excise police, gaming agent, gaming control
- 19 officer, and conservation enforcement officers' retirement
- 20 fund established under IC 5-10-5.5.
- 21 (E) The 1977 police officers' and firefighters' pension and
- 22 disability fund established under IC 36-8-8.
- 23 (F) The legislators' retirement system established under
- 24 IC 2-3.5.
- 25 (2) The board of trustees of the Indiana state teachers'
- 26 retirement fund, for the Indiana state teachers' retirement
- 27 fund established under IC 5-10.4-2-1.
- 28 (3) The state police department, for the state police
- 29 department pension plan established under IC 10-12-2.
- 30 (4) The adjutant general of the military department of the
- 31 state, for the pension benefit paid for the National Guard by
- 32 the state as established under IC 10-16-7.
- 33 (5) The auditor of state, for the former governor and
- 34 surviving spouse pension established under IC 4-3-3.

35 **Sec. 3. As used in this chapter, "electronic funds transfer" has**  
 36 **the meaning set forth in IC 5-13-4-9.**

37 **Sec. 4. As used in this chapter, "financial institution" means a**  
 38 **bank, trust company, savings institution, credit union, or other**  
 39 **banking or financial entity:**

- 40 (1) whose principal business activity is providing banking or
- 41 financial services to the public; and
- 42 (2) that is organized or operating under Indiana law, the law

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of another state, or federal law.

Sec. 5. As used in this chapter, "fund" refers to the following:

- (1) The public employees' retirement fund established under IC 5-10.3-2-1.
- (2) The Indiana state teachers' retirement fund established under IC 5-10.4-2-1.
- (3) The judges' retirement fund established under IC 33-38-6.
- (4) The prosecuting attorneys retirement fund established under IC 33-39-7.
- (5) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund established under IC 5-10-5.5.
- (6) The state police department pension plan established under IC 10-12-2.
- (7) The pension benefit paid for the National Guard by the state as established under IC 10-16-7.
- (8) The 1977 police officers' and firefighters' pension and disability fund established under IC 36-8-8.
- (9) The former governor and surviving spouse pension established under IC 4-3-3.
- (10) The legislators' retirement system established under IC 2-3.5.

Sec. 6. (a) This section does not apply to a one-time, nonrecurring payment to a member, survivor, or beneficiary of a fund.

(b) Notwithstanding any other law or rule, but subject to section 8 of this chapter, a member, survivor, or beneficiary who is entitled to receive a benefit from a fund shall authorize in writing the direct deposit by electronic funds transfer of all benefit payments by the fund to the member, survivor, or beneficiary. The member's, survivor's, or beneficiary's written authorization must designate a financial institution and an account number to which all benefit payments are to be credited. The member's, survivor's, or beneficiary's written authorization remains in effect until the member, survivor, or beneficiary revokes it in writing.

(c) After obtaining the authorization required by subsection (b), the administrator of the fund shall deposit a benefit payment to the member, survivor, or beneficiary in the financial institution and account designated by the member, survivor, or beneficiary each time a benefit payment is made to the member, survivor, or beneficiary.

Sec. 7. The fund shall furnish each member, survivor, or

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1 beneficiary whose benefits are deposited by electronic funds  
2 transfer:

3 (1) before each change in the amount of the member's,  
4 survivor's, or beneficiary's benefit; or

5 (2) once every twelve (12) months, if the member's, survivor's,  
6 or beneficiary's benefit amount does not change;

7 a written notice showing the member's, survivor's, or beneficiary's  
8 benefit amount, including any cost of living increase or other  
9 adjustment to the benefit amount, and a summary of the member's,  
10 survivor's, or beneficiary's benefit payment history since the  
11 member's, survivor's, or beneficiary's last written notice.

12 **Sec. 8. (a)** A person who does not wish to have the person's  
13 benefit payments deposited by electronic funds transfer may  
14 request that the fund administrator grant a waiver of the  
15 requirement of section 6(b) of this chapter. The person must:

16 (1) state the reason for requesting the waiver; and

17 (2) sign and verify the waiver form.

18 **(b)** The fund administrator may grant a person's request for a  
19 waiver for any of the following reasons:

20 (1) The person does not have a savings or checking account  
21 and is unable to establish an account within the geographic  
22 area in which the person resides without payment of a service  
23 fee. The person must submit with the waiver request a written  
24 statement by the person's financial institution of the person's  
25 inability to establish an account without the payment of a fee.

26 (2) The person's financial institution is unable to accept an  
27 electronic deposit or withdrawal. The person must submit  
28 with the waiver request a written statement by the person's  
29 financial institution that the financial institution is unable to  
30 accept an electronic deposit or withdrawal.

31 (3) The fund administrator determines that the facts of the  
32 particular case warrant a waiver of the requirement of section  
33 6(b) of this chapter.

34 **(c)** The fund administrator shall establish a waiver form  
35 consistent with this section.

36 **Sec. 9.** A fund administrator may establish or amend rules or  
37 policies as necessary to administer this chapter.

38 SECTION 5. IC 5-10.2-4-1.3, AS AMENDED BY P.L.115-2008,  
39 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2009]: Sec. 1.3. (a) A member who files an application for  
41 retirement benefits must provide the following information on the  
42 application form:

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- 1 (1) The retirement date chosen by the member.
- 2 (2) If the member has not elected to withdraw the entire amount
- 3 in the member's annuity savings account under IC 5-10.2-3-6.5,
- 4 whether the member chooses:
  - 5 (A) an annuity purchased from the amount credited to the
  - 6 member in the annuity savings account;
  - 7 (B) a total or partial distribution from the annuity savings
  - 8 account under section 2(b) of this chapter; or
  - 9 (C) a deferral of the payment of any benefits from the annuity
  - 10 savings account under section 2(c) of this chapter.
- 11 (3) The name of the beneficiary or beneficiaries designated by the
- 12 member with respect to the pension portion of the member's
- 13 retirement benefit.
- 14 (4) The name of the beneficiary or beneficiaries designated by the
- 15 member with respect to the annuity portion of the member's
- 16 retirement benefit, unless the member chooses total distribution
- 17 under section 2 of this chapter.
- 18 **(5) The written authorization described in IC 5-10-16 (direct**
- 19 **deposit of pension and retirement benefits).**
  - 20 (b) A member's designation of beneficiaries in the application for
  - 21 retirement benefits supersedes any previous designation of
  - 22 beneficiaries by the member.
  - 23 (c) A member must indicate the name, address, date of birth, and
  - 24 Social Security number of each designated beneficiary and provide
  - 25 proof of birth of each designated beneficiary.
  - 26 (d) Each board shall adopt a form for the application for retirement
  - 27 benefits that meets the requirements of this section.
- 28 SECTION 6. IC 10-12-2-12 IS ADDED TO THE INDIANA CODE
- 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 30 1, 2009]: **Sec. 12. IC 5-10-16 (direct deposit of pension and**
- 31 **retirement benefits) applies to benefits paid under this chapter.**
- 32 SECTION 7. IC 10-16-7-19 IS AMENDED TO READ AS
- 33 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) A member of
- 34 the Indiana National Guard who is wounded or disabled or was
- 35 disabled in the service of the state including service related to:
  - 36 (1) a riot;
  - 37 (2) a tumult;
  - 38 (3) a breach of the peace;
  - 39 (4) a resistance to process;
  - 40 (5) an invasion;
  - 41 (6) a public disaster;
  - 42 (7) the aid of civil authority; or

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1 (8) a lawfully ordered parade, drill, encampment, or inspection;  
 2 within ten (10) years preceding the member's application for a pension  
 3 under this chapter shall, upon proof of the disability, be placed on the  
 4 roll of invalid pensioners of the state and shall receive out of money in  
 5 the state treasury not otherwise appropriated, upon the audit of the  
 6 adjutant general and approval of the governor, the same pension or  
 7 reward that a person under similar circumstances would receive from  
 8 the United States. In case of a wound, an injury, or a disease that results  
 9 in death, the surviving spouse, dependent children, or dependent parent  
 10 of the member of the Indiana National Guard shall receive the pension  
 11 and reward dating from the time of receiving the injuries on account of  
 12 which the pension or reward is allowed. An officer or enlisted person  
 13 is not entitled while in active service to apply for or receive a pension.

14 (b) If a member of the Indiana National Guard dies in the active  
 15 service of the state, the member's reasonable funeral expenses, not  
 16 exceeding four thousand dollars (\$4,000), shall be paid by the state in  
 17 the manner as the governor directs.

18 (c) This section does not make applicable any provision of the  
 19 national service life insurance law of the United States, and the pension  
 20 or reward granted under this section shall be that provided for by the  
 21 pension laws of the United States in substance, without regard to form.

22 **(d) IC 5-10-16 (direct deposit of pension and retirement**  
 23 **benefits) applies to benefits paid under this section.**

24 SECTION 8. IC 33-38-8-13, AS AMENDED BY P.L.122-2008,  
 25 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2009]: Sec. 13. (a) A participant whose employment as a  
 27 judge or, after December 31, 2010, as a judge or full-time magistrate,  
 28 is terminated is entitled to a retirement benefit computed under section  
 29 14 of this chapter, beginning on the date specified by the participant in  
 30 a written application, if the following conditions are met:

- 31 (1) The date on which the benefit begins is not:  
 32 (A) before the date of final termination of employment of the  
 33 participant; or  
 34 (B) the date thirty (30) days before the receipt of the  
 35 application by the board.  
 36 (2) The participant:  
 37 (A) is at least sixty-two (62) years of age and has at least eight  
 38 (8) years of service credit;  
 39 (B) is at least fifty-five (55) years of age and the participant's  
 40 age in years plus the participant's years of service is at least  
 41 eighty-five (85); or  
 42 (C) has become permanently disabled.

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- 1 (3) The participant is not receiving a salary from the state for
- 2 services currently performed as:
- 3 (A) a judge (as defined in IC 33-38-6-7); or
- 4 (B) a magistrate under IC 33-23-5.

5 **(b) IC 5-10-16 (direct deposit of pension and retirement**

6 **benefits) applies to benefits paid under this chapter.**

7 SECTION 9. IC 33-39-7-15, AS AMENDED BY P.L.33-2006,

8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

9 JULY 1, 2009]: Sec. 15. (a) A participant whose employment in a

10 position described in section 8 of this chapter is terminated is entitled

11 to a retirement benefit computed under section 16 or 18 of this chapter,

12 beginning on the date specified by the participant in a written

13 application, if all of the following conditions are met:

- 14 (1) The application for retirement benefits and the choice of the
- 15 retirement date is filed on a form provided by the board, and the
- 16 retirement date is:
- 17 (A) after the cessation of the participant's service;
- 18 (B) on the first day of a month; and
- 19 (C) not more than six (6) months before the date the
- 20 application is received by the board.

21 However, if the board determines that a participant is incompetent

22 to file for benefits and choose a retirement date, the retirement

23 date may be any date that is the first of the month after the time

24 the participant became incompetent.

- 25 (2) The participant:
- 26 (A) is at least sixty-two (62) years of age and has at least eight
- 27 (8) years of service credit; or
- 28 (B) meets the requirements for disability benefits under
- 29 section 17 of this chapter.

- 30 (3) The participant is not receiving and is not entitled to receive
- 31 any salary for services currently performed, except for services
- 32 rendered as a senior prosecuting attorney under IC 33-39-1.

33 **(b) IC 5-10-16 (direct deposit of pension and retirement**

34 **benefits) applies to benefits paid under this chapter.**

35 SECTION 10. IC 36-8-8-10.5 IS ADDED TO THE INDIANA

36 CODE AS A NEW SECTION TO READ AS FOLLOWS

37 [EFFECTIVE JULY 1, 2009]: **Sec. 10.5. IC 5-10-16 (direct deposit**

38 **of pension and retirement benefits) applies to benefits paid under**

39 **this chapter.**

40 SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE

41 JULY 1, 2009]: IC 5-10.2-4-1.2; IC 5-10.2-4-1.4.

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