

of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed an amount equal to the applicable specified percentage of the basic senior judge salary used in calculating the annuity. However, following the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, the annuity paid to the person shall be an amount equal to ~~three percent~~ the applicable percentage multiplier of the basic senior judge salary cap, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed an amount equal to the applicable specified percentage of the basic senior judge salary cap. A senior judge or retired senior judge shall not receive benefits calculated using a basic senior judge salary established after the twelve-month period in which the senior judge or retired senior judge attains seventy-eight years of age. The state shall provide, regardless of age, to an active senior judge or a senior judge with six years of service as a senior judge and to the judge's spouse, and pay for medical insurance until the judge attains the age of seventy-eight years.

Sec. 24. Section 602.9204, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. oa. "Applicable percentage multiplier" means as follows:

- (1) For a senior judge or retired senior judge who retired as a judge and received an annuity prior to July 1, 2006, three percent.
- (2) For a senior judge or a retired senior judge who retired as a judge and received an annuity on or after July 1, 2006, three and one-fourth percent.

Sec. 25. Section 602.9107A, Code 2005, is repealed.

Approved April 26, 2006

CHAPTER 1092

IOWA PUBLIC EMPLOYEES' AND STATEWIDE FIRE AND POLICE RETIREMENT SYSTEMS

H.F. 2245

AN ACT concerning the Iowa public employees' retirement system and the statewide fire and police retirement system, and providing an effective and retroactive applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Section 1. Section 97B.1A, subsection 24, paragraph a, Code Supplement 2005, is amended to read as follows:

- a. "Three-year average covered wage" means, ~~for a member who retires prior to July 1, 2008,~~ a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a

year of employment does not occur at the end of a calendar year, the system may determine the wages for the third year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in which no wages have been reported in combination with the final quarter or quarters of the member's service to create a full year. However, the system shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Notwithstanding any other provision of this paragraph to the contrary, a member's wages for the third year as computed by this paragraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages for a member whose first month of entitlement is January 1999 or later.

Sec. 2. Section 97B.1A, subsection 24, paragraph c, Code Supplement 2005, is amended by striking the paragraph.¹

Sec. 3. Section 97B.4, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. ANNUAL REPORT TO GOVERNOR. Not later than the ~~fifteenth~~ thirty-first day of December of each year, the system shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make recommendations for amendments to this chapter. The report shall include a balance sheet of the moneys in the retirement fund. The report shall also include information concerning the investment management expenses for the retirement fund for each fiscal year expressed as a percent of the market value of the retirement fund investment assets, including the information described in section 97B.7, subsection 3, paragraph "d". The information provided under this paragraph shall also include information on the investment policies and investment performance of the retirement fund. In providing this information, to the extent possible, the system shall include the total investment return for the entire fund, for portions of the fund managed by investment managers, and for internally managed portions of the fund, and the cost of managing the fund per thousand dollars of assets. The performance shall be based upon market value, and shall be contrasted with relevant market indices and with performances of pension funds of similar asset size.

Sec. 4. Section 97B.48, subsection 5, Code 2005, is amended to read as follows:

5. Effective on such date as the system determines by rule, but in no event later than July 1, 2006, if the system determines that the ~~accumulated contributions of a member, lump sum amount~~ payable to a living member who has had a break in service or to a beneficiary of a deceased member, ~~are is~~ less than ~~three thousand dollars~~ the current maximum amount prescribed by the internal revenue service that may be distributed without triggering automatic rollover rights, the lump sum amount payable under this chapter shall be paid to the living member or beneficiary in full satisfaction of all rights of the member or beneficiary to receive any payments under the system. For purposes of this section, a "break in service" means twenty consecutive calendar quarters in which no wages are reported to the system. The lump sum payment shall be made within one hundred eighty days after the calendar quarter in which the member completes a break in service or dies, whichever is applicable. A member or beneficiary who receives a mandatory distribution under this subsection shall have sixty days to return the distribution to the system and restore the member's or beneficiary's account.

Sec. 5. Section 97B.49C, subsection 1, paragraph c, Code Supplement 2005, is amended to read as follows:

c. "Eligible service" means membership and prior service as a sheriff or deputy sheriff under this section. In addition, eligible service includes membership and prior service as a ~~marshal~~

¹ See chapter 1091, §3; chapter 1185, §126 herein

~~in a city not covered under chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in chapter 410 or 411, and as an airport fire fighter prior to July 1, 1994 member in a protection occupation as defined in section 97B.49B.~~

Sec. 6. Section 97B.52A, subsection 1, paragraph c, Code Supplement 2005, is amended to read as follows:

c. For a member whose first month of entitlement is July 2000 or later, the member does not return to any employment with a covered employer until the member has qualified for at least one calendar month of retirement benefits, and the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits. For purposes of this paragraph, effective July 1, 2000, any employment with a covered employer does not include employment as an elective official or member of the general assembly if the member is not covered under this chapter for that employment. For purposes of determining a bona fide retirement under this paragraph and for a member whose first month of entitlement is July 2004 or later, but before July 2006 2010, covered employment does not include employment as a licensed health care professional by a public hospital as defined in section 249J.3, with the exception of public hospitals governed pursuant to chapter 226.

Sec. 7. 2004 Iowa Acts, chapter 1103, section 62, is amended to read as follows:

SEC. 62. LICENSED HEALTH CARE PROFESSIONALS — BONA FIDE RETIREMENT REPORT. The Iowa public employees' retirement system and the Iowa hospital association shall each submit a report to the general assembly by ~~December 1, 2006~~ October 1, 2009, concerning the costs and effectiveness of the provision of this Act amending section 97B.52A that provides that covered employment, for purposes of establishing a bona fide retirement, does not include employment as a licensed health care professional by a public hospital as defined in section 249I.3.² Each report shall provide statistics concerning the number of members taking advantage of this provision, the costs and financial benefits, if any, associated with this provision, and recommendations for further action.

Sec. 8. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The section of this Act amending section 97B.48, subsection 5, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2006, and is applicable on or after that date.

DIVISION II STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

Sec. 9. Section 411.1, subsection 12, Code 2005, is amended to read as follows:

12. "Member in good standing" means a member in service who is not subject to removal by the employing city of the member pursuant to section 400.18 or 400.19, or other comparable process, and who is not the subject of an investigation that could lead to such removal. A person who is restored to active service for purposes of applying for a pension under this chapter is not a member in good standing.

Sec. 10. Section 411.3, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. If a person is reemployed, the person shall not become an active member of the system upon reemployment, and the person so reemployed and the participating city shall not make contributions to the system based upon the person's compensation for reemployment. A person who is so reemployed shall ~~continue not be eligible~~ to receive the a service retirement allowance for the period of reemployment. The service retirement allowance shall be reinstated upon termination of the reemployment, and but the service retirement allowance shall not be recalculated based upon the person's reemployment. Notwithstanding section 97B.1A or any other provision of law to the contrary, a person reemployed as provided in this subsection shall be exempt from chapter 97B.

² Chapter 249I was repealed by 2005 Iowa Acts, chapter 167, §39, 66; see chapter 249J

Sec. 11. Section 411.5, subsection 6, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Records containing financial or commercial information that relates to the investment of retirement system funds if the disclosure of such information could result in a loss to the retirement system or to the provider of the information are not public records for the purposes of chapter 22.

Sec. 12. Section 411.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 15. CLOSED SESSIONS. In addition to the reasons provided in section 21.5, subsection 1, the board may hold a closed session pursuant to the requirements of section 21.5 of that portion of a board meeting in which financial or commercial information is provided to or discussed by the board if the board determines that disclosure of such information could result in a loss to the retirement system or to the provider of the information.

Sec. 13. Section 411.6, subsection 5, paragraph a, Code 2005, is amended to read as follows:

a. Upon application to the system, of a member in good standing or of the chief of the police or fire departments, respectively, any member in good standing who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the system if the medical board certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A medical condition shall be deemed to have been known to exist on the date that membership commenced if the medical condition is reflected in any record or document completed or obtained in accordance with the system's medical protocols pursuant to section 400.8, or in any other record or document obtained pursuant to an application for disability benefits from the system, if such record or document existed prior to the date membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

Sec. 14. Section 411.6, subsection 5, paragraph b, Code 2005, is amended to read as follows:

b. If a member in service or the chief of the police or fire departments becomes incapacitated for duty as a natural or proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time or place or while acting, pursuant to order, outside the city by which the member is regularly employed, the member, upon being found to be temporarily incapacitated following a medical examination as directed by the city, is entitled to receive the member's full pay and allowances from the city's general fund or trust and agency fund until re-examined as directed by the city and found to be fully recovered or until the city determines that the member is likely to be permanently disabled. If the temporary incapacity of a member continues more than sixty days, or if the city expects the incapacity to continue more than sixty days, the city shall notify the system of the temporary incapacity. Upon notification by a city, the system may refer the matter to the medical board for review and consultation with the member's treating physician during the temporary incapacity. Except as provided by this paragraph, the board of trustees of the statewide system has no jurisdiction over these matters until the city determines that the disability is likely to be permanent.

Sec. 15. Section 411.6, subsection 8, paragraph c, subparagraph (3), Code 2005, is amended to read as follows:

(3) If there is no surviving spouse or child, then the member's dependent father or mother, or both, as the system determines, to continue until ~~remarriage or~~ death.

Sec. 16. Section 411.6, subsection 9, paragraph b, subparagraph (1), subparagraph subdivision (c), Code 2005, is amended to read as follows:

(c) If the member's designated beneficiary is the member's dependent father or mother, or both, then to the father or mother, or both, in equal shares, to continue until ~~remarriage or~~ death.

Sec. 17. Section 411.6, subsection 9, paragraph b, subparagraph (2), subparagraph subdivision (c), Code 2005, is amended to read as follows:

(c) If there is no surviving spouse or child, then to the member's dependent father or mother, or both, in equal shares, to continue until ~~remarriage or~~ death.

Sec. 18. Section 411.23, Code 2005, is amended by adding the following new subsection: NEWSUBSECTION. 3. a. Commencing July 1, 2006, a member's contributions shall be refunded to the member by the system if the following conditions are met:

- (1) The member was a member of the system for less than four years.
- (2) The member terminated service four or more years prior to the date of the refund.
- (3) The amount to be refunded does not exceed five thousand dollars, or such other amount as may be established under section 401(a) of the Internal Revenue Code.

b. In the event a refund is made in accordance with this subsection without the member's consent, the system shall pay the distribution in a direct rollover to an individual retirement plan designated by the system unless the member elects to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover in accordance with section 411.6B or elects to receive the distribution directly. The system may, by rule, implement a de minimus exception to the automatic rollover provision of this subsection, subject to the limitations of the Internal Revenue Code and any applicable internal revenue service regulations.

Approved April 26, 2006