

**IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]**

**Adopted and Filed**

**Rule making related to five-year rules review**

The Iowa Public Employees’ Retirement System (IPERS) hereby amends Chapter 1, “Organization,” Chapter 4, “Employers,” Chapter 6, “Covered Wages,” Chapter 11, “Application for, Modification of, and Termination of Benefits,” Chapter 12, “Calculation of Monthly Retirement Benefits,” and Chapter 16, “Domestic Relations Orders and Other Assignments,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 97B.4 and 97B.15.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 97B.

*Purpose and Summary*

This rule making conforms rules with other rules and statutes and rescinds rules that are outdated, redundant, inconsistent, or no longer in effect to meet the requirements of the statutory five-year review of rules for Chapters 1 through 5; implements contribution rates for all classes of members; corrects an inaccuracy within rule 495—1.3(97B) as to the assignment of the duty to establish funding policy; further clarifies in subrule 6.3(15) which earnings constitute reemployment earnings; aids in the continued effort to eliminate confusion while ensuring consistency between similar rules and processes as in amended subrules 11.5(1) and 12.7(3); and seeks to better reflect actual current practice with the process described in paragraph 16.2(3)“i.”

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 11, 2023, as **ARC 6823C**. An in-person public hearing was held, with synchronous online access, on February 1, 2023, at 10 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by IPERS on February 16, 2023.

*Fiscal Impact*

IPERS’ enabling legislation requires that employer and employee contribution rates for each member class be updated every fiscal year. No fiscal impact is found for regular and protection occupation member classes. A contribution rate change is reflected for the sheriffs and deputies member class resulting in a decreased fiscal impact.

*Jobs Impact*

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition IPERS for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 12, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 495—1.3(97B) as follows:

**495—1.3(97B) Administration.** The chief executive officer, through the chief investment officer and the chief benefits officer, shall administer Iowa Code chapters 97, 97B, and 97C. The chief executive officer shall execute contracts on behalf of IPERS and shall, after consultation with the board and other agency staff, establish and administer the budget, ~~funding policy~~ and such other duties as are required or permitted in Iowa Code section 97B.4. The chief executive officer may make expenditures, reports, and investigations as necessary to carry out the powers and duties created in Iowa Code chapter 97B and may obtain, as necessary, the specialized services of individuals or organizations on a contract-for-service basis. The chief executive officer shall be the agency’s statutory designee with respect to rule-making power.

**1.3(1) and 1.3(2)** No change.

ITEM 2. Amend subrules 4.6(1) to 4.6(3) as follows:

**4.6(1)** Contribution rates for regular class members.

a. No change.

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, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023
Combined rate	15.73%	15.73%	15.73%	15.73%	15.73%	15.73%
Employer	9.44%	9.44%	9.44%	9.44%	9.44%	9.44%
Employee	6.29%	6.29%	6.29%	6.29%	6.29%	6.29%

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

	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023
Combined rate	19.52%	19.02%	18.52%	18.02%	17.52%	17.02%
Employer	9.76%	9.51%	9.26%	9.01%	8.76%	8.51%
Employee	9.76%	9.51%	9.26%	9.01%	8.76%	8.51%

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

	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023
Combined rate	17.02%	16.52%	16.02%	15.52%	15.52%	15.52%
Employer	10.21%	9.91%	9.61%	9.31%	9.31%	9.31%
Employee	6.81%	6.61%	6.41%	6.21%	6.21%	6.21%

ITEM 3. Amend subrule 6.3(15) as follows:

**6.3(15)** *Employer contributions as remuneration counted against the reemployment earnings limit.* Employer contributions made on behalf of retired reemployed members to tax qualified and nonqualified retirement and deferred compensation plans and to other fringe benefit arrangements, excluding health insurance plans and programs, shall constitute remuneration from employment which shall be applied to the reemployment earnings limits and reductions set forth under rule 495—12.8(97B). Such contributions, even if counted as remuneration hereunder, shall not be counted as covered wages, unless the facts in the particular case indicate that, under the circumstances, the arrangement should be treated as covered wages under rules 495—6.1(97B) through 495—6.5(97B). Nonelective employer contributions to the following shall constitute remuneration when determining reemployment earnings limits: tax qualified retirement and deferred compensation plans; all nonqualified retirement plans and deferred compensation arrangements; IRAs; rabbi, secular, and other trust arrangements; split dollar and other life insurance arrangements; and long-term care insurance. Bonuses and allowances will also be counted as reemployment earnings.

ITEM 4. Amend subrule 11.5(1) as follows:

**11.5(1)** *Bona fide retirement—general.* To receive retirement benefits, a member under the age of 70 must officially leave employment with all IPERS-covered employers, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. The qualification period begins with the member’s first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. Notwithstanding the foregoing, the continuation of group insurance coverage at employee rates for the remainder of the school year for a school employee who retires following completion of services by that individual shall not cause that person to be in violation of IPERS’ bona fide retirement requirements.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement. A member also will not be considered to have a bona fide retirement if the member has, prior to or during the member’s first month of entitlement, entered into verbal or written arrangements with the member’s former employer(s) to return to employment after the expiration of the four-month bona fide retirement period.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee’s compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) “a”(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) “a”(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the retirement benefit. Such an elected official or legislator may remain in the elective office and receive an IPERS retirement without violating IPERS’ bona fide retirement rules. If such elected official or legislator terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a

retirement as of the date of hire, the retirement shall not be made. Furthermore, if such elected official or legislator is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the elected official or legislator shall not be eligible for new IPERS coverage for such elected position. The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official or legislator is reelected to the same position without an intervening term out of office.

The bona fide retirement period will be waived if the member has been elected to public office ~~which as a part-time elected official or a member of the general assembly and the member's term begins during~~ the normal four-month bona fide retirement period. This includes elected officials who shall be covered under this chapter as defined in Iowa Code section 97B.1A. This waiver does not apply if the member was an elected official who was reelected to the same position for another term.

Effective July 1, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered under this chapter, is terminated for at least one month, and the member does not return to covered employment for an additional three months. In order to receive retirement benefits, the member must file a completed application for benefits before returning to any employment with a covered employer.

Effective July 1, ~~2018~~ 2023, a member will not have a bona fide retirement if the member enters into a verbal or written arrangement to perform duties for the member's former employer(s) as an independent contractor prior to or during the member's first month of entitlement ~~or performs, and the member shall not perform~~ any duties for the member's former employer(s) as an independent contractor prior to receiving ~~four months~~ one month of retirement benefits.

ITEM 5. Amend subrule 11.5(4) as follows:

**11.5(4)** *Members of the national guard who are called into state active duty.* Effective May 25, 2008, members of the national guard who are called into state active duty as defined in Iowa Code section 29A.1 in noncovered positions during the required period of complete severance will not be in violation of the bona fide retirement requirements of Iowa Code section 97B.52A ~~as amended by 2010 Iowa Acts, House File 2518, section 33.~~

ITEM 6. Amend subrule 11.7(6) as follows:

**11.7(6)** *Offsets against amounts payable.* IPERS may, in addition to other remedies and after notice to the recipient, request an offset against amounts owing to the recipient by the state according to the offset procedures pursuant to Iowa Code sections 8A.504 and 421.17, or section 421.65 as enacted by 2020 Iowa Acts, House File 2565, section 16, as applicable.

ITEM 7. Amend subrule 12.7(1) as follows:

**12.7(1)** Effective July 1, 1998, the monthly benefit payments for a member under the age of 65 who has a bona fide retirement and is then reemployed in covered employment shall be reduced by 50 cents for each dollar the member earns in excess of the annual limit. ~~Effective July 1, 2002~~ March 23, 2022, this reduction is not required until the member earns the amount of remuneration permitted for a calendar year ~~for a person under the age of 65 before a reduction in federal social security retirement benefits is required, or earns \$30,000, whichever is greater~~ as defined in Iowa Code section 97B.48A. The foregoing reduction shall apply only to IPERS benefits payable for the applicable year that the member has reemployment earnings and after the earnings limit has been reached. Said reductions shall be applied as provided in subrule 12.7(2).

Effective January 1, 1991, this earnings limitation does not apply to covered employment as an elected official. A member aged 65 or older who has completed at least four full calendar months of bona fide retirement and is later reemployed in covered employment shall not be subject to any wage-earning disqualification.

ITEM 8. Amend subrule 12.7(3) as follows:

**12.7(3)** A member who is reemployed in covered employment after retirement may, after again retiring from employment, request a recomputation of benefits. The member's retirement benefit shall be increased, if possible, by the addition of a second annuity, which is based on years of reemployment

service, reemployment covered wages and the benefit formula in place at the time of the recomputation. A maximum of 30 years of service is creditable to an individual retired member. If a member's combined years of service exceed 30, a member's initial annuity may be reduced by a fraction of the years in excess of 30, divided by 30. The second retirement benefit will be treated as a separate annuity by IPERS.

Effective July 1, 1998, a member who is reemployed in covered employment after retirement may, after again terminating employment for at least ~~one full calendar month~~ 30 days, elect to receive a refund of the employee and employer contributions made during the period of reemployment in lieu of a second annuity. If a member requests a refund in lieu of a second annuity, the related service credit shall be forfeited.

Effective July 1, 2007, employer contributions described in 495—subrule 6.3(13) shall constitute “remuneration” for purposes of applying the reemployment earnings limit and determining reductions in the member's monthly benefits but shall not be considered covered wages for IPERS benefits calculations.

It is the member's responsibility to apply for the recomputation or lump sum by completing and submitting the form specified by IPERS.

ITEM 9. Amend paragraph **16.2(3)“i”** as follows:

*i.* A domestic relations order shall not become effective until ~~it is approved by~~ IPERS qualification. If a member is receiving a retirement allowance at the time a domestic relations order is ~~received~~ deemed qualified by the system, the order shall be effective only with respect to payments made after ~~the order is determined to be a QDRO~~ the appropriate appeal period has elapsed or been waived by the signature of both parties or their respective counsel. Payment to the alternate payee will be withheld from the member's next monthly payment ~~the month~~ after the date the alternate payee's application is mailed by IPERS. If the member is not receiving a retirement allowance at the time a domestic relations order is ~~approved~~ qualified by IPERS and ~~the member~~ subsequently applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS. If IPERS has placed a hold on the member's account following written or verbal notification from the member, member's spouse, or ~~either party's respective legal representative of either party of a pending dissolution of marriage~~, and no further contacts are received from either party or their representatives within the following one-year period, or IPERS has not received and qualified a domestic relations order within that time period, IPERS shall release the hold.

[Filed 2/17/23, effective 4/12/23]

[Published 3/8/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/8/23.