

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby gives Notice of Intended Action to amend Chapter 4, "Employers," Chapter 5, "Employees," Chapter 6, "Covered Wages," Chapter 8, "Service Purchases," Chapter 9, "Refunds," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," Chapter 16, "Domestic Relations Orders and Other Assignments," Chapter 17, "Public Records and Fair Information Practices," and Chapter 26, "Appeals and Contested Cases—Proceedings," Iowa Administrative Code.

IPERS proposes the following amendments: to implement contribution rates for regular and special service members beginning July 1, 2016; to clarify an existing rule and adopt a new rule regarding leased employees; to require certification by employers that their Section 125 plans meet all Internal Revenue Code requirements; to clarify that members who retire under Option 1 may increase the lump sum death benefit with a service purchase, which will be balanced out by a reduced monthly benefit amount; to conform the language of a rule with the statute and remove unclear language regarding reinstatement following an involuntary termination and the taking of a refund; to include the available percentages from which a member must select to be payable to the member's contingent annuitant when a member retires under Option 4 or 6; to clarify reemployment/income monitoring and move offset language to a new rule detailing the offsets taken in the case of special service disability payments received by a member for the same illness or injury and how they are calculated; to clarify acceptable proof of death for beneficiary payments; to clarify preretirement death benefits payable to inactive members' beneficiaries for deaths occurring before June 30, 2012, and to adopt a new rule for deaths occurring after June 30, 2012; to remove language regarding opposite gender spouse from the definition of "Qualified domestic relations order"; to conform IPERS with Internal Revenue Service reporting requirements for distributions to non-spouse successor alternate payees; to clarify procedures when a post-divorce beneficiary designation is updated by a member; to clarify proof of death requirements when an alternate payee predeceases a member; to clarify procedures regarding refund payments made when a qualified domestic relations order (QDRO) is involved and the alternate payee has not returned a completed application by the deadline; to clarify that payment of an alternate payee's benefit under a QDRO will follow the payroll schedule; to remove the written signature requirement in answering an open records request; and to update terms to be consistent with IPERS' practice in appeals.

These amendments were prepared after consultation with IPERS' staff, IPERS' tax counsel and the Benefits Advisory Committee.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 12, 2016. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator at IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-7623. Comments may also be submitted by fax to (515)281-0045 or by e-mail to adminrule@ipers.org.

A public hearing will be held on January 12, 2016, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa. Persons may present their views either orally or in writing. At the hearing, persons

will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

There are no waiver provisions included in the proposed amendments.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

The following amendments are proposed.

ITEM 1. Amend paragraph **4.6(1)“b”** as follows:

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016
Combined rate	14.45%	14.88%	14.88%	14.88%	<u>14.88%</u>
Employer	8.67%	8.93%	8.93%	8.93%	<u>8.93%</u>
Employee	5.78%	5.95%	5.95%	5.95%	<u>5.95%</u>

ITEM 2. Amend subrule 4.6(2) as follows:

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2011	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016
Combined rate	19.66%	19.80%	19.76%	19.76%	19.76%	<u>19.26%</u>
Employer	9.83%	9.90%	9.88%	9.88%	9.88%	<u>9.63%</u>
Employee	9.83%	9.90%	9.88%	9.88%	9.88%	<u>9.63%</u>

ITEM 3. Amend subrule 4.6(3) as follows:

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2011	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016
Combined rate	16.62%	17.11%	16.90%	16.90%	16.40%	<u>16.40%</u>
Employer	9.97%	10.27%	10.14%	10.14%	9.84%	<u>9.84%</u>
Employee	6.65%	6.84%	6.76%	6.76%	6.56%	<u>6.56%</u>

ITEM 4. Amend subrule 5.2(46) as follows:

5.2(46) Persons who are employed by professional employment organizations, temporary staffing agencies, and similar noncovered employers and are leased to covered employers shall not be covered. ~~Notwithstanding the foregoing, persons who are employed by a covered employer and leased to a noncovered employer shall be covered.~~

ITEM 5. Renumber subrules **5.2(47)** to **5.2(49)** as **5.2(48)** to **5.2(50)**.

ITEM 6. Adopt the following **new** subrule 5.2(47):

5.2(47) Persons who are employed by a covered employer and leased to a noncovered employer shall be covered.

ITEM 7. Amend subrule 6.5(1) as follows:

6.5(1) *Section 125 plans.* For purposes of this rule, a Section 125 plan means an employer-sponsored fringe benefit plan that is subject to Section 125 of the federal Internal Revenue Code (IRC). Some of the common names for this type of plan are cafeteria plan, flexible benefits plan, flex plan, and flexible spending arrangement.

a. Effective January 1, 2017, employers must annually certify to IPERS, on a form approved by the system, that their Section 125 plans meet all IRC requirements.

b. If an employer does not certify its Section 125 plan's compliance with the IRC, all employer contributions to fringe benefit plans will be excluded from IPERS coverage.

ITEM 8. Amend subparagraph **8.1(2)“g”(2)** as follows:

(2) Final service purchase cost quote at retirement. On or before the date that a member's first benefit payment is issued, a member who is vested by service may request a final service purchase cost quote by completing and submitting an application for retirement/disability benefit indicating the member's desire to receive a final service purchase cost quote. Once After the completed application has been submitted, IPERS shall generate a final service purchase cost quote once all of the member's wages are submitted to IPERS, which may be after the member's first month of entitlement. The final cost quote shall be calculated as follows:

1. IPERS will calculate the cost by capturing the baseline benefit attributes at the member's first month of entitlement without any service purchase quarterly credits including: average salary, years of service, the Option 2 benefit amount, current member investment amount and the calculated present-day reserve value. The present-day reserve value is a lump sum value calculated with actuarial tables provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span. With each potential purchasable service credit, IPERS will recalculate the Option 2 benefit amount. A new present-day reserve value will also be calculated. The cost of each purchasable quarter of service credit will be the difference between the new reserve amount and the previous one.

2. The retired member will have six months from the date in which IPERS generates the final service purchase cost quote to purchase additional service.

3. If the retired member purchases service within the six-month deadline, the increase in the retirement benefit shall be made effective with the month of the service purchase payment.

4. Retired members who do not indicate their desire for a final service purchase cost quote on or before the date their first payment is issued or do not complete the purchase within the six-month deadline indicated on the final service purchase cost quote shall not be eligible to purchase additional credit.

5. Retired members who selected Option 1 upon retirement may request the lump sum death benefit to be increased to take into account the additional contributions from making a service purchase. If the member requests an increase in the death benefit, the monthly benefit will be reduced to take into account the increased death benefit.

ITEM 9. Amend rule 495—9.5(97B) as follows:

495—9.5(97B) Reinstatement following an employment dispute Termination of employment—refund option. ~~If an involuntarily terminated employee takes a refund and is later reinstated in covered employment as a remedy for an employment dispute, the member may reinstate membership service credit for the period covered by the refund by repaying the amount of the refund plus interest within 90 days after the date of the order or agreement requiring reinstatement. If a member is involuntarily terminated from covered employment, has been issued payment for a refund, and is retroactively reinstated in covered employment as a remedy for an employment dispute, the member may receive credit for membership service for the period covered by the refund payment upon repayment to the system, within 90 days after the date of the order or agreement requiring reinstatement, of the amount of the refund plus interest that would have accrued, as determined by the system. A reinstatement following an employment dispute shall not constitute a violation of Iowa Code section 97B.53(4), even if the reinstatement occurs less than 30 days after the date of termination. Accordingly, the reinstatement described above or, if later, a buy-back, shall be permitted but is not required. However, if the employee is retroactively reinstated and the previously reported termination is expunged, the reemployment shall be treated as falling within the scope of Iowa Code section 97B.53(4) and a previously paid refund shall be repaid with interest.~~

ITEM 10. Amend paragraph **11.1(1)“b”** as follows:

b. Option selected, and

(1) If Option 1 is selected, the death benefit amount.

(2) If Option 4 or 6 is selected, the contingent annuitant’s name, social security number, proof of date of birth, and relationship to member. The member must designate the survivor benefit percentage, which shall be limited to one of the following:

1. One hundred percent of the member’s benefit amount.

2. Seventy-five percent of the member’s benefit amount.

3. Fifty percent of the member’s benefit amount.

4. Twenty-five percent of the member’s benefit amount.

(3) If Option 1, 2, or 5 is selected, a list of beneficiaries.

ITEM 11. Amend subrule 13.2(13) as follows:

13.2(13) Reemployment/income monitoring. A member who retires under Iowa Code section 97B.50A and this rule shall be required to supply a copy of a complete set of the member’s state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year. IPERS may suspend the benefits of any such member if such records are not timely provided.

Only wages and self-employment income shall be counted in determining a member’s reemployment comparison amount, as adjusted for health care coverage for the member and member’s dependents.

~~For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers’ compensation award, disability insurance payments, or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS.~~

ITEM 12. Adopt the following **new** subrule 13.2(14):

13.2(14) Offset to allowance. A member who retires under Iowa Code section 97B.50A shall have benefits reduced by other disability-related payments the member receives for the same disability, including, but not limited to benefits from:

a. Social security.

b. Long-term disability insurance.

c. Workers’ compensation.

d. Unemployment insurance.

e. Employer-paid disability plans, programs, or policies.

f. Other laws.

For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers’ compensation award, disability insurance payments, or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS. IPERS shall convert any monthly, weekly, or other stated period workers’ compensation award, disability insurance payments, or other awards for the same illnesses or injuries, dollar-for-dollar, to the same monthly, weekly, or other stated period, as determined by IPERS.

ITEM 13. Amend rule 495—14.4(97B) as follows:

495—14.4(97B) Applications for death benefits. Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member’s death certificate, or if a death certificate cannot be obtained, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, bureau of health statistics, IPERS’ own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access together with information establishing the claimant’s right to payment. A named beneficiary must complete an IPERS application for death benefits based on the deceased member’s account. If the claimant’s claim is based on dissolution of marriage that revoked the IPERS beneficiary designation, the claim must be processed pursuant to rule 495—14.17(97B).

ITEM 14. Amend paragraph **14.12(2)“k”** as follows:

k. Inactive members with less than 16 quarters of service credit. For deaths occurring after June 30, 2004, and before July 1, 2012, preretirement death benefits shall be provided solely under Iowa Code

section 97B.52(1) “a,” and shall only be payable in lump sum amounts for inactive members who have less than 16 quarters of service credit. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

ITEM 15. Adopt the following **new** paragraph **14.12(2)“l”**:

l. Inactive members not vested by service. For deaths occurring after June 30, 2012, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1) “a,” and shall only be payable in lump sum amounts for inactive members who are not vested by service. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

ITEM 16. Amend subrule **16.2(1)**, definition of “Qualified domestic relations order,” as follows:

“*Qualified domestic relations order*” or “*QDRO*” means a domestic relations order that divides the marital property of ~~opposite gender~~ former spouses and assigns to ~~an opposite gender~~ a former spouse alternate payee the right to receive all or a portion of the benefits payable with respect to a member under IPERS and meets the requirements of this rule.

ITEM 17. Amend paragraph **16.2(2)“a”** as follows:

a. Mandatory provisions. A domestic relations order is a QDRO if such order:

(1) Clearly specifies the member’s name and last-known mailing address, member identification number or social security number, and the names and last-known mailing addresses and social security numbers of alternate payees. This information shall be provided to IPERS on IPERS’ Confidential Information form;

(2) Clearly specifies a fixed dollar amount or a percentage, but not both, of the member’s benefits to be paid by IPERS to the alternate payee or the manner in which the fixed dollar amount or percentage is to be determined, provided that no such method shall require IPERS to perform present value calculations of the member’s accrued benefit;

(3) Clearly specifies the period to which such order applies;

(4) Clearly specifies that the order applies to IPERS;

(5) Clearly specifies that the order is for purposes of making a property division; ~~and~~

(6) ~~Is clearly signed by the judge and filed with the clerk of court. IPERS will consider an order duly signed if it carries an original signature, a stamp bearing the judge’s signature, electronic clerk of court stamp and judge’s signature page via the electronic data management system (EDMS), or is conformed in accordance with local court rules.~~ Conforms IPERS with IRS reporting requirements for distributions to non-spouse successor alternate payees. The taxable portion and basis will be prorated to each respective recipient if the payee is the alternate payee. If the payee is a successor alternate payee, the taxable portion and basis will be borne by the member, pursuant to IRC Pub. L. 99-514, 100 Stat. 2085, enacted October 22, 1986; and

(7) Is clearly signed by the judge and filed with the clerk of court. IPERS will consider an order duly signed if it carries an original signature, a stamp bearing the judge’s signature, an electronic clerk-of-court stamp and judge’s signature page via the electronic data management system (EDMS), or is conformed in accordance with local court rules.

ITEM 18. Amend paragraph **16.2(3)“c”** as follows:

~~*c.* If a QDRO directs the member to name the alternate payee under the order as a designated beneficiary, and the member fails to do so Upon acceptable proof from a member that a preretirement divorce is final, a member may submit a new enrollment/beneficiary designation form to IPERS. IPERS will place the new designation in the member’s record. However, if a domestic relations order is later received and qualified by IPERS, the provisions of the QDRO awarding the alternate payee a share of the member’s death benefits shall be deemed, except as revoked or modified in a subsequent QDRO, to operate as a beneficiary designation, and shall be given first priority by IPERS in the determination and payment of such member’s death benefits. Death benefits remaining after payments are made as required by the QDRO, to the extent possible, shall then be made according to the terms of the member’s most recent beneficiary designation. If a QDRO does not require contain a form of benefit paragraph requiring the member to select an a specific IPERS option at retirement, the member is allowed to select~~

any option at retirement, including an option that does not provide for payment of postretirement death benefits. Once a divorce is final post-retirement, a member may submit a new enrollment/beneficiary designation form to IPERS if the member has retired under Option 1, 2 or 5, unless otherwise specified in a QDRO.

ITEM 19. Amend paragraph **16.2(3)“d”** as follows:

d. If an alternate payee has been awarded a share of the member’s benefits and dies before the member, the alternate payee’s entire account value share shall be restored to the member unless otherwise specified in the order and in the manner required under this rule. In order for the alternate payee’s entire share to be restored to the member, IPERS requires proof of death of the alternate payee in the form of a death certificate. If a death certificate cannot be obtained, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, bureau of health statistics, IPERS’ own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

ITEM 20. Amend paragraph **16.2(3)“j”** as follows:

j. IPERS has no duty or responsibility to search for alternate payees. Alternate payees must notify IPERS of any change in their mailing addresses. IPERS shall mail the alternate payee an application once an application for a distribution has been received from the member and considered a complete application by IPERS. The application mailed by IPERS to the alternate payee states that, if the alternate payee does not return the application to IPERS within 60 days after the application is mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member’s beneficiary(ies). If the member applied for a refund, and the alternate payee’s application is not received within the 60 days, the alternate payee’s share of the member’s lump sum refund shall be paid to the member. The alternate payee’s only recourse shall be with the member. IPERS shall have no liability to the alternate payee or the member with respect to payment of the alternate payee’s share to the member. If the member applies for a monthly pension payment, unless and until a valid application for the alternate payee’s share of the monthly pension payments is received and accepted by IPERS, IPERS shall have no liability to the alternate payee with respect to payment of monthly amounts, nor will any retroactive payment be made if and when an application is received and accepted. All monthly payments in this case shall be prospective.

ITEM 21. Adopt the following new paragraph **16.2(3)“r”**:

r. If an alternate payee’s completed application is received and processed before the payroll has been processed in any given month, the alternate payee will receive a payment for that current month. If an alternate payee’s completed application is received and processed in the current month, but after the payroll has been processed, the alternate payee’s payment will commence with the payroll in the following month.

ITEM 22. Amend subrule 17.4(4) as follows:

17.4(4) Request denied. When the custodian denies a request for access to a confidential record, in whole or in part, the custodian shall notify the requester in writing. The denial shall ~~be signed by the custodian of the record and shall~~ include:

- a.* The name and title of the person responsible for the denial; and
- b.* A citation to the statute or other provision of law which prohibits disclosure of the record; or
- c.* A citation to the statute vesting discretion in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to the requester.

ITEM 23. Amend subrule 26.3(1) as follows:

26.3(1) A party who wishes to appeal a decision by IPERS, other than a disability claim pursuant to Iowa Code section 97B.50A, shall, within 30 days after notification was mailed to the party’s last-known address, file with IPERS a notice of appeal in writing setting forth:

- a.* The name, address, and social security member identification number of the ~~applicant~~ appellant;
- b. to e.* No change.