RA 26-279

PUBLIC SAFETY DEPARTMENT[661]

Regulatory Analysis

Notice of Intended Action to be published: 661—Chapter 402
"Peace Officers' Retirement, Accident, and Disability System—Eligibility, Benefits, and Payments"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 97A.5
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 97A

Public Hearing

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

September 24, 2026 10 to 10:30 a.m.	Public Conference Room 125 Oran Pape State Office Building Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Public Safety Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Josie Wagler
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Des Moines, Iowa 50319
Email: wagler@dps.state.ia.us

Purpose and Summary

Pursuant to Executive Order 10, the Board of Trustees of the Public Safety Peace Officers' Retirement, Accident, and Disability System (PORS) proposes to rescind Chapter 402 and adopt a new chapter in lieu thereof. The purpose of this proposed chapter is to outline eligibility, benefits, and payments as they relate to the PORS.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

Active and retired members of the PORS will be affected.
- **Classes of persons that will benefit from the proposed rulemaking:**

Active and retired members of the PORS will benefit from this proposed rulemaking.

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:**

No significant impact or costs will be incurred by the public or by active or retired members of the PORS. This proposed chapter provides for calculation methods as they relate to eligibility, benefits, and payments.
- **Qualitative description of impact:**

No significant impact or costs will be incurred by the public or by active or retired members of the PORS. This proposed chapter provides for calculation methods as they relate to eligibility, benefits, and payments.

3. **Costs to the State:**

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

There are no costs to the Department or any other agency to implement or enforce this rulemaking.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

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

As there are no costs to the public or to active or retired members of the PORS to comply, the benefit is achieved through clarity of understanding how the PORS is governed and administered.

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

The Department has determined this to be the least costly method for achieving the purpose of the proposed rulemaking.

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

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

None were identified.

- **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?

This proposed rulemaking will not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 661—Chapter 402 and adopt the following **new** chapter in lieu thereof:

CHAPTER 402
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—ELIGIBILITY, BENEFITS, AND PAYMENTS

661—402.1 to **402.99** Reserved.

DIVISION I
ELIGIBILITY

661—402.100(97A) Age of qualification. The age of qualification for benefits under Iowa Code chapter 97A shall mean the age on the member's last birthday.

661—402.101(97A) Date of retirement. Date of retirement shall mean the first day on retirement and not the last day on duty.

661—402.102(97A) Date of death. In the event of the death of a member, the date of death will be considered to be the member's last day on the payroll for earned compensation or on pension and the next day following will be the first day for the spouse's and children's benefits. The start of benefits shall not be delayed by the payout of any other compensation.

661—402.103(97A) Age of spouse. When the spouse of a deceased active member is to receive an annuity payment from the member's contributions, the age of the spouse at the spouse's nearest birthday shall govern. The computation shall be the spouse's birth date subtracted from the first date that spouse's benefits begin to accrue.

661—402.104 to **402.199** Reserved.

DIVISION II
BENEFITS AND PAYMENTS

661—402.200(97A) Errors in payments. If an error in payments already made to a member or beneficiary is discovered, arrangements shall be made to correct the error, either through recovery of overpayments from the member or beneficiary or through additional compensation paid to the member or beneficiary to adjust for underpayments. Schedules referenced in this rule shall commence only after presentation to and approval by the board of trustees.

402.200(1) As soon as practical after being discovered, underpayments shall be corrected through a lump-sum payment to the member or beneficiary in an amount equal to the total amount of underpayments to date and an amount of interest such that the total lump-sum payment is actuarially equivalent to the total amount of underpayments. The member or beneficiary may request a method of repayment other than a lump-sum payment, in which case a repayment schedule may be mutually agreed upon between the board and the member or beneficiary.

402.200(2) Overpayments other than those that resulted from fraudulent acts on the part of the member or beneficiary receiving the payments shall be recovered from the member or beneficiary. The preferred method of recovery, if the member or beneficiary is continuing to receive payments from the system, shall be withholding monthly an amount equivalent to the monthly average of the amount of overpayments during the period in which the overpayments were made until total repayments equal a sum actuarially equivalent to the total amount of overpayment. If the member or beneficiary is not receiving payments from the system, the board may seek repayment in a lump sum including the amount of overpayments and interest in an amount such that the total repayment is actuarially equivalent to the total amount of overpayments, although the member or beneficiary may request a repayment schedule be established and the board may agree to do so.

402.200(3) An overpayment that resulted in whole or in part from a fraudulent act or acts on the part of the member or beneficiary receiving the payments shall be repaid to the system in an amount that is actuarially equivalent to the amount of the overpayment plus a reasonable assessment of the administrative costs to the system and the department to recover the overpayment. The preferred method of repayment is a lump-sum payment collected as soon as practical after the overpayment and the fraudulent act are discovered, although the board shall accept a repayment schedule established by a court that orders restitution in relation to a conviction stemming from the fraudulent act(s). The board may agree to an alternative payment schedule at the request of the member or beneficiary if there is no applicable order of restitution.

The board may find, on the basis of clear and convincing evidence, that an overpayment resulted from a fraudulent act(s) on the part of a member or beneficiary. A conviction based upon a fraudulent act(s) committed in relation to the receipt of benefits from the system shall be prima facie evidence of fraud for purposes of this subrule.

661—402.201(97A) Computation for partial month. Computation of retirement benefits for a partial month shall be based on the actual number of days in the month, i.e., monthly benefits divided by the number of days in the month multiplied by the number of days due.

661—402.202(97A) Termination prior to retirement.

402.202(1) The interest rate shall be the composite rate of return for the fiscal year as reflected in the investment performance analysis, provided by the investment consultants for the system, as specified in the report for the quarter ending June 30 of the fiscal year, adjusted by the administrative expense of the system for the fiscal year. The administrative expense rate shall be calculated by dividing the actual administrative expense for the fiscal year by the fund balance on June 30 of the fiscal year.

402.202(2) Interest shall be credited to the member's account annually as of June 30. The interest credited to the member shall be calculated by multiplying the annual interest rate by the member's average balance for the fiscal year, with interest credited for each full month of membership.

402.202(3) Members withdrawing contributions under this rule shall submit a written request to the secretary.

661—402.203(97A) Options not reversible once payments begin—exceptions.

402.203(1) The member may change or cancel the member's selected optional benefit until the first monthly benefit payment is made using the selected option. After the first monthly payment to the member or beneficiary, the option shall become permanent and not subject to cancellation or change.

402.203(2) If a member dies without designating a beneficiary prior to receipt in benefits of an amount equal to the total amount in the member's credit at the time of separation from service, the election is void.

402.203(3) If a member who has designated a beneficiary dies and the beneficiary subsequently dies prior to receipt in benefits of an amount equal to the total amount in the member's credit at the time of separation from service, the election remains valid.

661—402.204(97A) Method of calculating annual adjustments when optional retirement benefits are selected. Whenever an optional benefit as provided for in Iowa Code section 97A.6A has been selected by a member, the annual adjustments provided for in Iowa Code section 97A.6(14) shall continue to be provided.

661—402.205(97A) Termination of benefits when optional retirement benefits are selected. Whenever an optional benefit as provided for in Iowa Code section 97A.6A has been selected by a member, benefit payments shall terminate as follows, except as provided in rule 661—402.203(97A):

402.205(1) Straight life annuity. Upon the death of the retired member, all future retirement payments shall cease.

402.205(2) Straight life annuity with five years certain. Upon the death of the retired member, or five years from the member's original retirement date, whichever is later, all future retirement payments shall cease.

402.205(3) Straight life annuity with ten years certain. Upon the death of the retired member, or ten years from the member's original retirement date, whichever is later, all future retirement payments shall cease.

402.205(4) Joint and 50 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the beneficiary's annual annuity established at 50 percent of the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.

402.205(5) Joint and 75 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the beneficiary's annual annuity established at 75 percent of the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.

402.205(6) Joint and 100 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the annual annuity continue at the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.

402.205(7) Single life annuity with a designated lump sum. Upon the death of the retired member, the beneficiary shall receive the single lump-sum payment and all future retirement payments shall cease.

661—402.206(97A) Impact of optional benefit selections on child benefits. The selection of an optional retirement benefit by a member shall not change the benefit that a child of a deceased member would otherwise be eligible to receive.

661—402.207(97A) Method of calculating annual adjustment for members who retire on or after July 1, 2010. For members retiring on or after July 1, 2010, there shall be an adjustment occurring on July 1 for which the following applicable amount shall be added to the member's monthly allowance:

402.207(1) On the first July 1 following the retirement of a member, there shall be added to the monthly allowance the amount of $15. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.207(2) applies.

402.207(2) An additional $5 shall be added to the member's monthly allowance when the member's retirement date was at least five years, but less than ten years, prior to the effective date of the adjustment, the total adjustment to the member's monthly allowance then being $20. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.207(3) applies.

402.207(3) An additional $5 shall be added to the member's monthly allowance when the member's retirement date was at least 10 years, but less than 15 years, prior to the effective date of the adjustment, the total adjustment to the member's monthly allowance then being $25. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.207(4) applies.

402.207(4) An additional $5 shall be added to the member's monthly allowance when the member's retirement date was at least 15 years, but less than 20 years, prior to the effective date of the adjustment, the total adjustment to the member's monthly allowance then being $30. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.207(5) applies.

402.207(5) An additional $5 shall be added to the member's monthly allowance when the member's retirement date was at least 20 years prior to the effective date of the adjustment, the total adjustment to the member's monthly allowance then being $35.

661—402.208(97A) Method of calculating annual adjustment for members who retired prior to July 1, 2010. For members having retired before July 1, 2010, there shall be an adjustment occurring on July 1 for which the following applicable amount shall be added to the member's monthly allowance:

402.208(1) For members having retired on or after July 2, 2009, but before July 1, 2010, there shall be added to the monthly pension allowance the amount of $15. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.212(2) applies.

402.208(2) For members having retired on or after July 2, 2008, but before July 2, 2009, no adjustment to the monthly allowance shall be made until the adjustment provided in subrule 402.212(2) applies.

402.208(3) For members having retired on or after July 2, 2007, but before July 2, 2008, no adjustment to the monthly allowance shall be made until the adjustment provided in subrule 402.212(5) applies.

402.208(4) For those members having retired on or before July 1, 2007, thus having received more than a total of $35 added to the monthly allowance, there shall be no additional adjustments made to monthly allowances. Adjustments having resulted in more than $35 added to the monthly allowance prior to July 1, 2010, shall not be considered overpayments, and the monthly allowances of members so affected shall not be reduced, nor shall members be required to repay any amount to the system.

NOTE: The following table summarizes the adjustments provided for in this rule.

Retirement Date	July 1 Monthly Allowance Adjustment	Adjustment Date
July 2, 2009 – June 30, 2010	$15	July 1, 2010
July 2, 2008 – July 1, 2009	$5	July 1, 2013
July 2, 2007 – July 1, 2008	$5	July 1, 2028
Retired before July 2, 2007	$0	Not applicable

661—402.209(97A) Determination of survivor's pension. For the purposes of determining a survivor's pension, the adjustments to monthly allowance provided in rules 661—402.207(97A) and 661—402.208(97A) shall be reduced in the same manner as is provided for the member's optional retirement benefit election as provided in Iowa Code section 97A.6(12).

661—402.210 to **402.299** Reserved.

DIVISION III
SERVICE PURCHASES

661—402.300(97A) Purchase of service credit for military service.

402.300(1) *Service eligible for purchase.* Permissive service credit shall be calculated in years at the rate of one year of service for six months or more of a year actually worked with no more than one year of service to be credited for all service in one calendar year.

402.300(2) *Application.* A member seeking to purchase service credit under this rule shall file a written application with the system requesting an actuarial determination of the purchase cost of the requested service credit. Applications shall be on forms provided by the secretary. The member shall include with the application:

a. Periods of military service for which credit is requested.

b. Proof of applicable military service. Records that may be acceptable for this purpose include the member's DD Form 214, discharge papers or other records as determined by the system.

c. Any other documentation reasonably requested by the system.

402.300(3) *Determination of cost to member.* Upon receipt of the written application and supporting documentation, the secretary shall review and verify the submitted documents. The secretary shall submit the application and pertinent member information to the actuary contracted by the system to determine the cost to purchase the military service. The cost of actuarial determinations shall be borne by the member, payable upon receipt of the cost quote.

402.300(4) *Application process.*

a. Actuarial cost quote of military service credit. When made available to the secretary by the actuary, the cost quote shall be forwarded to the member promptly. Such delivery may be made through email, facsimile transmission, regular mail, or personal service. The cost quote for purchase of credit for military service shall remain valid for six months from the date of the cost quote unless replaced by a subsequent cost quote for the same time period of military service.

b. Submission of application to purchase military service credit. The member may submit to the secretary an application to purchase years of military credit in a cumulative amount no greater than five years. Full payment in the form of a check or money order payable to the Peace Officers' Retirement, Accident, and Disability System or certification of intent to pay through a qualified plan, or a combination thereof, shall accompany the application to purchase military service credit.

c. Acceptance of application to purchase military service credit. If the application is accepted, the secretary shall deposit the full payment in the system's account and shall adjust the member's years of service and contributions to reflect the purchase of credit for military service. Prior to the receipt of full payment, the secretary shall make no adjustment to the member's years of service or contributions.

402.300(5) *Revocation.* A member may revoke a service purchase election and receive a refund without interest of the purchase cost paid, provided that the revocation request is in writing and is received by the system no later than 60 days following the date of the receipt of the payment of the purchase cost by the system and prior to the date of the commencement of benefits to the member under Iowa Code section 97A.6.

402.300(6) *Refund when required by Internal Revenue Code.* This rule shall not be construed to limit the system's ability to refund service credit purchase amounts when required in order to meet the provisions of the Internal Revenue Code.

402.300(7) *Rejection of application to purchase military service credit.* If the application is rejected, the secretary shall refer the rejected application to the board for review at the next regularly scheduled meeting.

402.300(8) *Board review.* The board shall review any rejected application for purchase of military service credit. If the board overrules the action, the secretary shall process the application. If the board sustains the rejection, the secretary shall return the payment to the member. The member may appeal the action pursuant to 661—subrule 401.2(2).

402.300(9) *Average final compensation.* The average final compensation of the member shall not be affected by the purchase of credit for military service.

These rules are intended to implement Iowa Code chapter 97A and 2010 Iowa Acts, House File 2518.