RA 26-213

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Regulatory Analysis

Notice of Intended Action to be published: 495—Chapter 13
"Disability for Regular and Special Service Members"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 97B.4, 97B.15, 97B.50, and 97B.50A

State or federal law(s) implemented by the rulemaking: Executive Order 10 and Iowa Code sections 17A.3, 97B.4, 97B.15, 97B.50, and 97B.50A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 26, 2026 3 to 3:30 p.m.	IPERS Boardroom 7401 Register Drive Des Moines, Iowa Via videoconference call: Join online meeting Meeting ID: 275 109 054 101 443 Passcode: Uf6u9vH3

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Iowa Public Employees' Retirement System (IPERS) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Iowa Public Employees' Retirement System
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Des Moines, Iowa 50321
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Purpose and Summary

This proposed chapter was reviewed as part of the Red Tape Review process laid out in Executive Order 10. As a result of this review, IPERS removed restricted terms, combined or eliminated duplicative language, and made editorial updates to ensure the chapter reflects current policies and procedures. IPERS is a State retirement system that provides for the payment of annuities, enables employees to care for themselves in retirement, improves public employment within the State, reduces excessive personnel turnover, and offers suitable attraction to public service. IPERS is required to administer the retirement system.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

This proposed rulemaking does not have a cost to the public.

- **Classes of persons that will benefit from the proposed rulemaking:**

This proposed rulemaking will benefit all IPERS members and beneficiaries and IPERS-covered public employers.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

This proposed chapter will benefit over 2,000 IPERS-covered employers and over 400,000 IPERS members by removing restrictive terms and reducing duplicative terms found both in rule and in the Iowa Code.

- **Qualitative description of impact:**

This proposed rulemaking will benefit all IPERS members and beneficiaries and IPERS-covered public employers.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

IPERS has always incurred personnel and other administrative costs associated with implementing the agency's administrative rules while carrying out agency functions. Implementation of this proposed rulemaking adds no additional expense.

- **Anticipated effect on State revenues:**

This proposed rulemaking will not impact State revenues. IPERS is a trust fund, separate and distinct from the General Fund of the State.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

IPERS is required to adopt rules to regulate and provide for the nature and extent of the proofs and evidence, and their method of taking, in order to establish the right to benefits authorized under Iowa Code chapter 97B.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

IPERS has not identified any less costly methods or less intrusive methods.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking does not create a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 495—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
DISABILITY FOR REGULAR AND SPECIAL SERVICE MEMBERS

495—13.1(97B) Disability for persons retiring under Iowa Code section 97B.50(2).

13.1(1) For IPERS members retiring because of a disability:

a. The member must be awarded federal social security or federal Railroad Retirement Act benefits due to a disability that existed on or before the member's first month of entitlement. In no event shall retroactive disability benefits payments under Iowa Code section 97B.50(2) precede the month the member actually receives the member's first social security or railroad retirement disability payment. The member shall provide IPERS with a copy of the Social Security Administration or railroad retirement award letter showing dates of eligibility.

b. Continued qualification monitoring.

(1) On or after July 1, 2009, a member retiring due to a disability under Iowa Code section 97B.50(2) must provide IPERS, or IPERS' designee, with proof of continuing eligibility for federal social security disability benefits or railroad retirement disability benefits by June 30 of each calendar year in order to continue qualification for IPERS disability benefits. If the member fails to provide the records timely, IPERS suspends the member's disability benefits.

(2) Annual certification of continued eligibility for federal social security disability benefits or railroad retirement disability benefits is not required as of the calendar year the member reaches normal retirement age as defined by Iowa Code section 97B.45, or for special service members aged 55, or sheriffs and deputies aged 50 with 22 years of service.

13.1(2) If a member returns to covered employment after achieving a bona fide retirement, IPERS suspends or reduces the benefits provided to the member under Iowa Code section 97B.50(2)*"a"* or *"b"* as follows:

a. If the member has not attained the age of 55 upon reemployment, benefit payments are suspended in their entirety until the member subsequently terminates employment, applies for, and is approved to receive benefits under the provisions of Iowa Code chapter 97B.

b. If the member has attained the age of 55 or older upon reemployment, the member continues to receive monthly benefits adjusted as follows: monthly benefits are calculated under the same benefit option the member first selected, based on the member's age, years of service, and the applicable reductions for early retirement as of the month that the member returns to covered employment.

(1) The suspension or reduction of benefits for returning to covered employment no longer applies as of the calendar year the member reaches normal retirement age, as defined by Iowa Code section 97B.45, or for special service members aged 55, or sheriffs and deputies aged 50 with 22 years of service.

(2) The member's benefit is subject to the applicable provisions of Iowa Code section 97B.48A pertaining to reemployed retired members.

13.1(3) Upon terminating a reemployment that resulted in the suspension of all or a portion of the member's disability retirement allowance, IPERS recomputes the member's benefits under Iowa Code section 97B.48A and rule 495—12.8(97B). To requalify for a monthly retirement allowance under Iowa Code section 97B.50(2), the member must furnish a new or updated Social Security Administration disability award letter, or other acceptable documentation from the Social Security Administration, indicating that the member is currently eligible for social security disability benefits.

13.1(4) If a member whose IPERS disability benefits were suspended because of the member's return to covered employment provides proof acceptable to IPERS that the member remains eligible

for federal social security disability benefits or railroad retirement disability benefits, IPERS reinstates the member's disability benefits, subject to the member's continued compliance with paragraph 13.1(1)*"b."*

495—13.2(97B) Disability claim process for special service members. Except as otherwise indicated, this rule applies only to disability claims initiated under Iowa Code section 97B.50A. Except as otherwise indicated, disability claims under Iowa Code section 97B.50(2) are administered under rule 495—13.1(97B).

13.2(1) *Initiation of disability claim.* The disability claim process originates on an application designated by the system and in the manner set forth in 495—Chapter 11.

13.2(2) *Medical board examinations.* The medical board, consisting of three physicians from the University of Iowa occupational medicine clinic and other departments as required, shall examine the member and perform the relevant tests and examinations.

a. The medical board shall submit a letter of recommendation to the system, based on its findings and the job duties supplied in the member's application, whether or not the member is mentally or physically incapacitated from the further performance of the member's duties and whether or not the incapacity is likely to be permanent. "Permanent" means that the mental or physical incapacity is reasonably expected to last more than one year. The medical board's letter of recommendation must include a recommended schedule for reexaminations to determine the continued existence of the disability in question.

b. IPERS is not liable for any diagnostic testing procedures performed in accordance with Iowa Code section 97B.50A and this rule that are alleged to have resulted in injury to the members being examined.

c. The medical board must furnish its determination, test results, and supporting notes to IPERS and IPERS' designee no later than ten working days after the date of the examination. The medical board may use electronic signatures in fulfilling its reporting obligations under this rule.

d. The medical board is not required to have regular meetings but is required to meet with IPERS' representatives at reasonable intervals to discuss the implementation of the program and performance review.

13.2(3) *Member and employer comments.* Upon receipt by the system, IPERS distributes the medical board's determination regarding the existence or nonexistence of a permanent disability to the member and to the employer for review. The member and the employer may forward to the system written statements pertaining to the medical board's findings within ten days of transmittal. If relevant medical information not considered in materials previously forwarded to the medical board is contained within such written statements, the system submits such information to the medical board for review and comment.

13.2(4) *Fast-track review.* IPERS or IPERS' designee may refer any case to IPERS' chief benefits officer (CBO) for fast-track review. The CBO or the CBO's designee may, based upon a review of the member's application and medical records, permit the medical board to make its recommendations based solely upon a review of the application and medical records, without requiring the member to submit to additional medical examinations by, or coordinated through, the medical board.

13.2(5) *Initial administrative determination.* IPERS, or IPERS' designee, in consultation with the system's legal counsel, reviews the member's complete file, including the member's file, the medical board's letter of recommendation, test results, and supporting notes, and hospital discharge summary reports and makes the initial disability determination. IPERS sends written notification of the initial disability determination to the member and the member's employer within 14 business days after IPERS receives a complete file for the initial disability determination.

13.2(6) *General benefits provisions.* Effective July 1, 2000, if an initial disability determination is favorable, benefits begin as of the date of the initial disability determination or, if earlier, the member's last day on the payroll, but no more than six months of retroactive benefits are payable,

subject to Iowa Code section 97B.50A(13). "Last day on the payroll" includes any form of authorized leave time, whether paid or unpaid. If a member receives short-term disability benefits from the employer while awaiting a disability determination hereunder, disability benefits accrue from the date the member's short-term disability payments are discontinued. If a member appeals an initial favorable determination, the member continues to receive payments pending the outcome of the appeal.

a. Any member who is awarded disability benefits under Iowa Code section 97B.50A and this rule is eligible to elect any of the benefit options available under Iowa Code section 97B.51. All such options are the actuarial equivalent of the lifetime monthly benefit provided in Iowa Code section 97B.50A(2) and 97B.50A(3).

b. The disability benefits established under this subrule are eligible for the favorable experience dividends payable under Iowa Code section 97B.49F(2).

c. If the award of disability benefits is overturned upon appeal, IPERS may require the member to repay the amount already received or, upon retirement, suspend or reduce payments until IPERS recovers the appropriate amount.

13.2(7) *In-service disability determinations.*

a. Subject to the presumptions in Iowa Code section 97B.50A in determining whether a member's mental or physical incapacity arises in the actual performance of duty, "duty" means:

(1) For special service members other than firefighters, any action that the member, in the member's capacity as a law enforcement officer:

1. Is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

2. Performs in the course of controlling or reducing crime or enforcing the criminal law; or

(2) For firefighters, any action that the member, in the member's capacity as a firefighter:

1. Is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

2. Performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

b. A presumption exists that a special service member contracted a disease while on active duty only if the disease is defined by Iowa Code section 97B.50A(2)*"c."* If a presumption exists, IPERS may, in making its determination as to whether the member incurred a disability while on active duty, proceed with evidence to rebut the presumption. IPERS can rebut the presumption when credible evidence exists to the contrary or when the requirements of Iowa Code section 97B.50A(2)*"c"* are met. Under no circumstances does the burden of proof shift from the special service member to IPERS.

13.2(8) *Appeal rights.*

a. The member or the employer, or both, may appeal IPERS' initial disability determination within 30 days after IPERS mails the notification of IPERS' initial disability determination by submitting to IPERS' CEO or CEO's designee a notice of appeal in writing setting forth:

(1) The name, address, and social security number of the member or employee number of the employer;

(2) A reference to the decision from which the appeal is being made;

(3) The fact that an appeal from the decision is being made;

(4) The grounds upon which the appeal is based;

(5) Additional medical or other evidence to support the appeal; and

(6) The request that a different decision be made by IPERS.

b. Upon notice of appeal, IPERS conducts an internal review of the initial disability determination, and the CEO or CEO's designee notifies in writing the party who filed the appeal of IPERS' final disability determination with respect to the appeal. The CEO or CEO's designee may appoint a review committee to make nonbinding recommendations on such appeals. The disability retirement benefits officer, if named to the review committee, does not vote on any such

recommendations, nor do any members of IPERS' legal staff participate in any capacity other than a nonvoting capacity. Further appeals follow the procedures set forth in 495—Chapter 2506.

13.2(9) *Notice of abuse of disability benefits.* The system investigates all allegations of abuse of disability benefits. IPERS, in its sole discretion, may initiate investigations in the absence of a complaint. IPERS determines the scope of the investigation and may include the ordering of a sub rosa investigation of a disability recipient to verify the facts relating to an alleged abuse. IPERS only considers a sub rosa investigation upon receipt and evaluation of an acceptable notice of abuse.

a. Acceptable written notification includes:

(1) The informant's name, address, telephone number, and relationship to the disability recipient; and

(2) A statement pertaining to the circumstances that prompted the notification, such as activities that the informant believes are inconsistent with the alleged disability.

b. Anonymous calls are not acceptable notification.

c. IPERS may employ such investigators and other personnel, in IPERS' sole discretion, as may be deemed necessary. IPERS may also, in its sole discretion, decline to carry out such investigations if more than five years have elapsed since the date of the disability determination.

13.2(10) *Qualification for social security or railroad retirement disability benefits.* Upon qualifying for social security or railroad retirement disability benefits, a special service member may contact the system to have the member's disability benefits calculated under Iowa Code section 97B.50(2). The member and spouse must complete the designated application to stop having benefits calculated under Iowa Code section 97B.50A and to start having benefits calculated under Iowa Code section 97B.50(2). The decision is irrevocable, and must be made within 60 days after the member receives written notification of eligibility for disability benefits from social security or railroad retirement and has commenced receiving such payments.

13.2(11) *Reemployment/income monitoring.*

a. A member who retires under Iowa Code section 97B.50A and this rule must 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 in order to continue qualification for IPERS special service disability benefits. IPERS may suspend the benefits of any such member if such records are not timely provided. This subrule does not apply to a member who is at least 55 years of age and would have completed 22 years of service if the member had remained in active special service employment.

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

13.2(12) *Offset to allowance.*

a. A member who retires under Iowa Code section 97B.50A will have benefits reduced by other disability-related payments the member receives for the same disability, including but not limited to benefits from:

(1) Social security.

(2) Long-term disability insurance.

(3) Workers' compensation, subject to the limitations set forth in Iowa Code section 97B.50A(5)*"b"* and *"c."*

(4) Unemployment insurance.

(5) Employer-paid disability plans, programs, or policies.

(6) Other laws.

b. For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS converts 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 converts 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.

These rules are intended to implement Iowa Code sections 97B.50 and 97B.50A.