# CHAPTER 97B

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Ch 97, Code 1950, repealed by 53 Acts, ch 71, with certain rights preserved; see §97.50 – 97.53


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**97B.1 System created — organizational definitions.**

1. The *"Iowa Public Employees' Retirement System"* is established as an independent agency within the executive branch of state government. The Iowa public employees' retirement system shall administer the retirement system established under this chapter.

2. As used in this chapter, unless the context requires otherwise:

*a.* *"Board"* means the investment board created by section 97B.8A.

*b.* *"Chief executive officer"* means the chief executive officer of the Iowa public employees' retirement system.

*c.* *"Committee"* means the benefits advisory committee created by section 97B.8B.

*d.* *"System"* means the Iowa public employees' retirement system.

[C46, 50, §97.1; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.1]

86 Acts, ch 1245, §249; 92 Acts, ch 1201, §6; 2001 Acts, ch 68, §7, 24; 2003 Acts, ch 145, §170

**97B.1A Definitions.**

When used in this chapter:

1. *"Abolished system"* means the Iowa old-age and survivors' insurance system repealed by sections 97.50 to 97.53.

2. *"Accumulated contributions"* means the total obtained as of any date, by accumulating each individual contribution by the member with interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years, compounded as provided in section 97B.70.

2A. *"Accumulated employer contributions"* means an amount equal to the total obtained as of any date, by accumulating each individual contribution by the employer for the member with interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years, compounded as provided in section 97B.70.

3. *"Active member"* during a calendar year means a member who made contributions to the retirement system at any time during the calendar year and who:

*a.* Had not received or applied for a refund of the member's accumulated contributions for withdrawal or death, and

*b.* Had not commenced receiving a retirement allowance.

4. *"Actuarial equivalent"* means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the system.

5. *"Beneficiary"* means the person or persons who are entitled to receive any benefits

payable under this chapter at the death of a member, if the person or persons have been designated on a form provided by the system and filed with the system. If no such designation is in effect at the time of death of the member or if no person so designated is living at that time, then the beneficiary is the estate of the member.

6. *"Bona fide retirement"* means a retirement by a vested member which meets the requirements of section 97B.52A and in which the member is eligible to receive benefits under this chapter.

7. *"Contributions"* means the payments to the fund required herein, by the employer and by the members, to provide the benefits of the retirement system.

8. *"Employee"* means an individual who is employed as defined in this chapter for whom coverage under this chapter is mandatory.

*a.* *"Employee"* shall also include any of the following individuals who do not elect out of coverage under this chapter pursuant to section 97B.42A:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions. An elective official covered under this section may terminate membership under this chapter by informing the system in writing of the expiration of the member's term of office or by informing the system of the member's intent to terminate membership for employment as an elective official and establishing that the member has a bona fide termination of employment from all employment covered under this chapter other than as an elective official and that the member has filed a completed application for benefits form with the system. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

(2) Members of the general assembly of Iowa and temporary employees of the general assembly of Iowa.

(a) A member of the general assembly covered under this chapter may terminate membership under this chapter by informing the system in writing of the member's intent to terminate membership.

(b) Temporary employees of the general assembly covered under this chapter may terminate membership by sending written notification to the system of their separation from service.

(3) Nonvested employees of drainage and levee districts.

(4) Employees of a community action program determined to be an instrumentality of the state or a political subdivision.

(5) Magistrates.

(6) Members of the ministry, rabbinate, or other religious order who have taken the vow of poverty.

(7) Persons employed as city managers, or as city administrators performing the duties of city managers, under a form of city government listed in chapter 372 or chapter 420.

(8) Members of the state transportation commission, the board of parole, and the state health facilities council.

(9) Employees appointed by the state board of regents who do not elect coverage in a retirement system qualified by the state board of regents that meets the criteria of section 97B.2.

(10) Persons employed by the board of trustees for the statewide fire and police retirement system established in section 411.36.

(11) Persons employed by a municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to chapter 412.

(12) Employees of a regional administrator formed in accordance with section 331.392, determined to be an instrumentality of the political subdivision forming the regional administrator.

*b.* *"Employee"* does not mean the following individuals:

(1) Individuals who are enrolled as students and whose primary occupations are as students who are incidentally employed by employers.

(2) Graduate medical students while serving as interns or resident doctors in training

at any hospital, or county medical examiners and deputy county medical examiners under chapter 331, division V, part 8, who are not full-time county employees.

(3) Employees hired for temporary employment of less than six consecutive months or one thousand forty hours in a calendar year. An employee who works for an employer for six or more consecutive months or who works for an employer for more than one thousand forty hours in a calendar year is not a temporary employee under this subparagraph. Adjunct instructors are temporary employees for the purposes of this chapter. As used in this section, unless the context otherwise requires, *"adjunct instructors"* means instructors employed by a community college or a university governed by the state board of regents without a continuing contract, whose teaching load does not exceed one-half time for two full semesters or three full quarters per calendar year.

(4) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants, and specialists in their field of specialized knowledge or skill.

(5) Employees of the Iowa dairy industry commission established under chapter 179, the Iowa beef cattle producers association established under chapter 181, the Iowa pork producers council established under chapter 183A, the Iowa turkey marketing council established under chapter 184A, the Iowa soybean association as provided in chapter 185, the Iowa corn promotion board established under chapter 185C, and the Iowa egg council established under chapter 184.

(6) Judicial hospitalization referees appointed under section 229.21.

(7) Employees of an area agency on aging, if as of July 1, 1994, the agency provides for participation by all of its employees in an alternative qualified plan pursuant to the requirements of the federal Internal Revenue Code.

(8) Persons employed through any program described in section 84A.7 and provided by the Iowa conservation corps.

(9) Persons employed by the Iowa student loan liquidity corporation.

9. *"Employer"* means the state of Iowa, the counties, municipalities, agencies, public school districts, all political subdivisions, and all of their departments and instrumentalities, including area agencies on aging, other than those employing persons as specified in subsection 8, paragraph *"b"*, subparagraph (7), and joint planning commissions created under chapter 28E or 28I.

If an interstate agency is established under chapter 28E and similar enabling legislation in an adjoining state, and an employer had made contributions to the retirement system for employees performing functions which are transferred to the interstate agency, the employees of the interstate agency who perform those functions shall be considered to be employees of the employer for the sole purpose of membership in the retirement system, although the employer contributions for those employees are made by the interstate agency.

10. *"Employment for any calendar quarter"* means any service performed under an employer-employee relationship under this chapter for which wages are reported in the calendar quarter. For the purposes of this chapter, elected officials are deemed to be in employment for all quarters of the elected officials' respective terms of office, even if the elected officials have selected a method of payment of wages which results in the elected officials not being credited with wages every quarter of a year.

10A. *"Final average covered wage"* means the greater of the following:

*a.* (1) The member's covered wages averaged for the highest five years of the member's regular service, except as otherwise provided in this paragraph. The highest five 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 fifth 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 four highest years and using the computed average quarter for each quarter in the fifth 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 calendar year. However, the system shall not use the member's final quarter of wages if using that quarter would reduce the member's final average covered wage. If the five-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 five-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 subparagraph to the contrary, a member's wages for the fifth year as computed under this subparagraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages.

(2) Notwithstanding any other provisions of this paragraph *"a"* to the contrary, the member's five-year average covered wage shall be the lesser of the five-year average covered wage as calculated pursuant to subparagraph (1) and the adjusted covered wage amount. For purposes of this subparagraph (2), the covered wage amount shall be an amount equal to one hundred thirty-four percent of the member's applicable calendar year wages. The member's applicable calendar year wages shall be the member's highest calendar year of covered wages not used in the calculation of the member's five-year average covered wage pursuant to subparagraph (1), or such other calendar year of covered wages selected by the system pursuant to rules adopted by the system.

*b.* If the member was vested as of June 30, 2012, the member's three-year average covered wage as of June 30, 2012.

11. *"First month of entitlement"* means the first month for which a member is qualified to receive retirement benefits under this chapter. Effective January 1, 1995, a member who meets all of the following requirements is qualified to receive retirement benefits under this chapter:

*a.* Has attained the minimum age for receipt of a retirement allowance under this chapter.

*b.* If the member has not attained seventy years of age, has terminated all employment covered under this chapter or formerly covered under this chapter pursuant to section 97B.42 in the month prior to the member's first month of entitlement.

*c.* Has filed a completed application for benefits with the system setting forth the member's intended first month of entitlement.

*d.* Has survived into the month for which the member's first retirement allowance is payable by the retirement system.

11A. *"Fully funded"* means a funded ratio of at least one hundred percent using the most recent actuarial valuation. For purposes of this subsection, *"funded ratio"* means the ratio produced by dividing the lesser of the actuarial value of the system's assets or the market value of the system's assets, by the system's actuarial liabilities, using the actuarial method adopted by the investment board pursuant to section 97B.8A, subsection 3.

12. *"Inactive member"* with respect to future service means a member who at the end of a year had not made any contributions during the current year and who has not received a refund of the member's accumulated contributions.

13. *"Internal Revenue Code"* means the Internal Revenue Code as defined in section 422.3.

14. *"Member"* means an employee or a former employee who maintains the employee's or former employee's accumulated contributions in the retirement system. The former employee is not a member if the former employee has received a refund of the former employee's accumulated contributions.

14A. *"Member account"* means the account established for each member and includes the member's accumulated contributions and the member's share of the accumulated employer contributions as provided in section 97B.53. *"Member account"* does not mean the supplemental account for active members.

15. *"Membership service"* means service rendered by a member after July 4, 1953. Years of membership service shall be counted to the complete quarter calendar year. However, membership service for a calendar year shall not include more than four quarters. In determining a member's period of membership service, the system shall combine all periods of service for which the member has made contributions.

16. *"Prior service"* means any service by an employee rendered at any time prior to July 4, 1953.

17. *"Regular service"* means service for an employer other than special service.

18. *"Retired member"* means a member who has applied for the member's retirement allowance and has survived into at least the first day of the member's first month of entitlement.

19. *"Retirement"* means that period of time beginning when a member who has filed an approved application for a retirement allowance has survived into at least the first day of the member's first month of entitlement and ending when the member dies.

19A. *"Retirement system"* means the retirement plan as contained in this chapter or as duly amended.

20. *"Service"* means service under this chapter by an employee, except an elected official, for which the employee is paid covered wages. Service shall also mean the following:

*a.* Service in the armed forces of the United States, if the employee was employed by a covered employer immediately prior to entry into the armed forces, and if any of the following requirements are met:

(1) The employee was released from service and returns to covered employment with an employer within twelve months of the date on which the employee has the right of release from service or within a longer period as required by the applicable laws of the United States.

(2) The employee, while serving on active duty in the armed forces of the United States in an area designated by the president of the United States or the United States Congress as a combat zone or as a qualified hazardous duty area, or deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the United States secretary of defense as a contingency operation as defined in 10 U.S.C. §101(a)(13), or which became such a contingency operation by the operation of law, dies, or suffers an injury or acquires a disease resulting in death, so long as the death from the injury or disease occurs within a two-year period from the date the employee suffered the active duty injury or disease and the active duty injury or disease prevented the employee from returning to covered employment as provided in subparagraph (1).

*b.* Leave of absence authorized by the employer prior to July 1, 1998, for a period not exceeding twelve months and ending no later than July 1, 1999.

*c.* A leave of absence authorized pursuant to the requirements of the federal Family and Medical Leave Act of 1993, or other similar leave authorized by the employer for a period not to exceed twelve weeks in any calendar year.

*d.* Temporary or seasonal interruptions in service for employees of a school corporation or educational institution when the temporary suspension of service does not terminate the period of employment of the employee and the employee returns to service at a school corporation or educational institution upon the end of the temporary or seasonal interruption. However, effective July 1, 2004, *"service"* does not mean service for which an employee receives remuneration from an employer for temporary employment during any quarter in which the employee is on an otherwise unpaid leave of absence that is not authorized under the federal Family and Medical Leave Act of 1993 or other similar leave. Remuneration paid by the employer for the temporary employment shall not be treated by the system as covered wages.

*e.* Employment with an employer prior to January 1, 1946, if the member is not receiving a retirement allowance based upon that employment.

21. *"Service"* for an elected official means the period of membership service for which contributions are made beginning on the date an elected official assumes office and ending on the expiration date of the last term the elected official serves, excluding all the intervening periods during which the elected official is not an elected official.

22. *"Special service"* means service for an employer while employed in a protection occupation as provided in section 97B.49B, and as a county sheriff or deputy sheriff as provided in section 97B.49C.

22A. *"Supplemental account for active members"* or *"supplemental account"* means the account established for each active member under section 97B.49H.

23. Reserved.

24. *a.* *"Three-year average covered wage"* means 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.

*b*. (1) Notwithstanding any other provisions of this subsection to the contrary, the three-year average covered wage shall be computed as follows for the following members:

(a) For a member who retires during the calendar year beginning January 1, 1997, and whose three-year average covered wage at the time of retirement exceeds forty-eight thousand dollars, the member's covered wages averaged for the highest four years of the member's service or forty-eight thousand dollars, whichever is greater.

(b) For a member who retires during the calendar year beginning January 1, 1998, and whose three-year average covered wage at the time of retirement exceeds fifty-two thousand dollars, the member's covered wages averaged for the highest five years of the member's service or fifty-two thousand dollars, whichever is greater.

(c) For a member who retires during the calendar year beginning January 1, 1999, and whose three-year average covered wage at the time of retirement exceeds fifty-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or fifty-five thousand dollars, whichever is greater.

(d) For a member who retires on or after January 1, 2000, but before January 1, 2001, and whose three-year average covered wage at the time of retirement exceeds sixty-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or sixty-five thousand dollars, whichever is greater.

(e) For a member who retires on or after January 1, 2001, but before January 1, 2002, and whose three-year average covered wage at the time of retirement exceeds seventy-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or seventy-five thousand dollars, whichever is greater.

(2) For purposes of this paragraph, the highest years of the member's service shall be determined using calendar years and may be determined using one computed year calculated in the manner and subject to the restrictions provided in paragraph "*a*".

*c*. Notwithstanding any other provisions of this subsection to the contrary, for a member who retires on or after July 1, 2007, the member's three-year average covered wage shall be the lesser of the three-year average covered wage as calculated pursuant to paragraph "*a*" and the adjusted covered wage amount. For purposes of this paragraph, the adjusted covered wage amount shall be the greater of the member's three-year average covered wage calculated pursuant to paragraph "*a*" as of July 1, 2007, and an amount equal to one hundred twenty-one percent of the member's applicable calendar year wages. The member's applicable calendar year wages shall be the member's highest calendar year of covered wages not used in the calculation of the member's three-year average covered wage pursuant to paragraph "*a*", or such other calendar year of covered wages selected by the system pursuant to rules adopted by the system.

25. *a*. "*Vested member*" means a member who has attained through age or sufficient years of service eligibility to receive monthly retirement benefits upon the member's retirement. A vested member must meet one of the following requirements:

(1) Is vested by service.

(2) Prior to July 1, 2005, has attained the age of fifty-five.

(3) Between July 1, 2005, and June 30, 2012, has attained the age of fifty-five or greater while in covered employment.

(4) On and after July 1, 2012, meets one of the following requirements:

(a) For a member in special service, has attained the age of fifty-five or greater while in covered employment.

(b) For a member in regular service, has attained the age of sixty-five or greater while in covered employment.

*b.* *"Active vested member"* means an active member who has attained sufficient membership service to achieve vested status.

*c.* *"Inactive vested member"* means an inactive member who was a vested member at the time of termination of employment.

*d.* *"Vested by service"* means a member who meets one of the following requirements:

(1) Prior to July 1, 1965, had attained the age of forty-eight and completed at least eight years of service.

(2) Between July 1, 1965, and June 30, 1973, had completed at least eight years of service.

(3) Between July 1, 1973, and June 30, 2012, had completed at least four years of service.

(4) On and after July 1, 2012, meets one of the following requirements:

(a) For a member in special service, has completed at least four years of special service.

(b) For a member in regular service, has completed at least seven years of service.

(5) On or after July 1, 1988, an inactive member who had accumulated, as of the date of the member's last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this paragraph *"d"* for qualifying as vested by service on that date of termination.

26. *a.* (1) *"Wages"* means all remuneration for employment, including but not limited to any of the following:

(a) The cash value of wage equivalents not necessitated by the convenience of the employer. The fair market value of such wage equivalents shall be reported to the system by the employer.

(b) The remuneration paid to an employee before employee-paid contributions are made to plans qualified under sections 125, 129, 401, 403, 408, and 457 of the Internal Revenue Code. In addition, *"wages"* includes amounts that can be received in cash in lieu of employer-paid contributions to such plans, if the election is uniformly available and is not limited to highly compensated employees, as defined in section 414(q) of the Internal Revenue Code.

(c) For an elected official, other than a member of the general assembly, the total compensation received by the elected official, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances.

(d) For a member of the general assembly, the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances paid to a member of the general assembly except as otherwise provided in this subparagraph division. Wages includes per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages also includes daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly, but does not include the portion of the daily allowance which exceeds the maximum established by law for members from Polk county.

(e) Payments for compensatory time earned that are received in lieu of taking regular work hours off and when paid as a lump sum. However, *"wages"* does not include payments made in a lump sum for compensatory time earned in excess of two hundred forty hours per year.

(f) Employee contributions required under section 97B.11 and picked up by the employer under section 97B.11A.

(2) *"Wages"* does not include any of the following:

(a) The cash value of wage equivalents necessitated by the convenience of the employer.

(b) Payments made for accrued sick leave or accrued vacation leave that are not being used to replace regular work hours, whether paid in a lump sum or in installments.

(c) Payments made as an incentive for early retirement or as payment made upon dismissal or severance from employment, or a special bonus payment intended as an early retirement incentive, whether paid in a lump sum or in installments.

(d) Employer-paid contributions that cannot be received by the employee in cash and that are made to, and any distributions from, plans, programs, or arrangements qualified under section 117, 120, 125, 129, 401, 403, 408, or 457 of the Internal Revenue Code.

(e) Employer-paid contributions for coverage under, or distributions from, an accident, health, or life insurance plan, program, or arrangement.

(f) Workers' compensation and unemployment compensation payments.

(g) Disability payments.

(h) Reimbursements of employee business expenses except for those expenses included as wages for a member of the general assembly.

(i) Payments for allowances except for those allowances included as wages for a member of the general assembly.

(j) Payments of damages, attorney fees, interest, and penalties made to satisfy a grievance, wage claim, or employment dispute.

(k) Payments for services as an independent contractor.

(l) Payments made by an entity that is not an employer under this chapter.

(m) Payments made in lieu of any employer-paid group insurance coverage.

(n) Bonuses of any type, whether paid in a lump sum or in installments.

*b.* (1) *"Covered wages"* means wages of a member during the periods of membership service as follows:

(a) For the period from July 4, 1953, through December 31, 1953, and each calendar year from January 1, 1954, through December 31, 1963, wages not in excess of four thousand dollars.

(b) For each calendar year from January 1, 1964, through December 31, 1967, wages not in excess of four thousand eight hundred dollars.

(c) For each calendar year from January 1, 1968, through December 31, 1970, wages not in excess of seven thousand dollars, for each calendar year from January 1, 1971, through December 31, 1972, wages not in excess of seven thousand eight hundred dollars, and for each calendar year from January 1, 1973, through December 31, 1975, wages not in excess of ten thousand eight hundred dollars.

(d) For each calendar year from January 1, 1976, through December 31, 1983, wages not in excess of twenty thousand dollars.

(e) For each calendar year from January 1, 1984, through December 31, 1985, wages not in excess of twenty-one thousand dollars per year.

(f) For the calendar year from January 1, 1986, through December 31, 1986, wages not in excess of twenty-two thousand dollars.

(g) For the calendar year from January 1, 1987, through December 31, 1987, wages not in excess of twenty-three thousand dollars.

(h) For the calendar year beginning January 1, 1988, and ending December 31, 1988, wages not in excess of twenty-four thousand dollars.

(i) For the calendar year beginning January 1, 1989, and ending December 31, 1989, wages not in excess of twenty-six thousand dollars.

(j) For the calendar year beginning January 1, 1990, and ending December 31, 1990, wages not in excess of twenty-eight thousand dollars.

(k) For the calendar year beginning January 1, 1991, wages not in excess of thirty-one thousand dollars.

(l) For the calendar year beginning January 1, 1992, wages not in excess of thirty-four thousand dollars.

(m) For the calendar year beginning January 1, 1993, wages not in excess of thirty-five thousand dollars.

(n) For the calendar year beginning January 1, 1994, wages not in excess of thirty-eight thousand dollars.

(o) For the calendar year beginning January 1, 1995, wages not in excess of forty-one thousand dollars.

(p) For the calendar year beginning January 1, 1996, wages not in excess of forty-four thousand dollars.

(q) Commencing with the calendar year beginning January 1, 1997, and for each

subsequent calendar year, wages not in excess of the amount permitted for that year under section 401(a)(17) of the Internal Revenue Code.

(2) Notwithstanding any other provision of this chapter providing for the payment of the benefits provided in section 97B.49B, 97B.49C, 97B.49D, or 97B.49G, the system shall establish the covered wages limitation which applies to members covered under section 97B.49B, 97B.49C, 97B.49D, or 97B.49G, at the same level as is established under this subparagraph for other members of the retirement system.

(3) Effective July 1, 1992, *"covered wages"* does not include wages to a member on or after the effective date of the member's retirement, except as otherwise permitted by the system's administrative rules, unless the member is reemployed, as provided under section 97B.48A.

(4) If a member is employed by more than one employer during a calendar year, the total amount of wages paid to the member by the several employers shall be included in determining the limitation on covered wages as provided in this lettered paragraph. If the amount of wages paid to a member by the member's several employers during a calendar year exceeds the covered wage limit, the amount of such excess shall not be subject to the contributions required by section 97B.11.

27. *"Years of prior service"* means the total of all periods of prior service of a member. In computing credit for prior service, service of less than a full quarter shall be rounded up to a full quarter. Where a member had prior service as a teacher, a full year of service shall be granted that member if the member had three quarters of service and a contract for employment for the following school year.

[C46, 50, §97.1 – 97.5, 97.7 – 97.9, 97.12, 97.14, 97.18, 97.23, 97.45, 97.48; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.41; 82 Acts, ch 1261, §13 – 17]

83 Acts, ch 101, §10; 83 Acts, ch 186, §10042, 10201; 84 Acts, ch 1285, §4 – 8; 86 Acts, ch 1243, §4 – 8; 87 Acts, ch 115, §13; 87 Acts, ch 227, §18; 88 Acts, ch 1242, §21 – 30; 90 Acts, ch 1240, §16 – 23; 92 Acts, ch 1201, §24 – 35; 93 Acts, ch 44, §4; 94 Acts, ch 1183, §16 – 22, 97; 95 Acts, ch 102, §1 – 4; 96 Acts, ch 1034, §3; 96 Acts, ch 1187, §11 – 22; 98 Acts, ch 1183, §18 – 24, 77, 82

C99, §97B.1A

2000 Acts, ch 1077, §10 – 20, 76; 2001 Acts, ch 61, §15; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §7 – 11, 38; 2003 Acts, ch 145, §171, 286; 2004 Acts, ch 1103, §4 – 12; 2005 Acts, ch 3, §22; 2005 Acts, ch 179, §112; 2006 Acts, ch 1091, §1 – 3; 2006 Acts, ch 1092, §1; 2008 Acts, ch 1032, §185, 201; 2008 Acts, ch 1171, §18 – 20, 48; 2009 Acts, ch 41, §263; 2010 Acts, ch 1061, §15; 2010 Acts, ch 1167, §19 – 22; 2011 Acts, ch 118, §76, 89; 2012 Acts, ch 1120, §30; 2012 Acts, ch 1126, §37, 40, 41

Referred to in **§97A.3**, **§97B.42A**, **§97B.42B**, **§97B.43**, **§97B.50A**, **§97B.66**, **§97B.68**, **§97B.80C**, **§411.3**, **§411.30**, **§602.11115**, **§602.11116**

Inclusion in definition of wages of certain allowable employer-paid contributions paid by eligible employers to eligible employees; 2000 Acts, ch 1171, §26

For definition of final average covered wage for 2010-2012 fiscal period, see 2010 Acts, ch 1167, §37

2012 amendment striking former subparagraph (12) of subsection 8, paragraph a, takes effect May 25, 2012, and applies retroactively to July 1, 2011; 2012 Acts, ch 1126, sections 40, 41

**97B.2 Purpose of chapter.**

The purpose of this chapter is to promote economy and efficiency in the public service by providing an orderly means for employees, without hardship or prejudice, to have a retirement system which will provide for the payment of annuities, enabling the employees to care for themselves in retirement, and which will improve public employment within the state, reduce excessive personnel turnover, and offer suitable attraction to high-grade men and women to enter public service in the state.

[C46, 50, §97.2; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.2]

88 Acts, ch 1242, §8

Referred to in **§97B.1A**

**97B.3 Chief executive officer — appointment and qualifications.**

1. The administrator of the system is the chief executive officer. The chief executive officer shall be appointed by the governor subject to confirmation by the senate and shall serve a four-year term of office beginning and ending as provided in section 69.19. A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment

is made. The governor may remove the chief executive officer for malfeasance in office, or for any cause that renders the chief executive officer ineligible, incapable, or unfit to discharge the duties of the office. The investment board, under the pay plan applicable to employees of the division, shall set the salary of the chief executive officer.

2. The qualifications for appointment as the chief executive officer shall include management-level pension fund administration experience. The qualifications for appointment as the chief executive officer shall also include a demonstrated knowledge of all aspects of pension fund administration, including financial management, investment asset management, benefit design and delivery, legal administration, and operations administration. The chief executive officer shall not be selected on the basis of political affiliation, and while employed as the chief executive officer, shall not be a member of a political committee, participate in a political campaign, or be a candidate for a partisan elective office, and shall not contribute to a political campaign fund, except that the chief executive officer may designate on the checkoff portion of the state or federal income tax return, or both, a party or parties to which a contribution is made pursuant to the checkoff. The chief executive officer shall not hold any other office under the laws of the United States or of this or any state and shall devote full time to the duties of office.

3. By January 31 of the year in which the term of office of the chief executive officer will end, the investment board and the benefits advisory committee shall submit a written report to the governor and the secretary of the senate concerning the board's and committee's evaluation of the performance of the chief executive officer, together with a recommendation concerning the reappointment of the chief executive officer.

2001 Acts, ch 68, §8, 24; 2003 Acts, ch 94, §1, 2, 4; 2003 Acts, ch 145, §286
Confirmation, see §2.32

**97B.4 Administration of chapter — powers and duties of system — immunity.**

1. *Chief executive officer.* The system, through the chief executive officer, shall administer this chapter. The chief executive officer shall also be the system's statutory designee with respect to the rulemaking power.

2. *General authority.*

*a.* The system may adopt, amend, waive, or rescind rules, employ persons, execute contracts with outside parties, make expenditures, require reports, make investigations, and take other action it deems necessary for the administration of the retirement system in conformity with the requirements of this chapter, the applicable provisions of the Internal Revenue Code, and all other applicable federal and state laws. The rules shall be effective upon compliance with chapter 17A.

*b.* The system may delegate to any person such authority as it deems reasonable and proper for the effective administration of this chapter, and may bond any person handling moneys or signing checks under this chapter.

*c.* The budget program for the system shall be established by the chief executive officer in consultation with the board and other staff of the system and shall be compiled and submitted by the system pursuant to section 8.23.

*d.* In administering this chapter, the system shall not be a participating agency for purposes of chapter 8B.

3. *Personnel.*

*a.* *Chief investment officer.* The chief executive officer, following consultation with the board, shall employ a chief investment officer who shall be appointed pursuant to chapter 8A, subchapter IV, and shall be responsible for administering the investment program for the retirement fund pursuant to the investment policies of the board.

*b.* *Chief benefits officer.* The chief executive officer, following consultation with the benefits advisory committee, shall employ a chief benefits officer who shall be appointed pursuant to chapter 8A, subchapter IV, and shall be responsible for administering the benefits and other services provided under the retirement system.

*c.* *Actuary.* The system shall employ an actuary who shall be selected by the board and shall serve at the pleasure of the board. The actuary shall be the technical advisor for the system on matters regarding the operation of the retirement fund.

*d. System employees.* Subject to other provisions of this chapter, the system may employ all other personnel as necessary for the administration of the retirement system. The maximum number of full-time equivalent employees specified by the general assembly for the system for administration of the retirement system for a fiscal year shall not be reduced by any authority other than the general assembly. The personnel of the system shall be appointed pursuant to chapter 8A, subchapter IV. The system shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for a partisan elective public office.

*e. Legal advisors.* The system may employ attorneys and contract with attorneys and legal firms for the provision of legal counsel and advice in the administration of this chapter and chapter 97C.

*f. Outside advisors.* The system may execute contracts with persons outside state government, including investment advisors, consultants, and managers, in the administration of this chapter. However, a contract with an investment manager or investment consultant shall not be executed by the system pursuant to this paragraph without the prior approval by the board of the hiring of the investment manager or investment consultant.

4. *Reports.*

*a. Annual report to governor.* Not later than the 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. 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.

*b. Annual statement to members.* The system shall prepare and distribute to the members, at the expense of the retirement fund, an annual statement of the member's account and, in such a manner as the system deems appropriate, other information concerning the retirement system.

*c. Actuarial investigation.* During calendar year 2002, and every four years thereafter, the system shall cause an actuarial investigation to be made of all experience under the retirement system. Pursuant to such an investigation, the system shall, from time to time, determine upon an actuarial basis the condition of the retirement system and shall report to the general assembly its findings and recommendations.

*d. Annual valuation of assets.* The system shall cause an annual actuarial valuation to be made of the assets and liabilities of the retirement system and shall prepare an annual statement of the amounts to be contributed under this chapter, and shall publish annually such valuation of the assets and liabilities and the statement of receipts and disbursements of the retirement system. Based upon the actuarial methods and assumptions adopted by the board for the annual actuarial valuation, the system shall certify to the governor the contribution rates determined thereby as the rates necessary and sufficient for members and employers to fully fund the benefits and retirement allowances being credited. Effective with the fiscal year beginning July 1, 2008, the annual actuarial valuation required by this paragraph shall include information as required by section 97D.5 for each membership group which separately determines contribution rates under this chapter.

5. *Investments.* The system, through the chief investment officer, shall invest, subject to chapters 12F and 12H and in accordance with the investment policy and goal statement established by the board, the portion of the retirement fund which, in the judgment of the system, is not needed for current payment of benefits under this chapter subject to the requirements of section 97B.7A.

6. *Old records.* The system may destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the system and are deemed by the chief executive officer to be no longer necessary to the proper administration of this chapter. The destruction or disposition shall be made only by order of the chief executive officer. Records of deceased members of the retirement system may be destroyed ten years after the later of the final payment made to a third party on behalf of the member or the death of the member. Any moneys received from the disposition of these records shall be deposited to the credit of the retirement fund subject to rules adopted by the system.

7. *Immunity.* The system, employees of the system, the board, the members of the board, and the treasurer of state are not personally liable for actions or omissions under this chapter that do not involve malicious or wanton misconduct even if those actions or omissions violate the standards established in section 97B.7A.

[C46, 50, §97.4, 97.23; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.4]

86 Acts, ch 1245, §251; 88 Acts, ch 1242, §9, 10; 92 Acts, ch 1201, §7; 96 Acts, ch 1187, §1; 2001 Acts, ch 68, §9, 24; 2003 Acts, ch 145, §172, 173, 286; 2006 Acts, ch 1092, §3; 2007 Acts, ch 39, §10; 2008 Acts, ch 1171, §21, 22, 48; 2010 Acts, ch 1167, §23, 24; 2011 Acts, ch 82, §10

Referred to in **§97B.7A**, **§97B.8A**

**97B.5 and 97B.6** Repealed by 2001 Acts, ch 68, §23, 24. See §97B.4.

**97B.7 Fund created — exclusive benefit — standing appropriations.**

1. There is hereby created as a special fund, separate and apart from all other public moneys or funds of this state, the "Iowa Public Employees' Retirement Fund", hereafter called the "retirement fund". The retirement fund shall consist of all moneys collected under this chapter, together with all interest, dividends, and rents thereon, and shall also include all securities or investment income and other assets acquired by and through the use of the moneys belonging to the retirement fund and any other moneys that have been paid into the retirement fund.

2. The treasurer of the state of Iowa is hereby made the custodian of the retirement fund and shall hold and disburse the retirement fund in accordance with the requirements of this chapter. As custodian, the treasurer shall be authorized to disburse moneys in the retirement fund upon warrants drawn by the director of the department of administrative services pursuant to the order of the system. The treasurer shall not select any bank or other third party for the purposes of investment asset safekeeping, other custody, or settlement services without prior consultation with the board.

3. All moneys which are paid or deposited into the fund are appropriated and made available to the system to be used for the exclusive benefit of the members and their beneficiaries or contingent annuitants as provided in this chapter:

*a.* To be used by the system for the payment of claims for benefits under this chapter.

*b.* To be used by the system to pay refunds provided for in this chapter.

*c.* To be used for the costs of administering the system, including up to fifty thousand dollars per fiscal year for actual and necessary expenses of the benefits advisory committee. If as a result of action under section 8.31, the governor has reduced the moneys appropriated from the retirement fund to the system for salaries, support, maintenance, and other operational purposes to pay the costs of the system for a fiscal year, it is the intent of the general assembly that the amount by which the appropriation has been reduced should be transferred from the retirement fund to the system for salaries, support, maintenance, and other operational purposes to pay the costs of the system for that fiscal year.

*d.* To be used to pay for investment management expenses incurred in the management of the retirement fund. Expenses incurred pursuant to this paragraph shall be charged to the investment income of the retirement fund.

[C46, 50, §97.5, 97.7; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.7; 82 Acts, ch 1261, §10]

84 Acts, ch 1180, §9; 84 Acts, ch 1285, §3; 85 Acts, ch 190, §1; 85 Acts, ch 227, §7; 86 Acts, ch 1245, §253; 88 Acts, ch 1242, §11 – 13; 89 Acts, ch 83, §20; 92 Acts, ch 1201, §10; 94 Acts,

ch 1001, §3; 96 Acts, ch 1187, §2, 3; 2001 Acts, ch 68, §10, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §23, 48
Referred to in **§97B.42B**, **§97B.43**, **§97B.49**, **§97B.49G**

**97B.7A Investment and management of retirement fund — standards — immunity.**

1. *Investment and investment policy standards.* In establishing the investment policy of the retirement fund and providing for the investment of the retirement fund, the system and board shall do the following:

*a.* Exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for the purpose of speculation, but with regard to the permanent disposition of the funds, considering the probable income, as well as the probable safety, of their capital.

*b.* Give appropriate consideration to those facts and circumstances that the system and board know or should know are relevant to the particular investment or investment policy involved, including the role the investment plays in the total value of the retirement fund.

*c.* For the purposes of this subsection, appropriate consideration includes, but is not limited to, a determination that the particular investment or investment policy is reasonably designed to further the purposes of the retirement system, taking into consideration the risk of loss and the opportunity for gain or income associated with the investment or investment policy and consideration of the following factors as they relate to the retirement fund:

(1) The composition of the retirement fund with regard to diversification.

(2) The liquidity and current return of the investments in the retirement fund relative to the anticipated cash flow requirements of the retirement system.

(3) The projected return of the investments relative to the funding objectives of the retirement system.

2. *Investment acquisitions.* Within the limitations of the investment standards prescribed in this section, the system may acquire and retain every kind of property and every kind of investment which persons of prudence, discretion, and intelligence acquire or retain for their own account. Consistent with this section, investments shall be made in a manner that will enhance the economy of this state, and in particular, will result in increased employment of the residents of this state. Investments of moneys in the retirement fund are not subject to sections 73.15 through 73.21.

3. *Liability — reimbursement.* Except as provided in section 97B.4, subsection 7, if there is loss to the retirement fund, the treasurer of state, the system, the employees of the system, the members of the board severally, and the board are not personally liable, and the loss shall be charged against the retirement fund. There is appropriated from the retirement fund the amount required to cover a loss.

4. *Investment procedures.* In managing the investment of the retirement fund, the system, in accordance with the investment policy established by the board, is authorized to do the following:

*a.* To sell any securities or other property in the retirement fund and reinvest the proceeds when such action may be deemed advisable by the system for the protection of the retirement fund or the preservation of the value of the investment. Such sale of securities or other property of the retirement fund and reinvestment shall only be made in accordance with policies of the board in the manner and to the extent provided in this chapter.

*b.* To subscribe for the purchase of securities for future delivery in anticipation of future income. The securities shall be paid for by anticipated income or from funds from the sale of securities or other property held by the retirement fund.

*c.* To pay for securities directed to be purchased upon the receipt of the purchasing bank's paid statement or paid confirmation of purchase.

5. *Travel.* In the administration of the investment of moneys in the retirement fund, employees of the system and members of the board may travel outside the state for the purpose of meeting with investment firms and consultants and attending conferences and

meetings to fulfill their fiduciary responsibilities. This travel is not subject to section 8A.512, subsection 2.*

2001 Acts, ch 68, §11, 24; 2003 Acts, ch 145, §174, 286

Referred to in §12.8, §12B.10, §12C.5, §12C.10, §97A.7, §97B.4, §97B.8A, §257B.20, §411.7, §412.4, §602.9111

*Former subsection 2 of section 8A.512, that required executive council approval of certain out-of-state travel expenses, was stricken by 2011 Acts, ch 127, §43

**97B.8** Repealed by 2001 Acts, ch 68, §23, 24. See §97B.8A.

**97B.8A Investment board.**

1. *Board established.* A board is established to be known as the "Investment Board of the Iowa Public Employees' Retirement System", referred to in this chapter as the "board". The duties of the board are to establish policy, and review its implementation, in matters relating to the investment of the retirement fund. The board shall be the trustee of the retirement fund.

2. *Investment review.*

*a.* At least annually the board shall review the investment policies and procedures used by the board and system, and shall hold a public meeting on the investment policies and investment performance of the retirement fund. Following its review and the public meeting, the board shall, pursuant to the requirements of section 97B.7A, and in consultation with the chief investment officer and other relevant personnel of the system, establish an investment policy and goal statement that shall direct the investment activities concerning the retirement fund.

*b.* The board shall review and approve, prior to the execution of a contract with the system, the hiring of each investment manager and investment consultant outside of state government.

*c.* The board shall be involved in the performance evaluation of the chief investment officer.

3. *Actuarial responsibilities.*

*a.* The board shall select the actuary to be employed by the system as provided in section 97B.4.

*b.* The board shall, in consultation with the chief executive officer, the actuary, and other relevant personnel of the system, adopt from time to time mortality tables and all other necessary factors for use in actuarial calculations required in connection with the retirement system. The board shall also adopt the actuarial methods and assumptions to be used by the actuary for the annual valuation of assets as required by section 97B.4.

4. *Membership.*

*a.* The board shall consist of eleven members, including seven voting members and four nonvoting members.

(1) The voting members shall be as follows:

(a) Three public members, appointed by the governor, who are not members of the retirement system and who each have substantial institutional investment experience or substantial institutional financial experience.

(b) Three members, appointed by the governor, who are members of the retirement system. Prior to the appointment by the governor of a member of the board under this subparagraph, the benefits advisory committee shall submit a slate of at least two nominees per position to the governor for the governor's consideration. The governor is not required to appoint a member from the slate submitted. Of the three members appointed, one shall be an active member who is an employee of a school district, area education agency, or merged area; one shall be an active member who is not an employee of a school district, area education agency, or merged area; and one shall be a retired member of the retirement system.

(c) The treasurer of state.

(2) The nonvoting members of the board shall be two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

*b.* Four voting members of the board shall constitute a quorum.

*c.* The three members who have substantial institutional investment experience or substantial institutional financial experience, and the member who is a retired member of the retirement system, shall be paid their actual expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service not exceeding forty days per year. Legislative members shall be paid the per diem and expenses specified in section 2.10, for each day of service. The per diem and expenses of the legislative members shall be paid from funds appropriated under section 2.12. The members who are active members of the retirement system and the treasurer of state shall be paid their actual expenses incurred in the performance of their duties as members of the board and the performance of their duties as members of the board shall not affect their salaries, vacations, or leaves of absence for sickness or injury.

*d.* The appointive terms of the members appointed by the governor are for a period of six years beginning and ending as provided in section 69.19. If there is a vacancy in the membership of the board for one of the members appointed by the governor, the governor has the power of appointment. Gubernatorial appointees to this board are subject to confirmation by the senate.

5. *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.

2001 Acts, ch 68, §12, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §201
Referred to in **§97B.1**, **§97B.1A**, **§97B.8B**
Confirmation, see §2.32

**97B.8B Benefits advisory committee.**

1. *Committee established.* A benefits advisory committee shall be established whose duty is to consider and make recommendations to the system and the general assembly concerning the provision of benefits and services to members of the retirement system.

2. *Membership.* The benefits advisory committee shall be comprised of representatives of constituent groups concerned with the retirement system, and shall include representatives of employers, active members, and retired members. In addition, the director of the department of administrative services and a member of the public selected by the voting members of the committee shall serve as members of the committee. The system shall adopt rules under chapter 17A to provide for the selection of members to the committee and the election of the voting members of the committee.

3. *Voting members.* Of the members who comprise the committee, nine members shall be voting members. Except as otherwise provided by this subsection, the voting members shall be elected by the members of the committee from the membership of the committee. Of the nine voting members of the committee, four shall represent covered employers, and four shall represent the members of the retirement system. Of the four voting members representing employers, one shall be the director of the department of administrative services, one shall be a member of a constituent group that represents cities, one shall be a member of a constituent group that represents counties, and one shall be a member of a constituent group that represents local school districts. Of the four voting members who represent members of the retirement system, one shall be a member of a constituent group that represents teachers. The ninth voting member of the committee shall be a citizen who is not a member of the retirement system and who is elected by the other voting members of the committee.

4. *Duties.*

*a.* At least every two years, the benefits advisory committee shall review the benefits and services provided to members under this chapter, and the voting members of the committee shall make recommendations to the system and the general assembly concerning the services provided to members and the benefits, benefits policy, and benefit goals, provided under this chapter.

*b*. The benefits advisory committee shall be involved in the performance evaluation of the chief benefits officer.

*c*. Upon the expiration of the term of office of or a vacancy concerning one of the three members of the investment board described in section 97B.8A, subsection 4, paragraph "*a*", subparagraph (1), subparagraph division (b), the voting members of the committee shall submit to the governor the names of at least two nominees who meet the requirements specified in that subparagraph division. The governor may appoint the member from the list submitted by the committee.

5. *Terms of voting members*. Except for the director of the department of administrative services and as otherwise provided in the rules for the initial selection of voting members of the committee, each member selected to be a voting member shall serve as a voting member for three years. Terms for voting members begin on May 1 in the year of selection and expire on April 30 in the year of expiration. Vacancies shall be filled in the same manner as the original selections. A vacancy shall be filled for the unexpired term.

6. *Expenses*. The members who are not active members of the retirement system shall be paid their actual expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service not exceeding forty days per year. The members who are active members of the retirement system and the director of the department of administrative services shall be paid their actual expenses incurred in the performance of their duties as members of the committee and the performance of their duties as members of the committee shall not affect their salaries, vacations, or leaves of absence for sickness or injury. However, the benefits advisory committee shall not incur any additional expenses in fulfilling its duties as provided by this section without the express written authority of the chief executive officer.

2001 Acts, ch 68, §13, 24; 2003 Acts, ch 145, §286; 2009 Acts, ch 41, §263
Referred to in **§97B.1**

**97B.9 Contributions — payment and interest.**

1. An employer shall be charged the greater of twenty dollars per occurrence or interest at the combined interest and dividend rate required under section 97B.70 for the applicable calendar year for contributions unpaid on the date on which they are due and payable as prescribed by the system. The system may adopt rules prescribing circumstances for which the interest or charge shall not accrue with respect to contributions required. Interest or charges collected pursuant to this section shall be paid into the Iowa public employees' retirement fund.

2. If within thirty days after due notice the employer defaults in payment of contributions or interest thereon, the amount due may be collected by civil action in the name of the system, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions.

3. The employer shall pay its contribution from funds available and is directed to pay same from tax money or from any other income of the political subdivision; provided, however, the contributions shall be paid from the same fund as the employee salary.

4. Every political subdivision is hereby authorized and directed to levy a tax sufficient to meet its obligations under the provisions of this chapter if any tax is needed.

5. Regardless of any potentially applicable statute of limitations, if the system finds that the employer or employee, or both, have erroneously underpaid contributions, the system shall notify the employer and employee in writing of the total amount of the underpayment, including interest, and the employer's and employee's share of the underpayment. The system shall collect from the employer the total amount of the underpayment, including the employer's share, the employee's share, and the interest assessed to both shares of the underpayment, regardless of whether the employee has reimbursed the employer for the employee's share of the underpayment. The employee shall be obligated to pay only the employee's share of the underpaid contributions, without interest, to the employer. The employer may collect the employee's share of underpaid contributions from the employee or

the employee's estate. The employer may collect the employee's share through a deduction from the employee's wages, or by maintaining a legal action against the employee or the employee's estate. For purposes of section 1526 of the federal Taxpayer Relief Act of 1997, eligible participants, as defined by section 1526, may make payments of contributions under this section without regard to the limitations of section 415(c)(1) of the federal Internal Revenue Code.

[C46, 50, §97.6, 97.8, 97.9, 97.12; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.9]

88 Acts, ch 1242, §15; 98 Acts, ch 1183, §10; 2000 Acts, ch 1077, §22, 23; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §24, 48

**97B.9A Collections — waiver.**

Notwithstanding any provision of this chapter to the contrary, the system may, in its sole discretion, waive the collection of benefits overpayments, contribution underpayments, or any other debts owed the system, that occur more than three years prior to the date of discovery of the overpayment, underpayment, or debt by the system, for cases in which there is no evidence of fraud or other misconduct on the part of the affected employer or the affected member or beneficiary in providing or failing to provide information necessary to the proper determination of a debt owed the system, calculation of contributions and payments, or calculation of benefits under this chapter.

2004 Acts, ch 1103, §13

**97B.10 Crediting of erroneous contributions.**

1. If the system finds the employee or employer, or both, have erroneously paid contributions, including the payment of contributions prior to an individual's valid decision to elect out of coverage under this chapter on or after January 1, 1999, pursuant to section 97B.42A, the system shall make an adjustment, compromise, or settlement and shall credit such payments to the appropriate party.

2. A claim of an employee or employer for a credit for erroneously paid contributions shall be made within three years of date of payment. However, the system may issue a credit to employees or employers after the expiration of the three-year deadline if the system finds that issuing the credit is just and equitable.

3. Interest shall not be paid on credits issued pursuant to this section. However, the system may, at any time, apply accumulated interest and interest dividends as provided in section 97B.70 on any credits issued under this section if the system finds that the crediting of interest is just and equitable.

[C46, 50, §97.7; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.10]

92 Acts, ch 1201, §13; 98 Acts, ch 1183, §11; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §25, 48

Referred to in **§97B.42A**

**97B.11 Contributions by employer and employee.**

1. Each employer shall deduct from the wages of each member of the retirement system a contribution in the amount of the applicable employee percentage of the covered wages paid by the employer and such additional amount if otherwise required by law, until the member's termination from employment. The contributions of the employer shall be in the amount of the applicable employer percentage of the covered wages of the member and such additional amount if otherwise required by law.

2. Prior to July 1, 2011, for purposes of this section, unless the context otherwise requires:

*a.* *"Applicable employee percentage"* means the percentage rate equal to three and seven-tenths percent plus forty percent of the total additional percentage.

*b.* *"Applicable employer percentage"* means the percentage rate equal to five and seventy-five hundredths percent plus sixty percent of the total additional percentage.

*c.* *"Total additional percentage"* means for the fiscal period beginning July 1, 2007, through June 30, 2011, the total additional percentage for the prior fiscal year plus, only if the total comparison percentage is greater than the total of the applicable employee percentage and the applicable employer percentage for the prior fiscal year, one-half percentage point.

*d.* *"Total comparison percentage"* means the percentage rate that the system determines, based upon the most recent actuarial valuation of the retirement system, would be sufficient to amortize the unfunded actuarial liability of the retirement system in ten years.

3. On and after July 1, 2011, for purposes of this section, unless the context otherwise requires:

*a.* For members in regular service:

(1) *"Applicable employee percentage"* means the percentage rate equal to forty percent of the required contribution rate for members in regular service.

(2) *"Applicable employer percentage"* means the percentage rate equal to sixty percent of the required contribution rate for members in regular service.

*b.* For members in special service in a protection occupation as described in section 97B.49B:

(1) *"Applicable employee percentage"* means the percentage rate equal to forty percent of the required contribution rate for members described in section 97B.49B.

(2) *"Applicable employer percentage"* means the percentage rate equal to sixty percent of the required contribution rate for members described in section 97B.49B.

*c.* For members in special service as a county sheriff or deputy sheriff as described in section 97B.49C:

(1) *"Applicable employee percentage"* means the percentage rate equal to fifty percent of the required contribution rate for members described in section 97B.49C.

(2) *"Applicable employer percentage"* means the percentage rate equal to fifty percent of the required contribution rate for members described in section 97B.49C.

*d.* *"Required contribution rate"* means that percentage of the covered wages of members in regular service, members described in section 97B.49B, and members described in section 97B.49C, that the system shall, for each fiscal year, separately set for members in each membership category as provided in this paragraph. The required contribution rate that is set by the system for a membership category shall be the contribution rate the system actuarially determines, based upon the most recent actuarial valuation of the system and using the actuarial methods, assumptions, and funding policy approved by the investment board, is the rate required by the system to discharge its liabilities as a percentage of the covered wages of members in that membership category. However, the required contribution rate set by the system for members in regular service for a fiscal year shall not vary by more than one percentage point from the required contribution rate for the prior fiscal year.

[C46, 50, §97.8, 97.12; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.11]

88 Acts, ch 1242, §16; 92 Acts, ch 1201, §14; 96 Acts, ch 1187, §4; 98 Acts, ch 1183, §12; 2000 Acts, ch 1077, §24; 2003 Acts, ch 145, §286; 2006 Acts, ch 1091, §4; 2008 Acts, ch 1171, §26, 48; 2010 Acts, ch 1167, §25

**97B.11A Pickup of employee contributions.**

1. Notwithstanding section 97B.11 or other provisions of this chapter, beginning January 1, 1995, for federal income tax purposes, and beginning January 1, 1999, for state income tax purposes, member contributions required under section 97B.11 which are picked up by the employer shall be considered employer contributions for federal and state income tax purposes, and each employer shall pick up the member contributions to be made under section 97B.11 by its employees. Each employer shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under section 97B.11 and shall pay the amount picked up in lieu of the member contributions as provided in section 97B.14.

2. Member contributions picked up by each employer under subsection 1 shall be treated as employer contributions for federal and state income tax purposes only and for all other purposes of this chapter shall be treated as employee contributions and deemed part of the employee's wages or salary.

94 Acts, ch 1183, §13; 98 Acts, ch 1174, §2, 6

Referred to in **§97B.1A**, **§97B.14**

**97B.12** Repealed by 98 Acts, ch 1183, §75.

**97B.13** Repealed by 2000 Acts, ch 1077, §73.

**97B.14 Contributions forwarded.**

Contributions deducted from the wages of the member under section 97B.11 prior to January 1, 1995, member contributions picked up by the employer under section 97B.11A beginning January 1, 1995, and the employer's contribution shall be forwarded to the system for recording and deposited with the treasurer of the state to the credit of the Iowa public employees' retirement fund. Contributions shall be remitted monthly and shall be otherwise paid in such manner, at such times, and under such conditions, either by copies of payrolls or other methods necessary or helpful in securing proper identification of the member, as may be prescribed by the system.

[C46, 50, §97.12; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.14]

94 Acts, ch 1183, §14; 96 Acts, ch 1187, §5; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §27, 48

Referred to in **§97B.11A**

**97B.14A Wage reporting.**

1. For purposes of this section, unless the context otherwise requires:

*a.* *"Change in the schedule of wage payments"* means the formal or informal deferral of wages earned in one calendar year to a later calendar year or the acceleration of the wages payable under a contract of employment to the prior calendar year by changing the period over which the contractual compensation is paid, by shortening the period of employment over which contract wages are to be paid, or similar arrangements altering the timing of wage payments.

*b.* *"Distortion of the normal wage progression pattern"* means an increase of ten percent or more between the covered wages reported for any two consecutive years.

2. An employer shall report wages of employees covered by this chapter to the system in a manner and form as prescribed by the system. If the wages reported by an employer appear to be a distortion of the normal wage progression pattern for an employee, the system may request that the employer provide documentation explaining the reason for the distortion. If the distortion of the normal wage progression pattern results from covering compensation that is excluded from the definition of covered wages, or from a change in the schedule of wage payments for an individual, the system shall remove wages that should not be covered from its records, and shall, in cases involving increases caused by a change in the schedule of wage payments, reallocate covered wages to the calendar quarters in which the covered wages would have been reported but for the change in the schedule of wage payments.

2000 Acts, ch 1077, §25; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §14

**97B.15 Rules, policies, and procedures.**

The system may adopt rules under chapter 17A and establish procedures, not inconsistent with this chapter, which are necessary or appropriate to implement this chapter and shall adopt reasonable and proper rules to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the proofs and evidence in order to establish the right to benefits under this chapter. The system may adopt rules, and take action based on the rules, to conform the requirements for receipt of retirement benefits under this chapter to the mandates of applicable federal and state statutes and regulations.

Prior to the adoption of rules, the system may establish interim written policies and procedures, and take action based on the policies and procedures, to conform the requirements for receipt of retirement benefits under this chapter to the applicable requirements of federal and state law.

[C46, 50, §97.23; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.15]

88 Acts, ch 1242, §17; 90 Acts, ch 1240, §15; 96 Acts, ch 1187, §6; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §12; 2003 Acts, ch 145, §286

**97B.16 Procedure of system.**

The system shall make decisions as to the rights of an individual applying for a payment under this chapter. When requested by an individual, or a person who makes a showing in writing that the individual's or person's rights may be prejudiced by a decision the system has made, a hearing shall be scheduled under the Iowa administrative procedures Act, chapter 17A. If a hearing is held, the decision shall, on the basis of evidence adduced at the hearing, be affirmed, modified, or reversed under chapter 17A.

[C46, 50, §97.24; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.16]

88 Acts, ch 1242, §18; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

**97B.17 Records maintained.**

1. The system shall establish and maintain records of each member, including but not limited to the amount of wages of each member, the contributions made on behalf of each member with interest, interest dividends credited, beneficiary designations, and applications for benefits of any type. The records may be maintained in paper, magnetic, or electronic form, including optical disk storage, as set forth in chapter 554D. The system may accept, but shall not require, electronic records and electronic signatures to the extent permitted under chapter 554D. These records are the basis for the compilation of the retirement benefits provided under this chapter.

2. The following records maintained under this chapter are not public records for the purposes of chapter 22:

*a.* Records containing social security numbers.

*b.* Records specifying amounts accumulated in members' accounts and supplemental accounts.

*c.* Records containing names or addresses of members or their beneficiaries.

*d.* Records containing amounts of payments to members or their beneficiaries.

*e.* 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.

3. Summary information concerning the demographics of the members and general statistical information concerning the retirement system are subject to chapter 22, as well as aggregate information by category.

4. *a.* The system's records are evidence for the purpose of proceedings before the system or any court of the amounts of wages and the periods in which they were paid, and the absence of an entry as to a member's wages in the records for any period is evidence that wages were not paid that member in the period.

*b.* Notwithstanding any provisions of chapter 22 to the contrary, the system's records may be released to any political subdivision, instrumentality, or other agency of the state solely for use in a civil or criminal law enforcement activity pursuant to the requirements of this subsection. To obtain the records, the political subdivision, instrumentality, or agency shall, in writing, certify that the activity is authorized by law, provide a written description of the information desired, and describe the law enforcement activity for which the information is sought. The system shall not be civilly or criminally liable for the release or rerelease of records in accordance with this subsection.

5. Confidential records of the system maintained for the operation of the retirement system may be released to the directors, agents, and employees of the legislative services agency, the department of revenue, the department of management, the department of administrative services, or an employer of employees covered by the retirement system pursuant to rules adopted by the system for the performance of the requestor's duties. To obtain a record under this subsection, the person requesting the records shall provide a written description of the information requested and the reason for requesting the records to the system. A person receiving a record pursuant to this subsection shall maintain the confidentiality of any information otherwise required to be kept confidential and shall be

subject to the same penalties as the custodian of the records for the public dissemination of such information.

[C46, 50, §97.25 – 97.27; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.17]

88 Acts, ch 1242, §19; 92 Acts, ch 1201, §15; 96 Acts, ch 1187, §7, 8; 98 Acts, ch 1183, §14; 2000 Acts, ch 1077, §26; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §13; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 44, §30; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §15

Release of records for purposes of administering and monitoring the state employee retirement incentive program; 2010 Acts, ch 1005, §1, 2

**97B.18 Statement of accumulated credit.**

After the expiration of each calendar year and prior to July 1 of the succeeding year, the system shall furnish each member with a statement of the member's accumulated contributions and benefit credits accrued under this chapter up to the end of that calendar year and additional information the system deems useful to a member. The system may furnish an estimate of the credits as of the projected normal retirement date of the member under section 97B.45. The records of the system as shown by the statement as to the wages of each individual member for a year and the periods of payment shall be conclusive for the purpose of this chapter, except as otherwise provided in this chapter.

[C46, 50, §97.11, 97.25; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.18]

92 Acts, ch 1201, §16; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §14; 2003 Acts, ch 145, §286

Referred to in **§97B.19**

**97B.19 Revision for error.**

If following the delivery of the statement provided in section 97B.18, it is brought to the attention of the system that any entry of wages in its records is erroneous, or that any item of wages has been omitted from the records, the system may correct the entry or include the omitted item in its records, as the case may be. Written notice of any revision of any entry which is adverse to the interest of any individual shall be given to the individual in any case where the individual has previously been notified by the system of the amount of wages and of the period of payments shown by the entry. Upon request in writing, the system shall afford any individual, or after the individual's death shall afford the individual's beneficiary or any other person so entitled in the judgment of the system, reasonable notice and opportunity for hearing with respect to any entry or alleged omission of wages of the individual in such record, or any revision of any entry. If a hearing is held, the system shall make findings of fact and a decision based upon the evidence adduced at the hearing and shall revise its records accordingly. Judicial review of action of the system under this section may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, and section 97B.29.

[C46, 50, §97.22, 97.26, 97.28; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.19]

98 Acts, ch 1183, §15; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §286

**97B.20** Repealed by 98 Acts, ch 1183, §75.

**97B.20A Appeal procedure.**

Members and third-party payees may appeal any decision made by the system that affects their rights under this chapter. The appeal shall be filed with the system within thirty days after the notification of the decision was mailed to the party's last known mailing address, or the decision of the system is final. If the party appeals the decision of the system, the system shall conduct an internal review of the decision and the chief executive officer shall notify the individual who has filed the appeal in writing of the system's decision. The individual who has filed the appeal may file an appeal of the system's final decision with the system under chapter 17A by notifying the system of the appeal in writing within thirty days after the notification of its final decision was mailed to the party's last known mailing address. Once notified, the system shall forward the appeal to the department of inspections and appeals.

92 Acts, ch 1201, §17; 2001 Acts, ch 68, §14, 24; 2003 Acts, ch 145, §286

**97B.20B Hearing by administrative law judge.**

If an appeal is filed and is not withdrawn, an administrative law judge in the department of inspections and appeals, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify, or reverse the decision of the system. The hearing shall be recorded by mechanical means and a transcript of the hearing shall be made. The transcript shall then be made available for use by the employment appeal board and by the courts at subsequent judicial review proceedings under the Iowa administrative procedure Act, chapter 17A, if any. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons. The decision is final unless, within thirty days after the date of notification or mailing of the decision, review by the employment appeal board is initiated pursuant to section 97B.27.

92 Acts, ch 1201, §18; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §286

**97B.21** Reserved.

**97B.22 Witnesses and evidence.**

For the purpose of any hearing, investigation, or other proceeding authorized or directed under this chapter, or relative to any other matter within its jurisdiction under this chapter, the system or administrative law judge may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the system. Attendance of witnesses and production of evidence at the designated place of the hearing, investigation, or other proceedings may be required from any political subdivision in the state. Subpoenas of the system shall be served by anyone authorized by it by delivering a copy of the subpoena to the individual named in it, or by certified mail addressed to the individual at the individual's last known dwelling place or principal place of business. A verified return by the individual serving the subpoena setting forth the manner of service, or in the case of service by certified mail, the return post office receipt signed by the individual served, shall be proof of service. Witnesses subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the state of Iowa. In the discharge of the duties imposed by this chapter, the system or an administrative law judge and any duly authorized representative or member of the system may administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the administration of this chapter.

[C46, 50, §97.30, 97.32; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.22]

92 Acts, ch 1201, §19; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

Witness fees, §622.69 – 622.75

**97B.23 Penalty for noncompliance.**

In case of refusal to obey a subpoena duly served upon any person, any district court of the state of Iowa for the district in which the person charged with refusal to obey is found or resides or transacts business, upon application by the system, may issue an order requiring that person to appear and give testimony, or to appear and produce evidence, or both. Any failure to obey the order of the court may be punished by the court as contempt.

[C46, 50, §97.31, 97.32; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.23]

92 Acts, ch 1201, §20; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

Contempts, chapter 665

**97B.24 Production of books and papers.**

No person so subpoenaed or ordered shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence on the ground that the testimony or evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which the person is compelled, after having claimed the person's privilege against

self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

[C46, 50, §97.32; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.24]

Perjury, §720.2

**97B.25 Applications for benefits.**

A representative designated by the chief executive officer and referred to in this chapter as a retirement benefits officer shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid. If the claim is valid, the retirement benefits officer shall send a notification to the member stating the option the member has selected pursuant to section 97B.51, the month with respect to which benefits shall commence, and the monthly benefit amount payable. If the claim is invalid, the retirement benefits officer shall promptly notify the applicant and any other interested party of the decision and the reasons. A retirement application shall not be amended or revoked by the member once the first retirement allowance is paid. A member's death during the first month of entitlement shall not invalidate an approved application.

[C46, 50, §97.33, 97.39, 97.41; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.25]

86 Acts, ch 1245, §255; 88 Acts, ch 1109, §13; 92 Acts, ch 1201, §21; 94 Acts, ch 1023, §8; 94 Acts, ch 1183, §15; 96 Acts, ch 1187, §9; 98 Acts, ch 1183, §16; 2000 Acts, ch 1077, §27; 2001 Acts, ch 68, §15, 24

**97B.26** Repealed by 92 Acts, ch 1201, §77. See §97B.20B.

**97B.27 Review of decision.**

Anyone aggrieved by the decision of the administrative law judge may, at any time before the administrative law judge's decision becomes final, petition the department of inspections and appeals for review by the employment appeal board established in section 10A.601. The appeal board shall review the record made before the administrative law judge, but no additional evidence shall be heard. On the basis of the record the appeal board shall affirm, modify, or reverse the decision of the administrative law judge and shall determine the rights of the appellant. It shall promptly notify the appellant and any other interested party by written decision.

[C46, 50, §97.33; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.27]

86 Acts, ch 1245, §257; 88 Acts, ch 1109, §15

Referred to in **§97B.20B**

**97B.28 System deemed party to action.**

The system shall be deemed to be a party to any judicial action involving any such decision and may be represented in any such judicial action by any qualified attorney who is a regular salaried employee of the system or who has been designated by the system for that purpose or, at the system's request, by the attorney general.

[C46, 50, §97.34; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.28]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

**97B.29 Judicial review.**

Judicial review of action of the system may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, petitions for judicial review may be filed in the district court of the county in which the claimant was last employed or resides, provided that if the claimant does not reside in the state of Iowa the action shall be brought in the district court of Polk county, Iowa, against the system for the review of this decision, in which action any other parties to the proceeding before the system shall be named in the petition. The system may also, in its discretion, certify to such courts, questions of law involving any decision by it. Such petitions for judicial review and the questions so certified shall be given precedence

over all other civil cases except cases arising under the workers' compensation law and the employment security law of this state.

[C46, 50, §97.33; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.29]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §286

Referred to in **§97B.19**

**97B.30 and 97B.31** Reserved.

**97B.32 Appeal to supreme court.**

No bond shall be required for entering an appeal from any final order, judgment or decree of the district court in a proceeding for judicial review to the supreme court.

[C46, 50, §97.33; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.32]

**97B.33 Payment to individuals.**

Upon final decision of the system, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this chapter, the system shall make payment to the person, provided that where judicial review of the system's decision is or may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, payment may be withheld pending such review.

[C46, 50, §97.35; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.33]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §28, 48

**97B.34 Payment to representatives.**

When it appears to the system that the interest of an applicant entitled to a payment would be served, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled to the payment, either for direct payment to the applicant, or for the applicant's use and benefit to a representative of an applicant. The system may adopt rules under chapter 17A for making payments to a representative of an applicant if the system determines that it can sufficiently safeguard the member's rights under this chapter.

[C46, 50, §97.36; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.34]

92 Acts, ch 1201, §22; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

Referred to in **§97B.35**

**97B.34A Payment to minors.**

1. The system may make payments to a minor, as defined in section 599.1, as follows:

*a.* If the total sum to be paid to the minor is less than the greater of twenty-five thousand dollars or the maximum amount permitted under section 565B.7, subsection 3, the funds may be paid to an adult as custodian for the minor. The custodian must complete the proper forms as determined by the system.

*b.* If the total sum to be paid to the minor is equal to or more than the amount authorized in paragraph "*a*", the funds must be paid to a court-established conservator. The system shall not make payment until the conservatorship has been established and the system has received the appropriate documentation.

*c.* Interest shall be paid on the funds, at a rate determined by the system, until disbursement of the funds.

2. If the system makes payments to a minor pursuant to this section, the system may make payments directly to the person when the person attains the age of eighteen or is declared to be emancipated by a court of competent jurisdiction.

92 Acts, ch 1201, §23; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1171, §29, 48

**97B.35 Finality of such payments.**

Any payment made after June 30, 1953, under the conditions set forth in section 97B.34, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

[C46, 50, §97.37; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.35]

**97B.36 Representatives of system.**

The system is authorized to delegate to any member, officer, or employee of the system designated by it any of the powers conferred upon it by this chapter and is authorized to be represented by its own attorneys in any court in any case or proceeding arising under the provisions of said chapter.

[C46, 50, §97.38; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.36]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

**97B.37 Recognition of agents.**

The system may prescribe rules governing the recognition of agents or other persons representing claimants before the system, and may require of the agents or other persons, before being recognized as representatives of claimants, that they show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render the claimants valuable service, and otherwise competent to advise and assist the claimants in the presentation of their cases. Claimants may be represented by counsel at their own expense.

[C46, 50, §97.38; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.37]

88 Acts, ch 1242, §20; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

**97B.38 Fees for services.**

The system may, by rule, prescribe reasonable fees which may be charged for costs incurred, including staff time and materials, to perform its duties under this chapter.

[C46, 50, §97.42; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.38]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §16; 2008 Acts, ch 1171, §30, 48

**97B.39 Rights not transferable or subject to legal process — exceptions.**

The right of any person to any future payment under this chapter is not transferable or assignable, at law or in equity, and the moneys paid or payable or rights existing under this chapter are not subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders, or for recovery of medical assistance payments pursuant to section 249A.53. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. §1673(b). The system shall comply with the provisions of a marital property order requiring the selection of a particular benefit option, designated beneficiary, or contingent annuitant if the selection is otherwise authorized by this chapter and the member has not received payment of the member's first retirement allowance. However, a marital property order shall not require the payment of benefits to an alternative payee prior to the member's retirement, prior to the date the member elects to receive a lump sum distribution of accumulated contributions pursuant to section 97B.53, or in an amount that exceeds the benefits the member would otherwise be eligible to receive pursuant to this chapter.

[C46, 50, §97.43; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.39]

89 Acts, ch 228, §2; 92 Acts, ch 1195, §501; 96 Acts, ch 1187, §10; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2012 Acts, ch 1133, §93

Referred to in **§97B.51**

**97B.40 Fraud.**

1. A person shall be guilty of a fraudulent practice if the person makes, or causes to be

made, any false statement or representation for the purpose of causing an increase in any payment authorized to be made under this chapter, for the purpose of causing any payment to be made where no payment is authorized under this chapter, for the purpose of obtaining confidential information from the system, or for any other unlawful purpose related to this chapter.

2. If the system determines that a person may have engaged in a fraudulent practice as described under this section, the system may, in addition to any statutory or equitable remedies provided by law, refer the matter to the auditor of state and to the appropriate law enforcement authorities for possible investigation and prosecution.

3. For purposes of this section, "*any false statement or representation*" includes the following:

*a.* Any false statement or representation willfully made or caused to be made as to the amount of any wages paid or received for the period during which earned or unpaid, knowing it to be false.

*b.* Any false statement of a material fact made or caused to be made knowing it to be false in any application for any payment under this chapter.

*c.* Any false statement, representation, affidavit, or document willfully made, presented, or caused to be made in connection with an application for any payment under this chapter knowing it to be false.

*d.* Any unauthorized use of any security devices, such as personal identification codes, utilized for the purpose of accessing information from the system.

[C46, 50, §97.44; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.40]

98 Acts, ch 1183, §17; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §17

Fraudulent practice, see §714.8

**97B.41** Transferred to §97B.1A in Code 99; 98 Acts, ch 1183, §82.

**97B.42 Mandatory membership — membership in other systems.**

1. Each employee whose employment commences after July 4, 1953, or who has not qualified for credit for prior service rendered prior to July 4, 1953, or any publicly elected official of the state or any of its political subdivisions shall become a member upon the first day in which such employee is employed. The employee shall continue to be an active member so long as the employee continues in covered employment. The employee shall cease to be an active member if the employee joins another retirement system in the state which is maintained in whole or in part by public contributions or payments and receives retirement credit for service in that other system for the same position previously covered under this chapter. If an employee joins another publicly maintained retirement system and ceases to be an active member under this chapter, the employee may elect to leave the employee's accumulated contributions in the retirement fund or receive a refund of the employee's accumulated contributions in the manner provided for members who are terminating covered employment pursuant to section 97B.53. However, if an employee joins another publicly maintained retirement system and leaves the employee's accumulated contributions in the retirement fund, the employee shall not be eligible to receive retirement benefits until the employee has a bona fide retirement from employment with a covered employer as provided in section 97B.52A, or until the employee would otherwise be eligible to receive benefits upon attaining the age of seventy years as provided in section 97B.46.

2. Employment shall not be covered under this chapter until the employment is covered under the federal Social Security Act and any agreements which are required pursuant to chapter 97C are effective.

3. Nothing in this chapter shall be deemed to exclude from coverage, under the provisions of this chapter, any public employee who was not on or as of July 4, 1953, a member of another retirement system supported by public funds. All such employees and their employers shall be required to make contributions as specified as to other public employees and employers. Nothing in this chapter shall be deemed to prohibit the reestablishment of

a retirement system supported by public funds which had been in operation prior to July 4, 1953, and was subsequently liquidated.

4. Persons who are members of any other retirement system in the state which is maintained in whole or in part by public contributions other than persons who are covered under the provisions of chapter 97, Code 1950, as amended by the Fifty-fourth General Assembly on the date of the repeal of said chapter, under the provisions of sections 97.50 through 97.53 shall not become members under this chapter while still actively participating in that other retirement system unless the persons do not receive retirement credit for service in that other system for the position to be covered under this chapter.

5. Nothing herein contained shall be construed to permit any employer to make any public contributions or payments on behalf of an employee in the same position for the same period of time to both the Iowa public employees' retirement system and any other retirement system in the state which is supported in whole or in part by public contributions or payments.

6. Notwithstanding any other provision of this section, a person newly entering employment with a community college on or after July 1, 1990, may elect coverage under an eligible alternative retirement benefits system described in section 260C.14, subsection 17, paragraph *"a"*, subparagraph (1), in lieu of coverage under the Iowa public employees' retirement system, but only if the person is already a member of the alternative retirement benefits system. An election to participate in an eligible alternative retirement benefits system as described in section 260C.14, subsection 17, is irrevocable as to the person's employment with that community college and any other community college in this state.

7. Notwithstanding any other provision of this section, commencing July 1, 1994, a member who is employed by a community college may elect coverage under an eligible alternative retirement benefits system as provided in section 260C.14, subsection 17, in lieu of continuing or commencing contributions to the Iowa public employees' retirement system. However, the employer's annual contribution in dollars to the eligible alternative retirement benefits system shall not exceed the annual contribution in dollars which the employer would contribute if the employee had elected to remain an active member under this chapter, as set forth in section 97B.11. A member employed by a community college who elects coverage under an eligible alternative retirement benefits system may withdraw the member's accumulated contributions effective when coverage under the eligible alternative retirement benefits system commences. A member who is employed by a community college prior to July 1, 1994, must file an election for coverage under the eligible alternative retirement benefits system described in section 260C.14, subsection 17, paragraph *"a"*, subparagraph (1), with the system and the employing community college within eighteen months of the first day on which coverage commences under the community college's eligible alternative retirement benefits system described in section 260C.14, subsection 17, paragraph *"a"*, subparagraph (1), or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in that community college's eligible alternative retirement benefits system described in section 260C.14, subsection 17, paragraph *"a"*, subparagraph (1) at a later date. Employees of a community college hired on or after July 1, 1994, must file an election for coverage under an eligible alternative retirement benefits system with the system and the employing community college within sixty days of commencing employment, or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in an eligible alternative retirement benefits system of the community college at a later date. The system shall cooperate with the boards of directors of the community colleges to facilitate the implementation of this provision.

8. Except as otherwise provided in this section, an employer shall not sponsor and a member shall not participate in another retirement system in this state supported in whole or in part by public contributions or payments where such retirement system is in lieu of the retirement system established by this chapter. However, in addition to the retirement system established by this chapter, an employer may sponsor and a member may participate in a supplemental defined contribution plan qualified under Internal Revenue Code §401(a), a tax-deferred annuity qualified under Internal Revenue Code §403(b), or an eligible deferred compensation plan qualified under Internal Revenue Code §457, regardless of whether contributions to such supplemental plans are characterized as employer contributions

or employee contributions, and subject to the applicable limits set forth in the Internal Revenue Code for such plans. A defined benefit plan that supplements the retirement system established by this chapter shall not be offered by public employers covered under this chapter.

[C46, 50, §97.2, 97.6, 97.45; C54, 58, 62, 66, §97B.42, 97B.63; C71, 73, 75, 77, 79, 81, §97B.42]

90 Acts, ch 1240, §24; 92 Acts, ch 1201, §36, 37; 94 Acts, ch 1183, §23, 24; 96 Acts, ch 1187, §23 – 26; 97 Acts, ch 14, §1, 3; 98 Acts, ch 1077, §1; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §18; 2010 Acts, ch 1061, §16

Referred to in **§97B.1A**, **§97B.52A**, **§260C.14**

**97B.42A Optional exclusion from membership.**

1. Commencing January 1, 1999, a person who is newly hired in a position as an employee, as defined in section 97B.1A, subsection 8, paragraph "*a*", shall be covered under this chapter unless the person files an application with appropriate documentation to the system within sixty days of employment in the position to affirmatively elect out of coverage. A decision to elect out of coverage under this chapter is irrevocable upon approval from the system.

2. If a person elects out of coverage pursuant to this section, the period of time from the date on which the person was newly hired until the date the person's election out of coverage is effective shall not constitute service for purposes of coverage under this chapter. In addition, a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10.

3. A person who is employed in a position as an employee as defined in section 97B.1A, subsection 8, paragraph "*a*", on January 1, 1999, and who has not elected coverage under this chapter prior to that date and is not an active member of another retirement system in the state which is maintained in whole or in part by public contributions or payments, shall begin coverage under the retirement system on January 1, 1999, unless the person files an application with appropriate documentation with the system to elect out of coverage on or before January 1, 2000. If a person elects out of coverage, the period of time from January 1, 1999, until the date the person's election out of coverage is effective shall not constitute service for purposes of coverage under this chapter and a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10. A decision to elect out of coverage under this chapter pursuant to this section is irrevocable upon approval from the system.

4. A person who becomes a member of the retirement system pursuant to subsection 3, or who is a member of the retirement system, and who has one or more years of covered wages, may purchase credit, pursuant to section 97B.73, Code 2003, for one or more quarters of service prior to January 1, 1999, in which the person was employed in a position as described in section 97B.1A, subsection 8, paragraph "*a*", but was not a member of the retirement system.

5. *a.* A person who is employed in a position as an employee as defined in section 97B.1A, subsection 8, paragraph "*a*", subparagraph (11), on July 1, 2000, and who has not elected out of coverage under this chapter prior to that date, shall begin coverage under the retirement system on July 1, 2000, unless, on or before August 31, 2000, the person files an application with appropriate documentation to elect coverage under an alternative pension and annuity retirement system established pursuant to chapter 412. If a person elects coverage under the alternative pension and annuity retirement system, the period of time from July 1, 2000, until the date the person's election of coverage is effective shall not constitute service for purposes of coverage under this chapter and a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10. A decision to elect coverage under an alternative pension and annuity retirement system established pursuant to chapter 412 under this subsection is irrevocable upon approval from the system.

*b.* A person who becomes a member of the Iowa public employees' retirement system pursuant to this subsection, and who has one or more years of covered wages, may purchase credit, pursuant to section 97B.73, Code 2003, for one or more quarters of service prior to

August 1, 2000, in which the person was employed in a position as described by section 97B.1A, subsection 8, paragraph "*a*", subparagraph (11), but was not a member of the retirement system.

94 Acts, ch 1183, §25; 98 Acts, ch 1183, §25; 2000 Acts, ch 1077, §28, 29; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §19, 20; 2008 Acts, ch 1032, §201

Referred to in **§97B.1A**, **§97B.10**, **§602.1611**

**97B.42B Transfer to chapter 97A — options for certain public safety employees.**

1. Commencing July 1, 1994, a person who is newly hired in the following positions in the department of public safety shall be a member of the Iowa department of public safety peace officers' retirement, accident, and disability system established in chapter 97A:

*a.* Gaming enforcement officers employed by the division of criminal investigation for excursion boat and gambling structure gambling enforcement activities.

*b.* Fire prevention inspector peace officers.

2. Commencing July 1, 1994, notwithstanding any other provision of law to the contrary, a member who is employed in a position specified in subsection 1 prior to July 1, 1994, may elect coverage under the Iowa department of public safety peace officers' retirement, accident, and disability system established in chapter 97A, in lieu of continuing contributions to the Iowa public employees' retirement system, or may remain a member of the Iowa public employees' retirement system. A member who is employed in a position specified in subsection 1 prior to July 1, 1994, must file an election for coverage under the Iowa department of public safety peace officers' retirement, accident, and disability system with the board of trustees established in section 97A.5 on or before July 1, 1995, or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in the system established pursuant to chapter 97A at a later date pursuant to this section. The board of trustees established in section 97A.5 shall notify the system of elections received pursuant to this section, and the board of trustees and the system shall cooperate to facilitate the implementation of this section. Coverage under chapter 97A shall commence, and coverage as an active member under this chapter shall cease, when the election has been approved by the board of trustees established in section 97A.5.

3. If an employee elects coverage under chapter 97A as provided in subsection 2 and the election is approved by the board of trustees established in section 97A.5, membership in the Iowa public employees' retirement system shall cease, and the employee shall be transferred to membership in the Iowa department of public safety peace officers' retirement, accident, and disability system. The system shall transfer the accumulated contributions of these employees to the treasurer of state for deposit in the pension accumulation fund established in section 97A.8. However, employer contributions which were made with respect to the employees while the employees were members of the Iowa public employees' retirement system shall remain in the fund established in section 97B.7, and any costs pertaining to the payment of employer contributions to the system established in chapter 97A with respect to the period of time during which the employees were members of the Iowa public employees' retirement system, or any other costs related to the transfer, shall be borne by the system established in chapter 97A, notwithstanding any other provision of law to the contrary.

4. Notwithstanding any other provision of law to the contrary, if the board of trustees established in section 97A.5 approves an election pursuant to subsection 2, the employees transferred from coverage under this chapter to coverage under the system established in chapter 97A shall receive credit for years of service under chapter 97A for those years of service during which the employees were members of the Iowa public employees' retirement system and employed in positions specified in subsection 1. In addition, notwithstanding the limitation on covered wages provided in section 97B.1A, subsection 26, compensation which was paid to an employee in a position specified in subsection 1 while the employee was a member pursuant to this chapter shall be included in determining the average final compensation of the employee pursuant to chapter 97A, if applicable. Employees whose membership is transferred pursuant to this section and the employer, the department of public safety, shall not be required to pay the difference in the employee and employer contributions in effect for the period of time in which the employees were members pursuant to this chapter,

as compared to the employee and employer contributions then in effect for members of the system established in chapter 97A.

5. It is the intent of the general assembly that in administering the provisions of this section, the board of trustees established in section 97A.5 and the system shall interpret this section in a manner which provides that the employees whose membership is transferred shall not lose benefits which would have otherwise accrued had the employees been members of the system established in chapter 97A during the period of time in which the employees were actually members of the Iowa public employees' retirement system.

94 Acts, ch 1183, §26; 98 Acts, ch 1183, §82; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2005 Acts, ch 35, §24; 2007 Acts, ch 188, §2

Referred to in **§97A.3**, **§97B.49B**

**97B.42C Retirement system merger — municipal utility retirement system.**

A municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to chapter 412 may adopt a resolution to authorize the merger of its pension and annuity retirement system with and into the Iowa public employees' retirement system. The system is authorized, but is not required, to accept such a proposal. The governing body of the municipal water utility or waterworks and the Iowa public employees' retirement system shall, acting in their fiduciary capacities, mutually determine the terms and conditions of such a merger, including any additional funds necessary to fund the service credits being transferred to the Iowa public employees' retirement system, and either party may decline the merger if they cannot agree on such terms and conditions. The system shall adopt such rules as it deems necessary and prudent to effectuate mergers as provided by this section.

2002 Acts, ch 1135, §15; 2003 Acts, ch 44, §31; 2003 Acts, ch 145, §286

**97B.43 Prior service credit.**

Each member in service on July 4, 1953, who made contributions under the abolished system, and who has not applied for and qualified for benefit payments under the abolished system, shall receive credit for years of prior service in the determination of retirement allowance payments under this chapter, if the member elects to become a member on or before October 1, 1953, the member has not made application for a refund of the part of the member's contributions under the abolished system which are payable under sections 97.50 to 97.53, and the member gives written authorization prior to October 1, 1953, to the commission to credit to the retirement fund the amount of the member's contribution which would be subject to a claim for refund. The amount so credited shall, after transfer, be considered as a contribution to the retirement system made as of July 4, 1953, by the member and shall be included in the determination of the amount of moneys payable under this chapter. However, an employee who was under a contract of employment as a teacher in the public schools of the state of Iowa at the end of the school year 1952-1953, or any person covered by section 97B.1A, subsection 20, paragraph "*c*" or "*d*", shall be considered as in service as of July 4, 1953, if they were members of the abolished system.

Any person with a record of thirty years as a public employee in the state of Iowa prior to July 1, 1947, and who is not eligible for prior service credit under other provisions of this section, is entitled to a credit for years of prior service in the determination of the retirement allowance payment under this chapter, provided the public employee makes application to the system for credit for prior public service, accompanied by verification of the person's claim as the system may require. The person's allowance for prior service credits shall be computed in the same manner as otherwise provided in this section, but shall not exceed the sum of four hundred fifty dollars nor be less than three hundred dollars per annum. Any such person is entitled to receive retirement allowances computed as provided by this chapter, effective from the date of application to the system, provided such application is approved. However, beginning July 1, 1975, the amount of such person's retirement allowance payment received during June 1975, as computed under this section shall be increased by two hundred percent and the allowance for prior service credits shall not exceed one thousand three hundred fifty dollars nor be less than nine hundred dollars per annum. Effective July 1, 1987, there is

appropriated for each fiscal year from the Iowa public employees' retirement fund created in section 97B.7 to the system an amount sufficient to fund the retirement allowance increases paid under this paragraph. Effective July 1, 1980, a person with a record of thirty years as a public employee in the state of Iowa prior to July 1, 1947, receiving retirement allowances under this chapter shall receive the monthly increase in benefits provided in section 97B.49G, subsection 3, paragraph *"a"*.

Each individual who on or after July 1, 1978, was an active, vested, or retired member and who (1) made application for and received a refund of contributions made under the abolished system or (2) has on deposit with the retirement fund contributions made under the abolished system shall be entitled to credit for years of prior service in the determination of retirement allowance payments by filing a written election with the system on or after July 1, 1978, and by redepositing any withdrawn contributions under the abolished system together with interest as stated in this paragraph. Any individual who on or after July 1, 1978, is a retired member and who made application for and received a refund of contributions made under the abolished system may, by filing a written election with the system on or after July 1, 1978, have the system retain fifty percent of the monthly increase in retiree benefits that will accrue to the individual because of prior service. If the monthly increase in retirement benefits is less than ten dollars, the system shall retain five dollars of the scheduled increase, and if the monthly increase is less than five dollars, the provisions of this paragraph shall not apply. The system shall continue to retain such funds until the withdrawn contributions, together with interest accrued to the month in which the written election is filed, have been repaid. Due notice of this provision shall be sent to all retired members on or after July 1, 1978. However, this paragraph shall not apply to any person who received a refund of any membership service contributions unless the person repaid the membership service contributions pursuant to section 97B.80C; but a refund of contributions remitted for the calendar quarter ending September 30, 1953, which was based entirely upon employment which terminated prior to July 4, 1953, shall not be considered as a refund of membership service contributions. The interest to be paid into the fund shall be compounded at the rates credited to member accounts from the date of payment of the refund of contributions under the abolished system to the date the member redeposits the refunded amount. The provisions of the first paragraph of this section relating to the consideration given to credited amounts shall apply to the redeposited amounts or to amounts left on deposit. Effective July 1, 1978, the provisions of this paragraph shall apply to each individual who on or after July 1, 1978, was an active, vested, or retired member, but who was not in service on July 4, 1953. The period for filing the written election with the system and redepositing any withdrawn contributions together with interest accrued shall commence July 1, 1978. A member who is a retired member on or after July 1, 1978, may file written election with the system on or after July 1, 1978, to have the system retain fifty percent of the monthly increase as provided in this paragraph.

Effective July 1, 2004, a member eligible for an increased retirement allowance because of the repayment of contributions under this section is entitled to receipt of adjustment payments beginning with the month in which payment was received by the system.

[C46, 50, §97.13, 97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.43]

88 Acts, ch 1123, §1; 88 Acts, ch 1242, §31; 90 Acts, ch 1240, §25; 92 Acts, ch 1201, §38; 98 Acts, ch 1183, §26, 82; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §175, 286; 2004 Acts, ch 1103, §21, 22

Referred to in **§97B.49A**, **§97B.68**

**97B.44 Beneficiary.**

Each member shall designate on a form to be furnished by the system a beneficiary for death benefits payable under this chapter on the death of the member. The designation may be changed from time to time by the member by filing a new designation with the system. A designation or change in designation made by a member on or after July 1, 2000, shall contain the written consent of the member's spouse, if applicable. The designation of a beneficiary is not applicable if the member receives a refund of all contributions of the member. If a member who has received a refund of contributions returns to employment, the member shall file a new designation with the system.

If a member has not designated a beneficiary on a form furnished by the system, or if there are no surviving designated beneficiaries of a member, death benefits payable under this chapter shall be paid to the member's estate.

However, the system may accept a married member's designation or change in designation under this section without the written consent of the member's spouse if the member submits a notarized statement indicating that the member has been unable to locate the member's spouse to obtain the written consent of the spouse after reasonable diligent efforts. The member's designation or change in designation shall become effective upon filing the necessary forms, including the notarized statement, with the system. The system shall not be liable to the member, the member's spouse, or to any other person affected by the member's designation or change of designation, based upon a designation or change of designation accomplished without the written consent of the member's spouse.

[C46, 50, §97.14 – 97.18; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.44]

92 Acts, ch 1201, §39; 2000 Acts, ch 1077, §30; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §16; 2003 Acts, ch 145, §286

**97B.45 Normal retirement date.**

A member's normal retirement date is any of the following, whichever is applicable to the member:

1. The first of the month in which a member attains the age of sixty-five years if the member has not completed twenty years of membership service.
2. The first of the month in which the member attains the age of sixty-two years if the member has completed twenty years of membership service.
3. The first of any month in which the member has completed twenty years of membership service if the member has attained the age of sixty-two years but is not yet sixty-five years of age.
4. The first of any month in which the member is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds eighty-eight.

[C46, 50, §97.13, 97.39; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.45]

86 Acts, ch 1243, §9; 88 Acts, ch 1242, §32; 94 Acts, ch 1183, §27; 98 Acts, ch 1183, §27, 77; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §17; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §23

Referred to in **§97B.18**

**97B.46 Service after age sixty-five.**

1. A member who is not an active member of any other retirement system in the state which is maintained in whole or in part by public contributions may remain in service beyond the date the member attains the age of sixty-five. The employer shall not consider age as a factor in determining the continuation of the member's service.
2. A member remaining in service after attaining the age of seventy years is entitled to receive a retirement allowance under sections 97B.49A through 97B.49H, as applicable, without terminating employment.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.46]

87 Acts, ch 19, §5; 88 Acts, ch 1242, §33, 34; 94 Acts, ch 1183, §28; 98 Acts, ch 1183, §28, 29; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §24

Referred to in **§97B.42**, **§602.1610**

**97B.47 Early retirement date.**

A member's early retirement date shall be the first of the month in which a member attains the age of fifty-five years or the first of any month after attaining the age of fifty-five years prior to the member's normal retirement date, provided such date shall be after the last day of service.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.47]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §25

Referred to in **§97B.53**

**97B.48 Payment of allowances.**

1. Retirement allowances shall be paid monthly, except that, if an allowance of less than six hundred dollars a year is payable pursuant to section 97B.51, subsection 1, paragraph "*b*", the member's retirement benefit shall be paid as a lump sum in an amount equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966. Receipt of the lump sum payment by a member shall terminate any and all entitlement for the period of service covered of the member under this chapter and the member shall not be eligible to buy back the period of service.

2. The first monthly payment of a retirement allowance shall be paid as of the member's first month of entitlement. The payments shall be continued thereafter for the lifetime of the retired member except as provided in section 97B.48A.

3. On or before the first of the month in which a member attains the age of seventy years, the system shall provide written notification to each member for whom the system has an address that the member may commence receiving a retirement allowance regardless of the member's employment status. Prior to receiving a retirement allowance pursuant to this subsection, a member shall acknowledge in writing that the member was informed by the system of the consequences of electing to receive a retirement allowance pursuant to this subsection and that receipt of a retirement allowance under this subsection is optional. Upon termination from employment of a member receiving a retirement allowance pursuant to this subsection, the member is entitled to have the member's monthly retirement allowance recalculated using the applicable formula for determining a retirement allowance pursuant to sections 97B.49A through 97B.49G, as applicable, in place at the time of the member's first month of entitlement.

4. Payment of a member's retirement allowance pursuant to sections 97B.49A through 97B.49H shall commence no later than the required beginning date specified under section 401(a)(9) of the federal Internal Revenue Code regardless of whether the member has submitted the appropriate notice to receive an allowance. If the lump sum actuarial equivalent under subsection 1 could have been selected by the member, payments shall be made in a lump sum rather than as a monthly allowance.

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 lump sum amount payable to a living member who has had a break in service or to a beneficiary of a deceased member is less than 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.

6. Effective July 1, 2005, monthly retirement allowance payments shall be directly deposited without charge to a retired member's account via electronic funds transfer. A retired member may elect to receive monthly allowance payments as paper warrants in lieu of electronic funds transfers, but the system shall charge an administrative fee for processing such paper warrants. However, the system may, for good cause shown, waive the administrative fee. The fee may be automatically deducted from the monthly retirement allowance before the warrant is issued to the retired member.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.48; 82 Acts, ch 1261, §18]

88 Acts, ch 1242, §35; 90 Acts, ch 1240, §26, 27; 92 Acts, ch 1201, §40, 41; 94 Acts, ch 1183, §29; 96 Acts, ch 1187, §27; 98 Acts, ch 1183, §30, 31; 2000 Acts, ch 1077, §31, 32; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §18; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §26 – 28; 2006 Acts, ch 1092, §4, 8

Referred to in **§97B.48A**, **§97B.52**, **§97B.52A**

**97B.48A Reemployment.**

1. *a.* If a member who has not reached the member's sixty-fifth birthday and who has a bona fide retirement under this chapter is in regular full-time employment during a calendar year, the member's retirement allowance shall be reduced by fifty cents for each dollar the member earns over the limit provided in this subsection. However, employment is not full-time employment until the member receives remuneration in an amount in excess of thirty thousand dollars for a calendar year, or an amount equal to the amount of remuneration permitted for a calendar year for persons under sixty-five years of age before a reduction in federal social security retirement benefits is required, whichever is higher. Effective the first of the month in which a member attains the age of sixty-five years, a retired member may receive a retirement allowance without a reduction after return to covered employment regardless of the amount of remuneration received.

*b.* If a member dies and the full amount of the reduction from retirement allowances required under this subsection has not been paid, the remaining amounts shall be deducted from the payments made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which remaining payments are not required or the remaining payments are insufficient to satisfy the full amount of the reduction from retirement allowances required under this subsection, the amount still unpaid shall be a claim against the member's estate.

*c.* For purposes of this subsection and not for purposes of determining a retiree's covered wages, remuneration paid on and after July 1, 2007, includes noncovered contributions to a defined contribution plan qualified under Internal Revenue Code section 401(a), a tax-deferred annuity qualified under Internal Revenue Code section 403(b), an eligible deferred compensation plan qualified under Internal Revenue Code section 457, or any other tax qualified or nonqualified investment vehicle, that is provided by an employer to a retiree who has been or will be reemployed in covered employment.

2. Effective January 1, 1991, a retired member of any age may receive a retirement allowance after return to covered employment, regardless of the amount of remuneration received, if the covered employment consists of holding an elective office.

3. Upon a retirement after reemployment, a retired member may have the retired member's retirement allowance redetermined under this section or section 97B.48, section 97B.50, or section 97B.51, whichever is applicable, based upon the addition of credit for the years of membership service of the employee after reemployment, the covered wage during reemployment, and the age of the employee after reemployment. The member shall receive a single retirement allowance calculated from both periods of membership service, one based on the initial retirement and one based on the second retirement following reemployment. If the total years of membership service and prior service of a member who has been reemployed equals or exceeds thirty, the years of membership service on which the original retirement allowance was based may be reduced by a fraction of the years of service equal to the number of years by which the total years of membership service and prior service exceeds thirty divided by thirty, if this reduction in years of service will increase the total retirement allowance of the member. The additional retirement allowance calculated for the period of reemployment shall be added to the retirement allowance calculated for the initial period of membership service and prior service, adjusted as provided in this subsection. The retirement allowance calculated for the initial period of membership service and prior service shall not be adjusted for any other factor than years of service. The retired member shall not receive a retirement allowance based upon more than a total of thirty years of service. Effective July 1, 1998, a redetermination of a retirement allowance as authorized by this subsection for a retired member whose combined service exceeds the applicable years of service for that member as provided in sections 97B.49A through 97B.49G shall have the determination of the member's reemployment benefit based upon the percentage multiplier as determined for that member as provided in sections 97B.49A through 97B.49G.

4. The system shall pay to the member the accumulated contributions of the member and all of the employer contributions, plus interest plus interest dividends as provided in section 97B.70, for all completed calendar years, compounded as provided in section 97B.70, on the covered wages earned by a retired member that are not used in the recalculation of the

retirement allowance of a member. A payment of contributions to a member pursuant to this subsection shall be considered a retirement payment and not a refund and the member shall not be eligible to buy back the period of reemployment service.

5. If a retired reemployed member incurs a break in service, as defined in this subsection, and the member has failed to request an increase in the member's monthly allowance or a distribution of the member's and employer's accumulated contributions prior to the break in service, and if the amount of the increase in the member's monthly retirement allowance would be less than six hundred dollars per year, the system shall distribute the lump sum amount payable under subsection 4. For purposes of this subsection, a *"break in service"* means four 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 has a break in service. A member who receives a mandatory distribution under this subsection shall have sixty days to return the distribution to the system and request an increase in the member's monthly allowance.

92 Acts, ch 1201, §42; 96 Acts, ch 1187, §28, 29; 98 Acts, ch 1183, §32 – 34; 2000 Acts, ch 1077, §33 – 35; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §19; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §29; 2006 Acts, ch 1091, §5; 2008 Acts, ch 1032, §201

Referred to in **§97B.1A**, **§97B.48**, **§97B.50A**, **§97B.52A**

**97B.49 Dormant accounts.**

1. In the event that all, or any portion, of a retirement allowance, death benefit, or other distribution payable to a member or a member's designated beneficiary, heirs at law, or estate, remains unpaid solely by reason of the inability of the system to locate the appropriate payee, the amount payable shall not be forfeited but shall be treated as a dormant account after the time for making a claim has run.

2. A dormant account shall revert to the retirement fund created in section 97B.7. A dormant account shall be non-interest-bearing, and except for keeping a record of such account, the system shall not maintain the account. A member who has a dormant account and returns to covered employment shall have their dormant account reactivated as of the quarter they return to covered employment. If the appropriate payee contacts the system after the amount payable is treated as a dormant account, the appropriate payee may claim such amounts by filing a withdrawal application provided by the system. The system shall have rulemaking authority to adopt rules necessary to implement this section in a just and equitable manner.

3. The system shall ensure that the payment of a dormant account as provided in this section meets the requirements of section 401(a)(9) of the federal Internal Revenue Code.

2004 Acts, ch 1103, §30

**97B.49A Monthly payments of allowance — general calculation.**

1. *Definitions.* For the purposes of this section:

*a. "Applicable percentage"* means sixty percent or, for each active or inactive vested member retiring on or after July 1, 1996, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of membership and prior service beyond thirty years of service, not to exceed a total of five additional percentage points.

*b. "Fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of membership service and the number of years of prior service divided by thirty years.

2. *Entitlement to monthly allowance.* Each member, upon retirement on or after the member's normal retirement date, is entitled to receive a monthly retirement allowance determined under this section. For an inactive vested member the monthly retirement allowance shall be determined on the basis of this section and section 97B.50 as they are in effect on the date of the member's retirement.

3. *Calculation of monthly allowance.* For each active or inactive vested member retiring on or after July 1, 1994, who is vested by service, a monthly benefit shall be computed which is equal to one-twelfth of an amount equal to the applicable percentage of the final average covered wage multiplied by a fraction of years of service. However, if benefits under this

section commence on an early retirement date, the amount of the benefit shall be reduced in accordance with section 97B.50.

4. *Alternative calculations.*

*a.* For each active member employed before January 1, 1976, and retiring on or after January 1, 1976, and for each member who was a vested member before January 1, 1976, with four or more complete years of service, a formula benefit shall be determined equal to the larger of the benefit determined under this paragraph and paragraph *"b"* of this subsection, as applicable, the benefit determined under subsection 3, or the benefit determined under section 97B.49G, subsection 1. The amount of the monthly formula benefit for each such active or vested member who retired on or after January 1, 1976, shall be equal to one-twelfth of one and fifty-seven hundredths percent per year of membership service multiplied by the member's average annual covered wages. In no case shall the amount of monthly formula benefit accrued for membership service prior to July 1, 1967, be less than the monthly annuity at the normal retirement date determined by applying the sum of the member's accumulated contributions, the member's employer's accumulated contributions on or before June 30, 1967, and any retirement dividends standing to the member's credit on or before December 31, 1966, to the annuity tables in use by the system with due regard to the benefits payable from such accumulated contributions under sections 97B.52 and 97B.53.

*b.* For each member employed before January 1, 1976, who has qualified for prior service credit in accordance with the first paragraph of section 97B.43, a formula benefit shall be determined equal to the larger of the benefit determined under this paragraph and paragraph *"a"* of this subsection, as applicable, the benefit determined under subsection 3, or the benefit determined under section 97B.49G, subsection 1. The amount of the monthly formula benefit under this paragraph shall be equal to eight-tenths of one percent per year of prior service credit multiplied by the monthly rate of the member's total remuneration not in excess of three thousand dollars annually during the twelve consecutive months of the member's prior service for which that total remuneration was the highest. An additional three-tenths of one percent of the remuneration not in excess of three thousand dollars annually shall be payable for prior service during each year in which the accrued liability for benefit payments created by the abolished system is funded by appropriation from the Iowa public employees' retirement fund.

*c.* For each active and vested member retiring who cannot have a benefit determined under the formula benefit of paragraph *"a"* or *"b"* of this subsection, subsection 3, or section 97B.49G, subsection 1, a monthly annuity for membership service shall be determined by applying the member's accumulated contributions and the employer's matching accumulated contributions as of the effective retirement date and any retirement dividends standing to the member's credit on or before December 31, 1966, to the annuity tables in use by the system according to the member's age and contingent annuitant's age, if applicable.

98 Acts, ch 1183, §35; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2010 Acts, ch 1167, §26, 27; 2011 Acts, ch 34, §24

Referred to in **§97B.46**, **§97B.48**, **§97B.48A**, **§97B.49B**, **§97B.49C**, **§97B.49D**, **§97B.49G**, **§97B.50**, **§97B.50A**, **§97B.51**, **§97B.53**, **§602.11115**, **§602.11116**

**97B.49B Protection occupation.**

1. *Definitions.* For purposes of this section:

*a.* *"Applicable percentage"* means the greater of the following percentages:

(1) Sixty percent.

(2) For each active or inactive vested member retiring on or after July 1, 1996, but before July 1, 2000, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-five years of service for the member, not to exceed a total of five additional percentage points.

(3) For each active or inactive vested member retiring on or after July 1, 2000, but before July 1, 2001, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-four years of service for the member, not to exceed a total of six additional percentage points.

(4) For each active or inactive vested member retiring on or after July 1, 2001, but before

July 1, 2002, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-three years of service for the member, not to exceed a total of seven additional percentage points.

(5) For each active or inactive vested member retiring on or after July 1, 2002, but before July 1, 2003, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service for the member, not to exceed a total of eight additional percentage points.

(6) For each active or inactive vested member retiring on or after July 1, 2003, sixty percent plus, if applicable, an additional three-eighths of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service for the member, not to exceed a total of twelve additional percentage points.

*b.* *"Applicable years of service"* means the following:

(1) For each active or inactive vested member retiring on or after July 1, 1996, and before July 1, 2000, twenty-five.

(2) For each active or inactive vested member retiring on or after July 1, 2000, and before July 1, 2001, twenty-four.

(3) For each active or inactive vested member retiring on or after July 1, 2001, and before July 1, 2002, twenty-three.

(4) For each active or inactive vested member retiring on or after July 1, 2002, twenty-two.

*c.* *"Eligible service"* means membership and prior service in a protection occupation. In addition, for a member with membership and prior service in a protection occupation described in paragraph *"e"*, subparagraph (2), eligible service includes membership and prior service as a sheriff or deputy sheriff as defined in section 97B.49C.

*d.* *"Fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of eligible service in a protection occupation divided by the applicable years of service for the member.

*e.* *"Protection occupation"* includes all of the following:

(1) A conservation peace officer employed under section 456A.13 or as designated by a county conservation board pursuant to section 350.5.

(2) A marshal 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.

(3) A correctional officer or correctional supervisor employed by the Iowa department of corrections, and any other employee of that department whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety, and security within a correctional facility. The Iowa department of corrections and the department of administrative services shall jointly determine which job classifications are covered under this subparagraph.

(4) An airport safety officer employed under chapter 400 by an airport commission in a city of one hundred thousand population or more.

(5) An employee of the state department of transportation who is designated as a *"peace officer"* by resolution under section 321.477, but only if the employee retires on or after July 1, 1990. For purposes of this subparagraph, service as a traffic weight officer employed by the highway commission prior to the creation of the state department of transportation or as a peace officer employed by the Iowa state commerce commission prior to the creation of the state department of transportation shall be included in computing the employee's years of membership service.

(6) A fire prevention inspector peace officer employed by the department of public safety prior to July 1, 1994, who does not elect coverage under the Iowa department of public safety peace officers' retirement, accident, and disability system, as provided in section 97B.42B.

(7) An employee covered by the merit system as provided in chapter 8A, subchapter IV, whose primary duty is providing airport security and who carries or is licensed to carry a firearm while performing those duties.

(8) An airport fire fighter employed by the department of public defense.

(9) A jailer or detention officer who performs duties as a jailer, including but not limited to the transportation of inmates, who is certified as having completed jailer training pursuant to chapter 80B, and who is employed by a county as a jailer.

(10) An employee covered by the merit system as provided in chapter 8A, subchapter IV, whose primary duty is providing security at Iowa national guard installations and facilities and who carries or is licensed to carry a firearm while performing those duties.

(11) An emergency medical care provider who provides emergency medical services, as defined in section 147A.1, and who is not a member of the retirement systems established in chapter 410 or 411.

(12) An investigator employed by a county attorney's office who is a certified law enforcement officer and who is deputized as an investigator for the county attorney's office by the sheriff of the applicable county.

(13) An employee of the insurance division of the department of commerce who as a condition of employment is required to be certified by the Iowa law enforcement academy and who is required to perform the duties of a peace officer as provided in section 507E.8.

(14) An employee of a judicial district department of correctional services whose condition of employment requires the employee to be certified by the Iowa law enforcement academy and who is required to perform the duties of a parole officer as provided in section 906.2.

2. *Calculation of monthly allowance.* Notwithstanding other provisions of this chapter, a member who is or has been employed in a protection occupation who retires on or after July 1, 1994, and at the time of retirement is at least fifty-five years of age may elect to receive, in lieu of the receipt of any benefits as calculated pursuant to section 97B.49A or 97B.49D, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in a protection occupation multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

3. *Additional contributions.*

*a.* For the fiscal year commencing July 1, 1988, and each succeeding fiscal year, there is appropriated from the state fish and game protection fund to the system the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph "*e*", subparagraph (1).

*b.* Annually, during each fiscal year commencing with the fiscal year beginning July 1, 1988, each applicable city shall pay to the system the amount necessary to pay the employer share of the cost of the additional benefits provided to employees of that city covered under subsection 1, paragraph "*e*", subparagraphs (2) and (4).

*c.* For the fiscal year commencing July 1, 1988, and each succeeding fiscal year, the department of corrections shall pay to the system from funds appropriated to the Iowa department of corrections, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph "*e*", subparagraph (3).

*d.* For the fiscal year commencing July 1, 1990, and each succeeding fiscal year, the state department of transportation shall pay to the system, from funds appropriated to the state department of transportation from the road use tax fund and the primary road fund, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph "*e*", subparagraph (5).

*e.* For the fiscal year commencing July 1, 1992, and each succeeding fiscal year, the department of public safety shall pay to the system from funds appropriated to the department of public safety, the amount necessary to pay the employer share of the cost of the additional benefits provided to a fire prevention inspector peace officer pursuant to subsection 1, paragraph "*e*", subparagraph (6).

*f.* For the fiscal year commencing July 1, 1994, and each succeeding fiscal year through the fiscal year ending June 30, 1998, each judicial district department of correctional services shall pay to the system from funds appropriated to that judicial district department of correctional services, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees of a judicial district department of correctional services who are employed as a probation officer III or a parole officer III.

*g.* For the fiscal year commencing July 1, 2004, and each succeeding fiscal year, there is appropriated from the general fund of the state to the system, from funds not otherwise

appropriated, an amount necessary to pay the employer share of the cost of the additional benefits provided to airport fire fighters under this section.

4. Notwithstanding any provision of this chapter to the contrary, the three-year average covered wage for a member retiring under this section whose years of eligible service equals or exceeds twenty-two years of eligible service for that member shall be determined by calculating the member's eligible combined wage for each year of eligible service. For purposes of this subsection, *"eligible combined wage"* means the wages earned by the member for each quarter year period from eligible service and from covered employment that is not eligible service if at least seventy-five percent of the wages earned was from eligible service.

98 Acts, ch 1183, §36; 98 Acts, ch 1223, §19; 2000 Acts, ch 1077, §36 – 39; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §20, 21; 2003 Acts, ch 145, §176, 177, 286; 2004 Acts, ch 1103, §31 – 33; 2008 Acts, ch 1171, §31, 32, 48, 49; 2013 Acts, ch 29, §43; 2014 Acts, ch 1007, §1; 2014 Acts, ch 1138, §20

Subsection 1, paragraph e, NEW subparagraphs (13) and (14)

**97B.49C Sheriffs and deputy sheriffs.**

1. *Definitions.* For purposes of this section:

*a.* *"Applicable percentage"* means the greater of the following percentages:

(1) Sixty percent.

(2) For each active or inactive vested member retiring on or after July 1, 1996, and before July 1, 1998, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service, not to exceed a total of five additional percentage points.

(3) For each active or inactive vested member retiring on or after July 1, 1998, sixty percent plus, if applicable, an additional three-eighths of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service, not to exceed a total of twelve additional percentage points.

*b.* *"Deputy sheriff"* means a deputy sheriff appointed pursuant to section 341.1 prior to July 1, 1981, or section 331.903 on or after July 1, 1981.

*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 member in a protection occupation as defined in section 97B.49B.

*d.* *"Fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of eligible service under this section divided by twenty-two years.

*e.* *"Sheriff"* means a county sheriff as defined in section 39.17.

2. *Calculation of monthly allowance.*

*a.* Notwithstanding other provisions of this chapter, a member who retires from employment as a sheriff, deputy sheriff, or airport fire fighter on or after July 1, 1994, and before July 1, 2004, and at the time of retirement is at least fifty-five years of age may elect to receive, in lieu of the receipt of any benefits as calculated pursuant to section 97B.49A or 97B.49D, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in eligible service multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

*b.* Notwithstanding other provisions of this chapter, a member who retires from employment as a sheriff or deputy sheriff on or after July 1, 2004, and at the time of retirement is either at least fifty-five years of age or is at least the applicable early retirement age with at least twenty-two years of eligible service may elect to receive, in lieu of the receipt of any benefits as calculated pursuant to section 97B.49A or 97B.49D, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in eligible service multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

*c.* For purposes of this subsection, *"applicable early retirement age"* means the following:

(1) For each active or inactive vested member retiring on or after July 1, 2004, and before July 1, 2005, fifty-four years of age.

(2) For each active or inactive vested member retiring on or after July 1, 2005, and before July 1, 2006, fifty-three years of age.

(3) For each active or inactive vested member retiring on or after July 1, 2006, and before July 1, 2007, fifty-two years of age.

(4) For each active or inactive vested member retiring on or after July 1, 2007, and before July 1, 2008, fifty-one years of age.

(5) For each active or inactive vested member retiring on or after July 1, 2008, fifty years of age.

3. *Additional contributions.* Annually, during each fiscal year commencing with the fiscal year beginning July 1, 1988, each county shall pay to the system the amount necessary to pay the employer share of the cost of the benefits provided to sheriffs and deputy sheriffs.

4. Notwithstanding any provision of this chapter to the contrary, the three-year average covered wage for a member retiring under this section whose years of eligible service equals or exceeds twenty-two years of eligible service for that member shall be determined by calculating the member's eligible combined wage for each quarter year of eligible service. For purposes of this subsection, *"eligible combined wage"* means the wages earned by the member for each quarter year period from eligible service and from covered employment that is not eligible service if at least seventy-five percent of the wages earned was from eligible service.

98 Acts, ch 1183, §37; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §22; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §34 – 38; 2005 Acts, ch 19, §29; 2006 Acts, ch 1091, §6; 2006 Acts, ch 1092, §5; 2008 Acts, ch 1171, §33, 48, 49

Referred to in **§97A.6**, **§97B.1A**, **§97B.11**, **§97B.46**, **§97B.48**, **§97B.48A**, **§97B.49B**, **§97B.49D**, **§97B.50**, **§97B.50A**, **§97B.51**, **§97B.52**, **§97B.53**, **§97B.80**, **§97D.3**, **§411.6**, **§602.11115**, **§602.11116**

**97B.49D Hybrid formula.**

1. An active or inactive vested member, who is or has been employed in both special service and regular service, who retires on or after July 1, 1996, who is vested by service, and who at the time of retirement is at least fifty-five years of age, may elect to receive, in lieu of the receipt of a monthly retirement allowance as calculated pursuant to sections 97B.49A through 97B.49C, a combined monthly retirement allowance equal to the sum of the following:

*a.* One-twelfth of an amount equal to the applicable percentage of the member's final average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this paragraph shall be the actual years of service, not to exceed thirty, for which regular service contributions were made, divided by thirty. However, any otherwise applicable age reduction for early retirement shall apply to the calculation under this paragraph.

*b.* One-twelfth of an amount equal to the applicable percentage of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this paragraph shall be the actual years of service, not to exceed the applicable years of service for the member as defined in section 97B.49B, earned in a position described in section 97B.49B, for which special service contributions were made, divided by the applicable years of service for the member as defined in section 97B.49B. In calculating the fractions of years of service under the paragraph, a member shall not receive special service credit for years of service for which the member and the member's employer did not make the required special service contributions to the system.

*c.* One-twelfth of an amount equal to the applicable percentage of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this paragraph shall be the actual years of service, not to exceed twenty-two, earned in a position described in section 97B.49C, for which special service contributions were made, divided by twenty-two. In calculating the fractions of years of service under this paragraph, a member shall not receive special service credit for years of service for which the member and the member's employer did not make the required special service contributions to the system.

2. In calculating the combined monthly retirement allowance pursuant to subsection 1, the sum of the fraction of years of service provided in subsection 1, paragraphs "*a*", "*b*", and "*c*", shall not exceed one. If the sum of the fractions of years of service would exceed one, the system shall deduct years of service first from the calculation under subsection 1, paragraph "*a*", and then from the calculation under subsection 1, paragraph "*b*", if necessary, so that the sum of the fractions of years of service shall equal one.

3. In calculating the combined monthly retirement allowance pursuant to subsection 1, the applicable percentage shall be sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of membership service in service as described in subsection 1, paragraph "*a*", "*b*", or "*c*", beyond thirty years of service, not to exceed a total of five additional percentage points. Any addition in the percentage multiplier shall be included in the calculations required under this section.

98 Acts, ch 1183, §38; 2000 Acts, ch 1077, §40; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2010 Acts, ch 1167, §28, 29

Referred to in **§97B.1A**, **§97B.46**, **§97B.48**, **§97B.48A**, **§97B.49B**, **§97B.49C**, **§97B.50**, **§97B.50A**, **§97B.51**, **§97B.53**, **§602.11115**, **§602.11116**

**97B.49E Minimum benefits.**

1. For each active member retiring on or after June 30, 1973, and who has completed ten or more years of membership service, the total amount of monthly benefit payable at the normal retirement date for prior service and membership service shall not be less than fifty dollars per month. If benefits commence on an early retirement date, the amount of benefit shall be reduced in accordance with section 97B.50. If an optional allowance is selected under section 97B.51, the amount payable shall be the actuarial equivalent of the minimum benefit. An employee who is in employment on a school year or academic year basis, will be considered to be an active member as of June 30, 1973, if the employee completed the 1972-1973 school year or academic year.

2. Effective January 1, 1997, for members who retired on or after July 1, 1953, and before July 1, 1990, with at least ten years of prior and membership service, the minimum monthly benefit payable at the normal retirement date for prior and membership service shall be two hundred dollars. The minimum monthly benefit payable shall be increased by ten dollars for each year of prior and membership service beyond ten years, up to a maximum of twenty additional years of prior and membership service. If benefits commenced on an early retirement date, the amount of the benefit shall be reduced in accordance with section 97B.50. If an optional allowance was selected under section 97B.51, the amount payable shall be the actuarial equivalent of the minimum benefit.

98 Acts, ch 1183, §39

Referred to in **§97B.46**, **§97B.48**, **§97B.48A**, **§97B.50**, **§97B.51**, **§97B.53**, **§602.11115**, **§602.11116**

**97B.49F Retirement dividends.**

1. *Cost-of-living dividend.*

*a.* Effective July 1, 1997, commencing with dividends payable in November 1997, and for each subsequent year, all members who retired prior to July 1, 1990, and all beneficiaries and contingent annuitants of such members, shall be eligible for annual dividend payments, payable in November of that year, pursuant to the requirements of this subsection. The dividend payable in any given year shall be the sum of the dollar amount of the dividend payable in the previous November and the dividend adjustment. A dividend determined pursuant to this subsection shall not be used to increase the monthly benefit amount payable. In no event shall the dividend payable be less than twenty-five dollars.

*b.* (1) The dividend adjustment for a given year shall be calculated by multiplying the total of the retiree's, beneficiary's, or contingent annuitant's monthly benefit payments and the dividend payable to the retiree, beneficiary, or contingent annuitant, in the previous calendar year by the applicable percentage as determined by this paragraph.

(2) The applicable percentage shall be the least of the following percentages:

(a) The percentage representing the percentage increase in the consumer price index published in the federal register by the federal department of labor, bureau of labor statistics,

that reflects the percentage increase in the consumer price index for the twelve-month period ending June 30 of the year that the dividend is to be paid.

(b) The percentage representing the percentage amount the actuary has certified that the fund can absorb without requiring an increase in the employer and employee contributions to the fund. The actuary's certification of such percentage amount shall be based on a comparison of the actuarially required contribution rate for the fiscal year of the dividend adjustment to the statutory contribution rate for that same fiscal year. If the actuarially required contribution rate exceeds the statutory contribution rate for that same fiscal year, the percentage amount shall be zero.

(c) Three percent.

*c.* If a member eligible to receive a cost-of-living dividend dies before November 1 of a year, a cost-of-living dividend shall not be payable in November of that year in the name of the member. If a member dies on or after November 1, but before payment of a dividend is made in that month, the full amount of the retirement dividend for that year shall be paid in the member's name upon notification of the member's death.

2. *Favorable experience dividend.*

*a.* Commencing January 1, 1999, all qualified recipients who have received a monthly allowance for at least one year as of the date the dividend is payable shall be eligible to receive a favorable experience dividend, payable on the last business day in January of each year pursuant to the requirements of this subsection. If the qualified recipient eligible to receive a favorable experience dividend dies before January 1 of a year, a favorable experience dividend shall not be payable in January of that year in the name of the qualified recipient. However, if the qualified recipient dies on or after January 1 but before the dividend is paid in that month, the full amount of the dividend payable in that month shall be paid in the name of the qualified recipient, upon notification of death. For purposes of this paragraph, *"qualified recipient"* includes all members who retired on or after July 1, 1990, or a beneficiary or contingent annuitant of such a member who receives a monthly benefit, and a beneficiary of an active member who elects a monthly allowance under section 97B.52, subsection 1, paragraph "*c*".

*b.* A favorable experience dividend reserve account, hereafter called the *"reserve account"*, is established within the retirement fund. Moneys credited to the reserve account shall be used by the system for the purpose of providing a favorable experience dividend pursuant to this subsection.

*c.* Moneys shall be credited to the reserve account in the retirement fund as follows:

(1) On or before January 15, 1999, there shall be credited to the reserve account an amount that the system's actuary determines is sufficient to pay the maximum favorable experience dividend for each of the next following five years, based on reasonable actuarial assumptions.

(2) Beginning with the annual actuarial valuation of the retirement system as of June 30, 1999, and for each annual actuarial valuation of the retirement system thereafter, there shall be credited to the reserve account on each applicable January 15 following an actuarial valuation, an amount that represents that portion of the favorable actuarial experience, if any, that the system's actuary determines shall be credited to the reserve account pursuant to rules adopted by the system.

(3) The portion of the favorable actuarial experience, if any, that is not initially credited to the reserve account pursuant to subparagraph (2), but which, if applied to the retirement fund, would result in the actuarial valuation of assets exceeding the actuarial accrued liability of the retirement system based on the most recent annual actuarial valuation of the retirement system, shall be credited to the reserve account.

(4) Notwithstanding the provisions of this paragraph to the contrary, moneys credited to the reserve account in any applicable year shall not exceed an amount which, if credited to the reserve account, would exceed an amount that the system's actuary determines is sufficient to pay the maximum favorable experience dividend for each of the next following ten years, based on reasonable actuarial assumptions.

(5) Notwithstanding any provisions of this paragraph to the contrary, moneys shall not be credited to the reserve account if the system is not fully funded or if the system would not remain fully funded if moneys were credited to the reserve account.

(6) As used in this paragraph, *"favorable actuarial experience"* means the difference, if

positive, between the anticipated and actual experience of the retirement system's actuarial assets and liabilities as measured by the system's actuary in the most recent annual actuarial valuation of the retirement system pursuant to rules adopted by the system.

*d.* The favorable experience dividend is calculated by multiplying the monthly retirement allowance payable to the retiree, beneficiary, or contingent annuitant for the previous December, or such other month as determined by the system, by twelve, and then multiplying that amount by the number of complete years the member has been retired or would have been retired if living as of the date the dividend is payable, and by the applicable percentage. For purposes of this paragraph, the applicable percentage is the percentage, not to exceed three percent, that the system determines shall be applied in calculating the favorable experience dividend if the system determines that the reserve account is sufficiently funded to make a distribution. In making its determination, the system shall consider, but not be limited to, the amounts credited to the reserve account, the distributions from the reserve account made in previous years, the likelihood of future credits to and distributions from the reserve account, and the distributions paid under subsection 1.

98 Acts, ch 1183, §40; 2000 Acts, ch 1077, §41 – 45, 77; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §23; 2003 Acts, ch 145, §178, 286; 2006 Acts, ch 1091, §7; 2008 Acts, ch 1171, §34, 48

Referred to in **§97B.46**, **§97B.48**, **§97B.48A**, **§97B.50**, **§97B.51**, **§97B.53**, **§602.11115**, **§602.11116**

**97B.49G Monthly payments of allowance — miscellaneous provisions.**

1. *Monthly payments of allowance — percentage multiplier.*

*a.* For each active or inactive vested member retiring on or after July 1, 1986, and before July 1, 1994, with four or more complete years of service, a monthly benefit shall be computed which is equal to one-twelfth of an amount equal to the applicable percentage multiplier of the three-year average covered wage multiplied by a fraction of years of service.

*b.* The applicable percentage multiplier for purposes of this subsection shall be the following:

(1) For active or inactive vested members retiring on or after July 1, 1986, but before July 1, 1990, fifty percent.

(2) For active or inactive vested members retiring on or after July 1, 1990, but before July 1, 1991, fifty-two percent.

(3) For active or inactive vested members retiring on or after July 1, 1991, but before July 1, 1992, fifty-four percent.

(4) For active or inactive vested members retiring on or after July 1, 1992, but before July 1, 1993, fifty-six percent.

(5) For active or inactive vested members retiring on or after July 1, 1993, but before July 1, 1994, fifty-seven and four-tenths percent.

(6) For active or inactive vested members retiring on or after July 1, 1994, sixty percent.

*c.* For purposes of this subsection, fraction of years of service means a number, not to exceed one, equal to the sum of the years of membership service and the number of years of prior service divided by thirty years.

2. *Extra payments on allowance — pre-1976 retirees.*

*a.* (1) On January 1, 1976, for each member who retired before January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for December 1975 is increased by ten percent for the first calendar year or portion of a calendar year the member was retired, and by an additional five percent for each calendar year after the first calendar year the member was retired through the calendar year beginning January 1, 1975. The total increase shall not exceed one hundred percent. Effective July 1, 1987, there is appropriated for each fiscal year from the Iowa public employees' retirement fund created in section 97B.7 to the system from funds not otherwise appropriated an amount sufficient to fund the monthly retirement allowance increases paid under this paragraph.

(2) The benefit increases granted to members retired under the retirement system on January 1, 1976, shall be granted only on January 1, 1976, and shall not be further increased for any year in which the member was retired after the calendar year beginning January 1, 1975.

*b.* (1) Effective July 1, 1978, for each member who retired from the retirement system prior to January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1978 is increased as follows:

(a) For the first ten years of service, fifty cents per month for each complete year of service.

(b) For the eleventh through the twentieth years of service, two dollars per month for each complete year of service.

(c) For the twenty-first through the thirtieth years of service, three dollars per month for each complete year of service.

(2) Effective July 1, 1979, the increases granted to members under this paragraph "*b*" shall be paid to contingent annuitants and to beneficiaries.

3. *Extra payments on allowance.*

*a.* (1) Effective July 1, 1980, for each member who retired from the retirement system prior to January 1, 1976, and for each member who retired from the retirement system on or after January 1, 1976, under section 97B.49A, subsection 4, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1980 is increased as follows:

(a) For the first ten years of service, fifty cents per month for each complete year of service.

(b) For the eleventh through the twentieth years of service, one dollar per month for each complete year of service.

(c) For the twenty-first through the thirtieth years of service, one dollar and fifty cents per month for each complete year of service.

(d) The amount of monthly increase payable to a member under this paragraph is also payable to a beneficiary and a contingent annuitant and shall be reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52 compared to the full monthly benefit provided in this section or section 97B.49A, as applicable.

(2) However, effective July 1, 1980, the monthly retirement allowance attributable to membership service and prior service of a member, contingent annuitant, and beneficiary shall not be less than five dollars times the number of complete years of service of the member, not to exceed thirty, reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52, compared to the full monthly retirement benefit provided in this section or section 97B.49A, as applicable.

*b.* Effective beginning July 1, 1982, for each member who retired from the retirement system prior to January 1, 1976, and for each member who retired from the retirement system on or after January 1, 1976, under section 97B.49A, subsection 4, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1982 is increased as follows:

(1) For the first ten years of service, fifty cents per month for each complete year of service.

(2) For the eleventh through the twentieth years of service, one dollar per month for each complete year of service.

(3) For the twenty-first through the thirtieth years of service, one dollar and fifty cents per month for each complete year of service.

(4) The amount of monthly increase payable to a member under this paragraph is also payable to a beneficiary and a contingent annuitant and shall be reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52 compared to the full monthly benefit provided in this section or section 97B.49A, as applicable.

*c.* Beginning January 1, 1999, for each member who retired from the retirement system prior to July 1, 1986, the amount of regular monthly retirement allowance attributable to membership and prior service that was payable to the member, or the beneficiary or contingent annuitant of the member, for December 1998 shall be increased by fifteen percent.

*d.* Beginning January 1, 1999, for each member who retired from the retirement system on or after July 1, 1986, but before July 1, 1990, the amount of regular monthly retirement allowance attributable to membership and prior service that was payable to the member, or

the beneficiary or contingent annuitant of the member, for December 1998 shall be increased by seven percent.

4. *Normal retirement dates.* A retired member shall be deemed to have retired on the member's normal retirement date, and retirement benefits calculated shall not be reduced pursuant to section 97B.50, if the member meets any of the following requirements:

*a.* The member is an active or inactive vested member retiring on or after July 1, 1988, and before July 1, 1990, who is at least fifty-five years of age and has completed at least thirty years of membership service and prior service, and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety-two.

*b.* The member is an active or inactive vested member retiring on or after July 1, 1990, and before July 1, 1996, who is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety-two.

*c.* The member is an active or inactive vested member retiring on or after July 1, 1996, and before July 1, 1997, who is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety.

*d.* The member is an active or inactive vested member retiring on or after July 1, 1986, and before January 1, 1999, who is at least sixty-two years of age and who has completed thirty years of membership service.

5. *Dividends — November 1996.*

*a.* Each member who retired from the retirement system between July 4, 1953, and December 31, 1975, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 monthly benefit payment a retirement dividend equal to two hundred ninety-two percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

*b.* A member who retired from the retirement system between January 1, 1976, and June 30, 1982, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 monthly benefit payment a retirement dividend equal to two hundred twenty-three percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

*c.* A member who retired from the retirement system between July 1, 1982, and June 30, 1986, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 monthly benefit payment a retirement dividend equal to seventy-four percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

*d.* A member who retired from the retirement system between July 1, 1986, and June 30, 1990, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 monthly benefit payment a retirement dividend equal to twenty-four percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

*e.* Notwithstanding the determination of the amount of a retirement dividend under this subsection, a retirement dividend shall not be less than twenty-five dollars.

6. *Conservation peace officer — July 1986 – July 1988.*

*a.* Notwithstanding other provisions of this chapter, a member who is or has been employed as a conservation peace officer under section 456A.13 and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a conservation peace officer, may elect to receive, in lieu of the receipt of any benefits under subsection 1 or section 97B.49A, as applicable, a monthly retirement allowance equal to one-twelfth of fifty

percent of the member's three-year average covered wage as a conservation peace officer, with benefits payable during the member's lifetime.

*b.* (1) A conservation peace officer who retires on or after July 1, 1986, and before July 1, 1988, and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a conservation peace officer, multiplied by a fraction of years of service as a conservation peace officer. For the purpose of this subsection, *"fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of membership service as a conservation peace officer, divided by twenty-five years. On or after July 1, 1986, but before July 1, 1988, if the conservation peace officer has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the conservation peace officer's retirement precedes the date on which the conservation peace officer attains sixty years of age.

(2) The annual contribution necessary to pay for the additional benefits provided in this paragraph shall be paid by the employer and employee in the same proportion that employer and employee contributions are made under section 97B.11.

*c.* There is appropriated from the state fish and game protection fund to the system an actuarially determined amount calculated by the Iowa public employees' retirement system sufficient to pay for the additional benefits to conservation peace officers provided by this subsection, as a percentage, in paragraph *"a"* and for the employer portion of the benefits provided in paragraph *"b"*. The amount is in addition to the contribution paid by the employer under section 97B.11. The cost of the benefits relating to fish and wildlife conservation peace officers within the department of natural resources shall be paid from the state fish and game protection fund and the cost of the benefits relating to the other conservation peace officers of the department shall be paid from the general fund.

7. *Peace officer — July 1986 – July 1988.*

*a.* (1) Notwithstanding other provisions of this chapter, a member who is or has been employed as a peace officer and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a peace officer, may elect to receive, in lieu of the benefits under subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a peace officer, with benefits payable during the member's lifetime.

(2) A peace officer who retires on or after July 1, 1986, and before July 1, 1988, and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a peace officer multiplied by the fraction of years of service as a peace officer. For the purpose of this subsection, *"fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of membership service as a peace officer, divided by twenty-five years. On or after July 1, 1984, but before July 1, 1988, if the peace officer has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the peace officer's retirement precedes the date on which the peace officer attains sixty years of age.

(3) For the purpose of this subsection, membership service as a peace officer means service under this retirement system as any or all of the following:

(a) As a county sheriff as defined in section 39.17.

(b) As a deputy sheriff appointed pursuant to section 341.1, Code 1981, or section 331.903.

(c) As a marshal or police officer in a city not covered under chapter 400.

*b.* Each county and applicable city and employee eligible for benefits under this subsection shall annually contribute an amount determined by the system, as a percentage of covered wages, to be necessary to pay for the additional benefits provided by this subsection. The annual contribution in excess of the employer and employee contributions required by this chapter shall be paid by the employer and the employee in the same proportion that employer and employee contributions are made under section 97B.11. The

additional percentage of covered wages shall be calculated separately by the system for service under paragraph *"a"*, subparagraphs (1) and (2), and for service under paragraph *"a"*, subparagraph (3), and each shall be an actuarially determined amount for that type of service which, if contributed throughout the entire period of active service, would be sufficient to provide the pension benefit provided in this subsection.

8. *Correctional officer — July 1986 – July 1988.*

*a.* Notwithstanding sections of this chapter relating to eligibility for and determination of retirement benefits, a vested member who is or has been employed as a correctional officer by the Iowa department of corrections and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least thirty years of membership service as a correctional officer, may elect to receive, in lieu of the receipt of benefits under subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a correctional officer, with benefits payable during the member's lifetime.

*b.* The Iowa department of corrections and the system shall jointly determine the applicable merit system job classifications of correctional officers.

*c.* The Iowa department of corrections shall pay to the system, from funds appropriated to the Iowa department of corrections, an actuarially determined amount sufficient to pay for the additional benefits provided in this subsection. The amount is in addition to the employer contributions required in section 97B.11.

9. *Airport fire fighter — July 1986 – July 1988.*

*a.* Notwithstanding other provisions of this chapter, a member who is or has been employed by the office of disaster services as an airport fire fighter who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as an airport fire fighter, may elect to receive, in lieu of the receipt of any benefits under subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as an airport fire fighter, with benefits payable during the member's lifetime.

*b.* An airport fire fighter who retires on or after July 1, 1986, and before July 1, 1988, and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as an airport fire fighter multiplied by a fraction of years of service as an airport fire fighter. For the purpose of this subsection, *"fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of membership service as an airport fire fighter, divided by twenty-five years. On or after July 1, 1986, but before July 1, 1988, if the airport fire fighter has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the airport fire fighter's retirement precedes the date on which the airport fire fighter attains sixty years of age.

*c.* The employer and each employee eligible for benefits under this subsection shall annually contribute an actuarially determined amount specified by the system, as a percentage of covered wages, that is necessary to pay for the additional benefits provided by this subsection. The annual contribution in excess of the employer and employee contributions required in section 97B.11 shall be paid by the employer and the employee in the same proportion that the employer and employee contributions are made under section 97B.11.

*d.* There is appropriated from the general fund of the state to the system from funds not otherwise appropriated an amount sufficient to pay the employer share of the cost of the additional benefits provided in this subsection.

10. *Protection occupation — July 1988 – July 1994.*

*a.* For purposes of this subsection:

(1) *"Applicable percentage"* means the applicable percentage multiplier defined in subsection 1, paragraph *"b"*, that applies on the date a member retires and becomes eligible to receive a monthly allowance as calculated pursuant to this subsection.

(2) *"Fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of membership service in a protection occupation divided by twenty-five years.

*b.* Notwithstanding other provisions of this chapter, a member who is or has been employed in a protection occupation who retires on or after July 1, 1988, and before July 1, 1994, and at the time of retirement is at least fifty-five years of age may elect to receive, in lieu of the receipt of any benefits as calculated pursuant to subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in a protection occupation multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

11. *Sheriffs and deputy sheriffs — July 1988 – July 1994.*

*a.* For purposes of this subsection:

(1) *"Applicable percentage"* means the applicable percentage multiplier as described in subsection 1, paragraph *"b"*, that applies on the date a member retires and becomes eligible to receive a monthly allowance as calculated pursuant to this subsection.

(2) *"Fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of membership service as a sheriff or deputy sheriff divided by twenty-two years.

*b.* Notwithstanding other provisions of this chapter, a member who retires from employment as a sheriff or deputy sheriff on or after July 1, 1988, and before July 1, 1994, and at the time of retirement is at least fifty-five years of age may elect to receive, in lieu of the receipt of any benefits as calculated pursuant to subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed as a sheriff or deputy sheriff multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

12. *Probation and parole officers III — July 1994 – July 1998.* The system shall establish and maintain additional contribution accounts for employees of judicial district departments of correctional services who were employed as parole officers III and probation officers III during any portion of the period from July 1, 1994, through June 30, 1998. A probation officer III or parole officer III who made contributions to the retirement fund during the period from July 1, 1994, through June 30, 1998, as a member of a protection occupation shall have credited to an additional contribution account for that probation or parole officer an amount equal to the contributions made to the retirement fund in excess of three and seven-tenths percent of the probation or parole officer's covered wages paid from July 1, 1994, through June 30, 1998, plus interest at the applicable statutory interest rates established in this chapter. Moneys deposited in an additional contribution account established pursuant to this section shall be payable in a lump sum to the probation or parole officer at retirement or upon request for a refund of moneys in the account. If the probation or parole officer dies prior to receipt of moneys in the account, the beneficiary designated by that probation or parole officer shall receive a lump sum payment of moneys in the account. The payment of moneys from the account created in this subsection shall not be annuitized. A probation officer III or parole officer III for which an account is established under this subsection shall not receive credit for eligible service as a member of a protection occupation for that service.

98 Acts, ch 1183, §41; 2000 Acts, ch 1077, §46; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1162, §32; 2003 Acts, ch 145, §286; 2008 Acts, ch 1031, §30; 2008 Acts, ch 1032, §201

Referred to in **§97.51**, **§97B.1A**, **§97B.43**, **§97B.46**, **§97B.48**, **§97B.48A**, **§97B.49A**, **§97B.50**, **§97B.50A**, **§97B.51**, **§97B.53**, **§97B.80**, **§97D.3**, **§602.11115**, **§602.11116**

**97B.49H Active member supplemental accounts.**

1. There is established, for each active member, a supplemental account consisting of amounts credited to the account as provided in this section which shall be held and used for the exclusive benefit of the member pursuant to the requirements of this section.

2. Amounts shall be credited to a supplemental account of each active member pursuant to the requirements of this section following a determination by the system's actuary during the most recent annual actuarial valuation that the retirement system does not have an unfunded accrued liability. For purposes of this section, the retirement system does not

have an unfunded accrued liability if the actuarial accrued liability of the retirement system based on the actuarial cost method used by the actuary does not exceed the actuarial value of assets of the retirement system as of the valuation date.

3. The system shall annually determine the amount to be credited to the supplemental accounts of active members. The total amount credited to the supplemental accounts of all active members shall not exceed the amount that the system determines, in consultation with the system's actuary, leaves the system fully funded following the crediting of the total amount to the supplemental accounts. The amount to be credited shall not be greater than the amount calculated by multiplying the member's covered wages for the applicable wage reporting period by the supplemental rate. For purposes of this subsection, the supplemental rate is the difference, if positive, between the combined employee and employer statutory contribution rates in effect under section 97B.11 and the normal cost rate of the retirement system as determined by the system's actuary in the most recent annual actuarial valuation of the retirement system. The credits shall be made to each member's account at the time that covered wages are reported for each wage reporting period during the calendar year following a determination that the retirement system will remain fully funded following the crediting of the total amount to the supplemental accounts. The normal cost rate, calculated according to the actuarial cost method used, is the percent of pay allocated to each year of service that is necessary to fund projected benefits over all members' service with the retirement system.

4. Amounts credited to a member's supplemental account shall be credited with interest quarterly pursuant to section 97B.70, subsection 2.

5. Amounts credited to a member's supplemental account shall be distributed as follows:

*a.* If a member terminates covered employment and files an application for a refund under section 97B.53, the member shall receive in a lump sum payment, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account.

*b.* If a member dies prior to retirement, the member's beneficiary shall receive in a lump sum payment, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account.

*c.* Upon retirement, the member shall elect to receive in a lump sum payment or in an annuity, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account. The annuity provided under this section shall be payable in the same form, at the same time, and to the same persons, including beneficiaries and contingent annuitants, that the member elects for the payments under the other provisions of this chapter providing for the monthly payment of allowances. The amount of an annuity provided under this section, including amounts payable to beneficiaries and contingent annuitants, shall be calculated using the amount credited to the member's supplemental account as of the date of retirement, and the assumptions underlying the actuarial tables used to calculate optional allowances under section 97B.51.

98 Acts, ch 1183, §42, 43; 2000 Acts, ch 1077, §47; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2006 Acts, ch 1091, §8; 2008 Acts, ch 1171, §35, 48

Referred to in **§97B.1A**, **§97B.46**, **§97B.48**, **§602.11115**, **§602.11116**

**97B.49I Qualified benefits arrangement.**

The system, by rule, may establish and maintain a qualified benefits arrangement under section 415(m) of the federal Internal Revenue Code. The amount of any annual benefit that would be payable pursuant to this chapter but for the limitation imposed by section 415 of the federal Internal Revenue Code shall be paid from a qualified benefits arrangement established and maintained pursuant to this section.

98 Acts, ch 1183, §44; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

**97B.50 Early retirement.**

1. Except as otherwise provided in this section, a vested member who is at least fifty-five years of age, upon retirement prior to the normal retirement date for that member, is entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in sections 97B.49A, 97B.49E, and 97B.49G, reduced as follows:

*a.* For a member who is not vested on June 30, 2012, by one-half of one percent per month for each month that the early retirement date precedes the date the member attains age sixty-five.

*b.* For a member who is vested on June 30, 2012, the member's retirement allowance shall be reduced as follows:

(1) For that portion of the member's retirement allowance based on years of service through June 30, 2012, by twenty-five hundredths of one percent per month for each month that the early retirement date precedes the member's earliest normal retirement date using the member's age on the early retirement date and years of service as of June 30, 2012.

(2) For that portion of the member's retirement allowance based on years of service after June 30, 2012, by one-half of one percent per month for each month that the early retirement date precedes the date the member attains age sixty-five.

2. *a.* A vested member who retires from the retirement system due to disability and commences receiving disability benefits pursuant to the federal Social Security Act, 42 U.S.C. §423 et seq., and who has not reached the normal retirement date, shall receive benefits as selected under section 97B.51, and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the retirement system at any time after July 4, 1953. Eligible members retiring on or after July 1, 2000, are entitled to the receipt of retroactive adjustment payments for no more than thirty-six months immediately preceding the month in which written application for retirement due to disability was received by the system.

*b.* A vested member who retires from the retirement system due to disability and commences receiving disability benefits pursuant to the federal Railroad Retirement Act, 45 U.S.C. §231 et seq., and who has not reached the normal retirement date, shall receive benefits as selected under section 97B.51, and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the retirement system at any time since July 4, 1953. Eligible members retiring on or after July 1, 2000, are entitled to the receipt of retroactive adjustment payments for no more than thirty-six months immediately preceding the month in which written application for retirement due to disability was received by the system.

*c.* A vested member who terminated service due to a disability, who has been issued payment for a refund pursuant to section 97B.53, and who subsequently commences receiving disability benefits as a result of that disability pursuant to the federal Social Security Act, 42 U.S.C. §423 et seq. or the federal Railroad Retirement Act, 45 U.S.C. §231 et seq., may receive credit for membership service for the period covered by the refund payment, upon repayment to the system of the actuarial cost of receiving service credit for the period covered by the refund payment, as determined by the system. For purposes of this paragraph, the actuarial cost of the service purchase shall be determined as provided in section 97B.80C. The payment to the system as provided in this paragraph shall be made within ninety days after July 1, 2000, or the date federal disability payments commenced, whichever occurs later. For purposes of this paragraph, the date federal disability payments commence shall be the date that the member actually receives the first such payment, regardless of any retroactive payments included in that payment. A member who repurchases service credit under this paragraph and applies for retirement benefits shall have the member's monthly allowance, including retroactive adjustment payments, determined in the same manner as provided in paragraph "*a*" or "*b*", as applicable.

*d.* For a vested member who retires from the retirement system due to disability on or after July 1, 2009, and commences receiving disability benefits pursuant to the federal Railroad Retirement Act, 45 U.S.C. §231 et seq., or the federal Social Security Act, 42 U.S.C. §423 et seq., the system may require the vested member to certify on an annual basis

continued eligibility for disability payments under the federal Railroad Retirement Act or the federal Social Security Act. If the vested member is under the age at which disability benefits are converted under the federal Social Security Act or the federal Railroad Retirement Act to retirement benefits and is no longer eligible for disability payments under either the federal Railroad Retirement Act or the federal Social Security Act, the vested member shall no longer be eligible to receive retirement benefits as provided by this subsection. If the system has paid retirement benefits to the member between the month the member was no longer eligible for payment pursuant to the federal Railroad Retirement Act or the federal Social Security Act and the month the system terminated retirement benefits under this paragraph, the member shall return all retirement benefits paid by the system following the termination of such federal disability benefits, plus interest. The system shall adopt rules pursuant to chapter 17A to implement this paragraph.

3. A member who is at least sixty-two years of age and less than sixty-five years of age, and who has completed twenty or more years of membership service and prior service, shall receive benefits under sections 97B.49A through 97B.49G, as applicable, determined as if the member had attained sixty-five years of age.

[C46, 50, §97.13, 97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.50]

84 Acts, ch 1285, §11, 12; 86 Acts, ch 1243, §19 – 21; 87 Acts, ch 227, §19, 20; 88 Acts, ch 1242, §45 – 47; 90 Acts, ch 1240, §37; 91 Acts, ch 105, §1; 92 Acts, ch 1201, §48, 49; 94 Acts, ch 1183, §43, 44; 96 Acts, ch 1187, §41; 98 Acts, ch 1183, §45, 77; 2000 Acts, ch 1077, §48 – 50; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §179, 286; 2004 Acts, ch 1101, §16; 2004 Acts, ch 1103, §39, 40; 2008 Acts, ch 1171, §36, 48; 2010 Acts, ch 1167, §30, 39

Referred to in **§97B.48A**, **§97B.49A**, **§97B.49E**, **§97B.49G**, **§97B.50A**, **§97B.53**

**97B.50A Disability benefits for special service members.**

1. *Definitions.* For purposes of this section, unless the context otherwise provides:

*a.* *"Member"* means a vested member who is classified as a special service member under section 97B.1A, subsection 22, at the time of the alleged disability. *"Member"* does not mean a volunteer fire fighter.

*b.* *"Net disability retirement allowance"* means the amount determined by subtracting the amount paid during the previous calendar year by the member for health insurance or similar health care coverage for the member and the member's dependents from the amount of the member's disability retirement allowance, including any dividends and distributions from supplemental accounts, paid for that year pursuant to this section.

*c.* *"Reemployment comparison amount"* means an amount equal to the current covered wages of an active special service member at the same position on the salary scale within the rank or position the member held at the time the member received a disability retirement allowance pursuant to this section. If the rank or position held by the member at the time of retirement pursuant to this section is abolished, the amount shall be computed by the system as though the rank or position had not been abolished and salary increases had been granted on the same basis as granted to other ranks or positions by the former employer of the member. The reemployment comparison amount shall not be less than the three-year average covered wage of the member, based on all regular and special service covered under this chapter.

2. *In-service disability retirement allowance.*

*a.* A member who is injured in the performance of the member's duties, and otherwise meets the requirements of this subsection, shall receive an in-service disability retirement allowance under this subsection, in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

*b.* Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation as the natural and proximate result of an injury, disease, or exposure occurring or aggravated while in the actual performance of duty at some definite place and time shall be eligible to retire under this subsection, provided that the medical board, as established by this section, shall certify 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. The system

shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's special service membership in the retirement system first commenced on or after July 1, 2000, 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 member who is denied a benefit under this subsection, by reason of a finding by the system 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 or comparable special service occupation position held by the member immediately prior to the application for disability benefits.

*c.* (1) Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain, exposure, or the inhalation of noxious fumes, poison, or gases.

(2) Disease under this subsection shall also mean cancer or infectious disease, as defined in section 411.1, and shall be presumed to have been contracted while on active duty as a result of that duty.

(3) However, if a person's special service membership in the retirement system first commenced on or after July 1, 2000, and the heart disease, disease of the lungs or respiratory tract, cancer, or infectious disease would not exist, but for a medical condition that was known to exist on the date that special service membership commenced, the presumption established in this paragraph "*c*" shall not apply.

*d.* Upon retirement for an in-service disability as provided by this subsection, a member shall have the option to receive a monthly in-service disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable, that the member would receive if the member had attained fifty-five years of age. The monthly in-service disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of sixty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

3. *Ordinary disability retirement allowance.*

*a.* A member who otherwise meets the requirements of this subsection shall receive an ordinary disability retirement allowance under this subsection in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

*b.* Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation shall be eligible to retire under this subsection, provided that the medical board, as established by this section, shall certify 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. The system shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's special service membership in the retirement system first commenced on or after July 1, 2000, 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 special service membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the system 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 or comparable special service occupation position held by the member immediately prior to the application for disability benefits.

*c.* Upon retirement for an ordinary disability as provided by this subsection, a member shall receive the greater of a monthly ordinary disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable. The monthly ordinary disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

4. *Waiver of allowance.* A member receiving a disability retirement allowance under this

section may file an application to receive benefits pursuant to section 97B.50, subsection 2, in lieu of receiving a disability retirement allowance under this section, if the member becomes eligible for benefits under section 97B.50, subsection 2. An application to receive benefits pursuant to section 97B.50, subsection 2, shall be filed with the system within sixty days after the member becomes eligible for benefits pursuant to that section or the member shall be ineligible to elect coverage under that section. On the first of the month following the month in which a member's application is approved by the system, the member's election of coverage under section 97B.50, subsection 2, shall become effective and the member's eligibility to receive a disability retirement allowance pursuant to this section shall cease. Benefits payable pursuant to section 97B.50, subsection 2, shall be calculated using the option choice the member selected for payment of a disability retirement allowance pursuant to this section. An application to elect coverage under section 97B.50, subsection 2, is irrevocable upon approval by the system.

5. *Offset to allowance.* Notwithstanding any provisions to the contrary in state law, or any applicable contract or policy, any amounts which may be paid or payable by the employer under any workers' compensation, unemployment compensation, employer-paid disability plan, program, or policy, or other law to a member, and any disability payments the member receives pursuant to the federal Social Security Act, 42 U.S.C. §423 et seq., shall be offset against and payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

6. *Reexamination of members retired on account of disability.*

*a.* Once each year during the first five years following the retirement of a member under this section, and once in every three-year period thereafter, the system may, and upon the member's application shall, require any member receiving an in-service or ordinary disability retirement allowance who has not yet attained the age of fifty-five years to undergo a medical examination as arranged by the medical board as established by this section. The examination shall be made by the medical board or by an additional physician or physicians designated by the medical board. If any member receiving an in-service or ordinary disability retirement allowance who has not attained the age of fifty-five years refuses to submit to the medical examination, the allowance may be discontinued until the member's withdrawal of the refusal, and should the member's refusal continue for one year, all rights in and to the member's disability retirement allowance shall be revoked by the system.

*b.* If a member is determined under paragraph "*a*" to be no longer eligible for in-service or ordinary disability benefits, all benefits paid under this section shall cease. The member shall be eligible to receive benefits calculated under section 97B.49B or 97B.49C, as applicable, when the member reaches age fifty-five.

7. *Reemployment.*

*a.* If a member receiving a disability retirement allowance is returned to covered employment, the member's disability retirement allowance shall cease, the member shall again become an active member, and shall contribute thereafter at the same rate payable by similarly classified members. If a member receiving a disability retirement allowance returns to special service employment, then the period of time the member received a disability retirement allowance shall constitute eligible service as defined in section 97B.49B, subsection 1, or section 97B.49C, subsection 1, as applicable. Upon subsequent retirement, the member's retirement allowance shall be calculated as provided in section 97B.48A.

*b.* (1) If a member receiving a disability retirement allowance is engaged in a gainful occupation that is not covered employment, the member's disability retirement allowance shall be reduced, if applicable, as provided in this paragraph.

(2) If the member is engaged in a gainful occupation paying more than the difference between the member's net disability retirement allowance and one and one-half times the reemployment comparison amount for that member, then the amount of the member's disability retirement allowance shall be reduced to an amount such that the member's net disability retirement allowance plus the amount earned by the member shall equal one and one-half times the reemployment comparison amount for that member.

(3) The member shall submit sufficient documentation to the system to permit the system

to determine the member's net disability retirement allowance and earnings from a gainful occupation that is not covered employment for the applicable year.

(4) This paragraph does not apply to a member who is at least fifty-five years of age and would have completed a sufficient number of years of service if the member had remained in active special service employment. For purposes of this subparagraph, a sufficient number of years of service shall be the applicable years of service for a special service member as described in section 97B.49B or twenty-two for a special service member as described in section 97B.49C.

8. *Death benefits.* A member who is receiving an in-service or ordinary disability retirement allowance under this section shall be treated as having elected a lifetime monthly retirement allowance with death benefits payable under section 97B.52, subsection 3, unless the member elects an optional form of benefit provided under section 97B.51, which shall be actuarially equivalent to the lifetime monthly retirement allowance provided under this section.

9. *Medical board.* The system shall designate a medical board to be composed of three physicians from the university of Iowa hospitals and clinics who shall arrange for and pass upon the medical examinations required under this section and shall report in writing to the system the conclusions and recommendations upon all matters duly referred to the medical board. Each report of a medical examination under this section shall include the medical board's findings as to the extent of the member's physical or mental impairment. Except as required by this section, each report shall be confidential and shall be maintained in accordance with the federal Americans With Disabilities Act, and any other state or federal law containing requirements for confidentiality of medical records.

10. *Liability of third parties — subrogation.*

*a.* If a member receives an injury for which benefits are payable under this section, and if the injury is caused under circumstances creating a legal liability for damages against a third party other than the system, the member or the member's legal representative may maintain an action for damages against the third party. If a member or a member's legal representative commences such an action, the plaintiff member or representative shall serve a copy of the original notice upon the system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the system, and the following rights and duties ensue:

(1) The system shall be indemnified out of the recovery of damages to the extent of benefit payments made by the retirement system, with legal interest, except that the plaintiff member's attorney fees may be first allowed by the district court.

(2) The system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the retirement system is liable. In order to continue and preserve the lien, the system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

*b.* If a member fails to bring an action for damages against a third party within thirty days after the system requests the member in writing to do so, the system is subrogated to the rights of the member and may maintain the action against the third party, and may recover damages for the injury to the same extent that the member may recover damages for the injury. If the system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

(1) A sum sufficient to repay the system for the amount of such benefits actually paid by the retirement system up to the time of the entering of the judgment.

(2) A sum sufficient to pay the system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits for which the retirement system is liable, but the sum is not a final adjudication of the future payment which the member is entitled to receive.

(3) Any balance shall be paid to the member.

*c.* Before a settlement is effective between the system and a third party who is liable for any injury, the member must consent in writing to the settlement; and if the settlement is between the member and a third party, the system must consent in writing to the settlement;

or on refusal to consent, in either case, the district court in the county in which either the employer of the member or the system is located must consent in writing to the settlement.

*d.* For purposes of subrogation under this section, a payment made to an injured member or the member's legal representative, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury to the member, shall be considered paid as damages because the injury was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

11. *Document submissions.* A member retired under this section, in order to be eligible for continued receipt of retirement benefits, shall submit to the system any documentation the system may reasonably request which will provide information needed to determine payments to the member under this section.

12. *Contributions.* The expenses incurred in the administration of this section by the system shall be paid through contributions as determined pursuant to section 97B.11.

13. *Applicability — retroactivity.*

*a.* This section applies to a member who becomes disabled on or after July 1, 2000, and also applies to a member who becomes disabled prior to July 1, 2000, if the member has not terminated special service employment as of June 30, 2000.

*b.* To qualify for benefits under this section, a member must file a completed application with the system within one year of the member's termination of employment. A member eligible for a disability retirement allowance under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the completed application for receipt of a disability retirement allowance under this section is approved.

14. *Rules.* The system shall adopt rules pursuant to chapter 17A specifying the application procedure for members pursuant to this section.

2000 Acts, ch 1077, §51; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1119, §126; 2002 Acts, ch 1135, §24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §17, 18; 2004 Acts, ch 1103, §41; 2006 Acts, ch 1091, §9; 2008 Acts, ch 1171, §37, 48, 49; 2010 Acts, ch 1167, §31

**97B.51 Allowance upon retirement.**

1. Each member has the right prior to the member's retirement date to elect to have the member's retirement allowance payable under one of the options set forth in this section. The amount of the optional retirement allowance selected in paragraph "*a*", "*c*", "*d*", "*e*", or "*f*" shall be the actuarial equivalent of the amount of the retirement allowance otherwise payable to the member as determined by the system in consultation with the system's actuary. The member shall make an election by written request to the system and the election is subject to the approval of the system. If the member is married, election of an option under this section requires the written acknowledgment of the member's spouse. However, the system may accept a married member's election of a benefit option under this section without the written acknowledgment of the member's spouse if the member submits a notarized statement indicating that the member has been unable to locate the member's spouse to obtain the written acknowledgment of the spouse after reasonable diligent efforts. The member's election of a benefit option shall become effective upon filing the necessary forms, including the notarized statement, with the system. The system shall not be liable to the member, the member's spouse, or to any other person affected by the member's election of a benefit option, based upon an election of benefit option accomplished without the written acknowledgment of the member's spouse. The member may, if eligible, select one of the following options:

*a.* At retirement, a member may designate that upon the member's death, a specified amount of money shall be paid to a named beneficiary, and the member's monthly retirement allowance shall be reduced by an actuarially determined amount to provide for the lump sum payment. The amount designated by the member must be in thousand dollar increments and shall be limited to the amount of the member's accumulated contributions. The amount designated shall not lower the monthly retirement allowance of the member by more than one-half the amount payable as provided in paragraph "*b*". A member may designate a

different beneficiary at any time, except as limited by an order that has been accepted by the system as complying with the requirements of section 97B.39. The election of a death benefit amount under this paragraph shall be irrevocable upon payment of the first monthly retirement allowance.

*b.* A member may elect a retirement allowance otherwise payable to the member upon retirement under the retirement system pursuant to this chapter, to include the applicable provisions of sections 97B.49A through 97B.49G, and a death benefit as provided in section 97B.52, subsection 3.

*c.* A member may elect an increased retirement allowance during the member's lifetime with no death benefit after the member's retirement date.

*d.* (1) A member may elect to receive a decreased retirement allowance during the member's lifetime and have the decreased retirement allowance, or a designated fraction thereof, continued after the member's death to another person, called a contingent annuitant, during the lifetime of the contingent annuitant. The member cannot change the contingent annuitant after the member's retirement. In case of the election of a contingent annuitant, no death benefits, as might otherwise be provided by this chapter, will be payable upon the death of either the member or the contingent annuitant after the member's retirement.

(2) In lieu of a benefit as calculated under subparagraph (1), a member may elect to receive a decreased retirement allowance during the member's lifetime and have the decreased retirement allowance, or a designated fraction thereof, continued after the member's death to another person, called a contingent annuitant, during the lifetime of the contingent annuitant, as determined by this subparagraph. In addition, if the contingent annuitant dies prior to the death of the member, the member shall receive a retirement allowance beginning with the first month following the death of the contingent annuitant as if the member had selected the option provided by paragraph *"b"* at the time of the member's first retirement. The member cannot change the contingent annuitant after the member's retirement. If a contingent annuitant receives a decreased retirement allowance under this subparagraph following the death of the member, no death benefits, as might otherwise be provided by this chapter, will be payable upon the death of the contingent annuitant.

*e.* A member may elect to receive a decreased retirement allowance during the member's lifetime with provision that in event of the member's death during the first one hundred twenty months of retirement, monthly payments of the member's decreased retirement allowance shall be made to the member's beneficiary until a combined total of one hundred twenty monthly payments have been made to the member and the member's beneficiary. When the member designates multiple beneficiaries, the present value of the remaining payments shall be paid in a lump sum to each beneficiary, either in equal shares to the beneficiaries, or if the member specifies otherwise in a written request, in the specified proportion. A member may designate a different beneficiary at any time, except as limited by an order that has been accepted by the department as complying with the requirements of section 97B.39.

*f.* A member retiring under section 97B.49B or 97B.49C may select an allowance upon retirement as provided under paragraph *"a"*, *"b"*, *"c"*, or *"e"*, or paragraph *"d"*, subparagraph (1), and may elect to have the monthly allowance otherwise payable to the member pursuant to the selected paragraph or subparagraph recalculated as provided in this paragraph. A member electing payment of a monthly allowance under this paragraph shall have the member's monthly allowance increased, as determined by the system's actuary, by an amount equal to the monthly federal social security benefit that would be payable to the member on the date the member would be first eligible to receive a reduced social security pension benefit based upon the member's account. Upon reaching the date the member would be first eligible to receive a reduced social security pension benefit, the member's monthly retirement allowance shall be permanently reduced, as determined by the system's actuary. A member electing payment of an allowance under this paragraph shall provide the system with a copy of the estimate provided by the federal social security administration of the member's monthly federal social security benefit that would be payable on the date the member would be first eligible to receive a reduced social security pension benefit at least sixty days prior to the member's first month of entitlement.

2. The election by a member of an option stated under this section shall be null and void if the member dies prior to the member's first month of entitlement.

3. A member who had elected to take an option stated in this section, may, at any time prior to retirement, revoke such an election by written notice to the system. A member shall not change or revoke an election once the first retirement allowance is paid.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.51]

84 Acts, ch 1285, §13; 86 Acts, ch 1243, §22; 92 Acts, ch 1201, §50; 95 Acts, ch 102, §8; 96 Acts, ch 1187, §42 – 44; 98 Acts, ch 1183, §47 – 49; 2000 Acts, ch 1077, §52, 78; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §25 – 27; 2003 Acts, ch 145, §286

Referred to in **§97B.25**, **§97B.48**, **§97B.48A**, **§97B.49E**, **§97B.49G**, **§97B.49H**, **§97B.50**, **§97B.50A**, **§97B.52**

**97B.52 Payment to beneficiary.**

1. If an inactive member who is vested by service, or any active member, dies prior to the member's first month of entitlement, the member's beneficiary shall be entitled to receive a death benefit equal to the greater of the amount provided in paragraph "*a*" or "*b*". If an inactive member who is not vested by service dies prior to the member's first month of entitlement, the member's beneficiary shall only be entitled to receive a death benefit, as a lump sum, equal to the amount provided in paragraph "*a*".

*a.* A lump sum payment equal to the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the applicable denominator. As used in this paragraph, "*applicable denominator*" means the following, based upon the type of membership service in which the member served either on the date of death, or if the member died after terminating service, on the date of the member's last termination of service:

(1) For regular service, the applicable denominator is thirty.

(2) For service in a protection occupation, as defined in section 97B.49B, the applicable denominator is the applicable years of service for the member as defined in section 97B.49B if the member had retired on the date of death.

(3) For service as a sheriff or deputy sheriff, as provided in section 97B.49C, the applicable denominator is twenty-two.

*b.* For a member who dies on or after January 1, 2001, a lump sum payment equal to the actuarial present value of the member's accrued benefit as of the date of death. The actuarial equivalent present value of the member's accrued benefit as of the date of death shall be calculated using the same interest rate and mortality tables that are used by the system and the system's actuary under section 97B.51, and shall assume that the member would have retired at the member's earliest normal retirement date.

*c.* The payment of a death benefit to a designated beneficiary as provided by this subsection shall be in a lump sum payment. However, if the designated beneficiary is a sole individual, the beneficiary may elect to receive, in lieu of a lump sum payment under this subsection, a monthly annuity payable for the life of the beneficiary. The monthly annuity shall be calculated by applying the annuity tables used by the system to the lump sum payment under this subsection based on the beneficiary's age. If the designated beneficiary is more than one individual, or if the designated beneficiary is an estate, trust, church, charity, or other similar organization, a death benefit under this subsection shall only be paid in a lump sum.

2. *a.* If the system determines, upon the receipt of evidence and proof, that the death of a member in special service was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a member in special service, a line of duty death benefit in an amount of one hundred thousand dollars shall be paid in a lump sum to the special service member's beneficiary. A line of duty death benefit payable under this subsection shall be in addition to any death benefit payable as provided in subsection 1.

*b.* A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory

system, unless a traumatic personal injury was a substantial contributing factor to the special service member's death.

(2) The death was caused by the intentional misconduct of the special service member or by the special service member's intent to cause the special service member's own death.

(3) The special service member was voluntarily intoxicated at the time of death.

(4) The special service member was performing the special service member's duties in a grossly negligent manner at the time of death.

(5) A beneficiary who would otherwise be entitled to a benefit under this subsection was, through the beneficiary's actions, a substantial contributing factor to the special service member's death.

(6) The death qualifies for a volunteer emergency services provider death benefit pursuant to section 100B.31.

3. If a member dies on or after the first day of the member's first month of entitlement, the excess, if any, of the accumulated contributions by the member as of said date over the total gross monthly retirement allowances received by the member under the retirement system will be paid to the member's beneficiary unless the retirement allowance is then being paid in accordance with section 97B.48 or with section 97B.51, subsection 1, paragraph "*a*", "*c*", "*d*", or "*e*".

4. *a.* Other than as provided in subsections 1, 2, and 3 of this section, or section 97B.51, all rights to any benefits under the retirement system shall cease upon the death of a member.

*b.* If a death benefit is due and payable on behalf of a member who dies prior to the member's first month of entitlement, interest shall continue to accumulate through the quarter preceding the quarter in which payment is made to the designated beneficiary, heirs at law, or the estate unless the payment of the death benefit is delayed because of a dispute between alleged heirs, in which case the benefit due and payable shall be placed in a noninterest bearing escrow account until the beneficiary is determined in accordance with this section.

5. *a.* In order to receive the death benefit, the beneficiary, heirs at law, or the estate, or any other third-party payee, must apply to the system within five years of the member's death. However, death benefits payable under this section shall not exceed the amount permitted pursuant to Internal Revenue Code section 401(a)(9) and the applicable treasury regulations.

*b.* The system shall reinstate a designated beneficiary's right to receive a death benefit beyond the five-year limitation if the designated beneficiary was the member's spouse at the time of the member's death and the distribution is required or permitted pursuant to Internal Revenue Code section 401(a)(9) and the applicable treasury regulations.

6. Following written notification to the system, a beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would otherwise be entitled under section 97B.51, subsection 1, paragraphs "*a*", "*b*", and "*e*". Upon receipt of the waiver, the system shall pay the amount designated to be received by that beneficiary to the member's other surviving beneficiary or beneficiaries or to the estate of the deceased member, as elected by the beneficiary in the waiver. If the payments being waived are payable to the member's estate and an estate is not probated, the payments shall be paid to the deceased member's surviving spouse, or if there is no surviving spouse, to the member's heirs other than the beneficiary who waived the payments.

7. If a member has not filed a designation of beneficiary with the system, the death benefit is payable to the member's estate. If no designation has been filed and an estate is not probated, the death benefit shall be paid to the surviving spouse, if any. If no designation has been filed, no estate has been probated, and there is no surviving spouse, the death benefit shall be paid to the heirs as provided in this subsection. The system shall pay the full amount of a member's death benefits to those heirs who have presented a claim for such benefits within five years after the member's date of death. The system is not liable for the payment of any claims by heirs who make themselves known to the system more than five years after

the date of death of the member. If a death benefit is not paid as provided by this subsection, the death benefit shall remain in the fund.

[C46, 50, §97.14 – 97.18, 97.39; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.52]

84 Acts, ch 1285, §14, 15; 90 Acts, ch 1240, §38; 92 Acts, ch 1201, §51 – 54; 95 Acts, ch 102, §9; 96 Acts, ch 1187, §45 – 47; 98 Acts, ch 1183, §50 – 54; 2000 Acts, ch 1077, §53 – 58; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §28, 37; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §42 – 45; 2006 Acts, ch 1103, §2; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1171, §38, 48; 2010 Acts, ch 1167, §32

Referred to in **§97B.49A**, **§97B.49F**, **§97B.49G**, **§97B.50A**, **§97B.51**, **§97B.53**

**97B.52A Eligibility for benefits — bona fide retirement.**

1. A member has a bona fide retirement when the member terminates all employment covered under the chapter or formerly covered under the chapter pursuant to section 97B.42, files a completed application for benefits form with the system, survives into the month for which benefits are first payable, and meets the following applicable requirement:

*a.* For a member whose first month of entitlement is prior to July 1, 1998, the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits.

*b.* For a member whose first month of entitlement is July 1998 or later, but before July 2000, the member does not return to any employment with a covered employer until the member has qualified for no fewer than four calendar months of retirement benefits.

*c.* (1) 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.

(2) For purposes of determining a bona fide retirement under this paragraph "*c*", the following provisions apply:

(a) 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.

(b) For a member whose first month of entitlement is July 2004 or later, but before July 2014, covered employment does not include employment as a licensed health care professional by a public hospital. For the purposes of this subparagraph, "*public hospital*" means a hospital licensed pursuant to chapter 135B and governed pursuant to chapter 145A, 347, 347A, or 392.

(c) Effective May 25, 2008, any employment with a covered employer does not include noncovered employment as a member of the national guard called to state active duty as defined in section 29A.1.

2. A member may commence receiving retirement benefits under this chapter upon satisfying eligibility requirements. However, a retired member who commences receiving a retirement allowance but fails to meet the applicable requirements of subsection 1 does not have a bona fide retirement and any retirement allowance received by such a member must be returned to the system together with interest earned on the retirement allowance calculated at a rate determined by the system. Until the member has repaid the retirement allowance and interest, the system may withhold any future retirement allowance for which the member may qualify.

3. A member whose first month of entitlement is before July 1998 and who terminates covered employment but maintains an employment relationship with an employer that made contributions to the retirement system on the member's behalf does not have a bona fide retirement until all employment, including employment which is not covered by this chapter, with such employer is terminated for at least thirty days. In order to receive retirement benefits, the member must file a completed application for benefits form with the system before returning to any employment with the same employer.

4. The requirements of this section shall apply to a lump sum payment as provided

by section 97B.48, subsection 1, and the payment of contributions as provided in section 97B.48A, subsection 4.

92 Acts, ch 1201, §55; 95 Acts, ch 102, §10; 96 Acts, ch 1187, §48; 98 Acts, ch 1183, §55, 56; 2000 Acts, ch 1077, §59 – 62; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §46; 2005 Acts, ch 167, §29, 66; 2006 Acts, ch 1092, §6; 2010 Acts, ch 1167, §33, 40; 2012 Acts, ch 1138, §21; 2013 Acts, ch 138, §115, 127

Referred to in **§97B.1A**, **§97B.42**

**97B.53 Termination of employment — refund options.**

Membership in the retirement system, and all rights to the benefits under the retirement system, cease upon a member's termination of employment with the employer prior to the member's retirement, other than by death, and upon receipt by the member of a refund of moneys in the member's account as provided in this section.

1. Upon the termination of employment with the employer prior to retirement other than by death of a member, the member's account, consisting of accumulated contributions by the member and, for a member who is vested on the date an application for a refund is filed, the member's share of the accumulated employer contributions for the vested member at the date of the termination, may be paid to the member upon application, except as provided in subsections 2, 4, and 8. For the purpose of this subsection, the *"member's share of the accumulated employer contributions"* is an amount equal to the accumulated employer contributions of the member multiplied by a fraction of years of service for that member as defined in section 97B.49A, 97B.49B, or 97B.49C.

2. If a vested member's employment is terminated prior to the member's retirement, other than by death, the member may receive a monthly retirement allowance commencing on the first day of the month in which the member attains the age of sixty-five years, if the member is then alive, or, if the member so elects in accordance with section 97B.47, commencing on the first day of the month in which the member attains the age of fifty-five or any month thereafter prior to the date the member attains the age of sixty-five years, and continuing on the first day of each month thereafter during the member's lifetime, provided the member does not receive prior to the date the member's retirement allowance is to commence a refund of moneys in the member's account as provided under any of the provisions of this chapter. The amount of each such monthly retirement allowance shall be determined as provided in either sections 97B.49A through 97B.49G, or in section 97B.50, whichever is applicable.

3. A terminated, vested member has the right, prior to the commencement of the member's retirement allowance, to receive a refund of moneys in the member's account, and in the event of the death of the member prior to the commencement of the member's retirement allowance and prior to the receipt of any such refund, the benefits authorized by subsection 1 and subsection 2 of section 97B.52 shall be paid.

4. A member has not terminated employment for purposes of this section if the member commences other covered employment within thirty days after the date employment was terminated with a covered employer, or if the member begins covered employment prior to filing a request for a refund with the system.

5. Within sixty days after a member has been issued payment for a refund of moneys in the member's account, the member may repay the moneys refunded, plus interest that would have accrued, as determined by the system, and receive credit for membership service for the period covered by the refund payment.

6. A member who does not withdraw moneys in the member's account upon termination of employment may at any time request the return of the moneys in the member's account, but if the member receives a return of moneys in the member's account the member has waived all claims for any other benefits and membership rights from the fund.

7. 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 ninety 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.

8. The system is under no obligation to maintain the member account of a member who terminates covered employment prior to December 31, 1998, if the member was not vested at the time of termination. A person who made contributions to the abolished system, who is entitled to a refund in accordance with the provisions of this chapter, and who has not claimed and received such a refund prior to January 1, 1964, shall, if the person makes a claim for refund after January 1, 1964, be required to submit proof satisfactory to the system of the person's entitlement to the refund. The system is under no obligation to maintain the member accounts of such persons after January 1, 1964.

9. Any member whose employment is terminated may elect to leave the moneys in the member's member account in the retirement fund.

10. If an employee hired to fill a permanent position terminates the employee's employment within six months from the date of employment, the employer may file a claim with the system for a refund of the funds contributed to the system by the employer for the employee.

[C46, 50, §97.6, 97.13, 97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.53; 82 Acts, ch 1261, §24]

84 Acts, ch 1285, §16; 92 Acts, ch 1201, §56; 94 Acts, ch 1183, §45 – 47, 97; 96 Acts, ch 1187, §49; 98 Acts, ch 1183, §57 – 60, 78; 2000 Acts, ch 1077, §63; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §29; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §47

**97B.53A Duty of system.**

Upon a member's termination of covered employment prior to the member's retirement, the system shall send the member by first class mail, to the member's last known mailing address, a notice setting forth the balance and status of the member's account and supplemental account and an explanation of the courses of action available to the member under this chapter.

90 Acts, ch 1240, §39; 2000 Acts, ch 1077, §64; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

**97B.53B Rollovers of members' accounts.**

1. As used in this section, unless the context otherwise requires, and to the extent permitted by the internal revenue service:

*a.* *"Direct rollover"* means a payment by the system to the eligible retirement plan specified by an eligible person.

*b.* *"Eligible person"* means any of the following:

(1) The member.

(2) The member's surviving spouse.

(3) The member's spouse or former spouse as an alternate payee under a qualified domestic relations order.

(4) Effective January 1, 2007, the member's nonspouse beneficiaries who are designated beneficiaries as defined by section 401(a)(9)(E) of the federal Internal Revenue Code, as authorized under section 829 of the federal Pension Protection Act of 2006.

*c.* *"Eligible retirement plan"* means, for an eligible person, any of the following retirement plans that can accept an eligible rollover distribution from that eligible person:

(1) An individual retirement account in accordance with section 408(a) of the federal Internal Revenue Code.

(2) An individual retirement annuity in accordance with section 408(b) of the federal Internal Revenue Code.

(3) An annuity plan in accordance with section 403(a) of the federal Internal Revenue Code, or a qualified trust in accordance with section 401(a) of the federal Internal Revenue Code, that accepts an eligible rollover distribution from a member.

(4) Effective January 1, 2002, an annuity contract described in section 403(b) of the federal Internal Revenue Code, and an eligible plan under section 457(b) of the federal Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that chooses to

separately account for amounts transferred into such eligible retirement plan from the system.

(5) Effective January 1, 2008, a Roth individual retirement account or a Roth individual retirement annuity established under section 408A of the Internal Revenue Code.

*d.* (1) "*Eligible rollover distribution*" includes any of the following:

(a) All or any portion of a member's account and supplemental account.

(b) Effective January 1, 2002, after-tax employee contributions, if the plan to which such amounts are to be transferred is an individual retirement account described in federal Internal Revenue Code section 408(a) or 408(b), or is a qualified defined contribution plan described in federal Internal Revenue Code section 401(a) or 403(a), and such plan agrees to separately account for the after-tax amount so transferred.

(c) Effective January 1, 2007, after-tax employee contributions to a qualified defined benefit plan described in federal Internal Revenue Code section 401(a) or 403(a), or a tax-sheltered annuity plan described in federal Internal Revenue Code section 403(b), and such plan agrees to separately account for the after-tax amount so transferred.

(2) An eligible rollover distribution does not include any of the following:

(a) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(b) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(c) Prior to January 1, 2002, the portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

2. An eligible person may elect, at the time and in the manner prescribed in rules adopted by the system and in rules of the receiving retirement plan, to have the system pay all or a portion of an eligible rollover distribution directly to an eligible retirement plan in a direct rollover. However, effective January 1, 2007, if the eligible person is a nonspouse beneficiary as described in subsection 1, paragraph "*b*", subparagraph (4), the nonspouse beneficiary may only have a direct rollover of the distribution to an individual retirement account or annuity as described in subsection 1, paragraph "*c*", subparagraphs (1), (2), and (5), established for the purpose of receiving the distribution on behalf of the nonspouse beneficiary, and such individual retirement account or annuity will be treated as an inherited individual retirement account or annuity pursuant to section 829 of the federal Pension Protection Act of 2006.

94 Acts, ch 1183, §48; 96 Acts, ch 1187, §50; 2000 Acts, ch 1077, §65; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §30, 38; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §48, 61; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1171, §39, 48, 49

**97B.54** Repealed by 94 Acts, ch 1183, §88.

**97B.55** Repealed by 2000 Acts, ch 1031, §1.

**97B.56 Abolished system — liquidation fund.**

The assets of the old-age and survivors' liquidation fund, established by sections 97.50 to 97.53 and any future payments or assets payable to the old-age and survivors' liquidation fund, are hereby transferred to the retirement fund, and all payments hereafter due in accordance with the provisions of said sections shall be paid from the retirement fund.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.56]

86 Acts, ch 1246, §723; 94 Acts, ch 1183, §49

**97B.57** Repealed by 2001 Acts, ch 68, §23, 24.

**97B.58 Information furnished by employer.**

To enable the system to administer this chapter and perform its functions, the employer shall, upon the request of and in the manner provided by the system, provide accurate,

complete, and timely information to the system of all matters relating to the pay of all members, date of birth, their retirement, death, or other cause for termination of employment, and other pertinent facts the system may require in the manner provided by the system. The system shall not be liable to any member, retiree, or beneficiary for any monetary or other relief due to the failure of the employer to comply with this section.

[C46, 50, §97.23 – 97.25; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.58]

92 Acts, ch 1201, §57; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2010 Acts, ch 1167, §34

**97B.59 through 97B.61** Repealed by 2001 Acts, ch 68, §23, 24. See §97B.4.

**97B.62 Accepting employment deemed consent.**

Every employee accepting employment or continuing in employment shall as long as the employee continues to be a member and has not become a member of another retirement system in the state which is maintained in whole or in part by public contributions or payments be deemed to consent and agree to any deductions from the employee's compensation required by this chapter and to all other provisions thereof.

[C46, 50, §97.2, 97.9; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.62]

**97B.63** Reserved.

**97B.64 Insurance laws not applicable.**

None of the laws of this state regulating insurance or insurance companies shall apply to the system or to the retirement system or any of its funds.

[C46, 50, §97.47; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.64]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §180

**97B.65 Revision rights reserved — limitation on increase of benefits — rates of contribution.**

1. The right is reserved to the general assembly to alter, amend, or repeal any provision of this chapter or any application thereof to any person, provided, however, that to the extent of the funds in the retirement system the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to any member of the retirement system shall not be repudiated, provided further, however, that the amount of benefits accrued on account of prior service shall be adjusted to the extent of any unfunded accrued liability then outstanding.

2. An increase in the benefits or retirement allowances provided under this chapter shall not be enacted until after the system's actuary determines that the system is fully funded and will continue to be fully funded immediately following enactment of the increase and the increase can be absorbed within the contribution rates otherwise established for the membership group authorized to receive the increase. However, an increase in the benefits or retirement allowances provided under this chapter may be enacted if the statutory change providing for the increase is accompanied by an adjustment in the required contribution rate of the membership group affected that is necessary to support such increase as determined by the system's actuary.

[C46, 50, §97.11, 97.13; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.65]

2003 Acts, ch 145, §286; 2006 Acts, ch 1091, §10; 2008 Acts, ch 1171, §40, 48, 49

**97B.66 Former members.**

A vested or retired member who was a member of the teachers insurance and annuity association-college retirement equities fund (TIAA-CREF) at any time between July 1, 1967, and June 30, 1971, and who became a member of the retirement system on July 1, 1971, upon submitting verification of service and wages earned during the applicable period of service under the teachers insurance and annuity association-college retirement equities fund, may make employer and employee contributions to the retirement system based upon the covered wages of the member and the covered wages and the contribution rates

in effect for all or a portion of that period of service and receive credit for membership service under this retirement system equivalent to the applicable period of membership service in the teachers insurance and annuity association-college retirement equities fund for which the contributions have been made. In addition, a member making employer and employee contributions because of membership in the teachers insurance and annuity association-college retirement equities fund under this section who was a member of the retirement system on June 30, 1967, and withdrew the member's accumulated contributions because of membership on July 1, 1967, in the teachers insurance and annuity association-college retirement equities fund, may make employee contributions to the retirement system for all or a portion of the period of service under the retirement system prior to July 1, 1967. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more calendar quarters.

The contributions paid by the vested or retired member shall be equal to the accumulated contributions as defined in section 97B.1A, subsection 2, by the member for the applicable period of service, and the employer contribution for the applicable period of service under the teachers insurance and annuity association-college retirement equities fund (TIAA-CREF), that would have been or had been contributed by the vested or retired member and the employer, if applicable, plus interest on the contributions that would have accrued for the applicable period from the date the previous applicable period of service commenced under this retirement system or from the date the service of the member in the teachers insurance and annuity association-college retirement equities fund (TIAA-CREF) commenced to the date of payment of the contributions by the member as provided in section 97B.70.

However, the system shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

84 Acts, ch 1285, §17; 92 Acts, ch 1201, §58; 93 Acts, ch 44, §8; 94 Acts, ch 1183, §51, 97; 96 Acts, ch 1187, §51 – 53; 98 Acts, ch 1183, §82; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 108, §27; 2003 Acts, ch 145, §286; 2004 Acts, ch 1086, §22

**97B.67** Repealed by 88 Acts, ch 1242, §63.

**97B.68 Employees under federal civil service.**

1. Effective July 1, 1996, a person who is a member of the federal civil service retirement program or the federal employee's retirement system is not eligible for membership in the Iowa public employees' retirement system for the same position, and this chapter does not apply to that employee. An employee whose membership in the federal civil service retirement program or the federal employee's retirement system is subsequently terminated shall immediately notify the employee's employer and the system of that fact, and the employee shall become subject to this chapter on the date the notification is received by the system.

2. Upon termination of membership in the Iowa public employees' retirement system under the provisions of this section, the employee shall be paid from the Iowa public employees' retirement fund within six months of the termination a lump sum cash amount equal to the sum of:

*a.* Such member's accumulated contributions as defined in subsection 2 of section 97B.1A, computed as of July 4, 1959, plus

*b.* The total amount contributed to the Iowa old-age and survivors' insurance fund prior to July 1, 1953, by such member which was transferred to the retirement fund as of July 1, 1953, and would have been refundable to the member had the member not elected to receive prior service credit in accordance with section 97B.43, with interest on such amount at two percent per annum compounded annually from July 1, 1953, to July 4, 1959.

3. Effective July 1, 1996, an employee who participates in the federal civil service retirement program or the federal employee's retirement system may be covered under this chapter if otherwise eligible. The employee shall not be covered under this chapter,

however, unless the employee is not credited for service in the federal civil service retirement system or the federal employee's retirement system for the position to be covered under this chapter. This subsection shall not be construed to permit any employer to contribute on behalf of an employee for the same position and the same period of service to both the Iowa public employees' retirement system and either the federal civil service retirement program or the federal employee's retirement system.

[C62, 66, 71, 73, 75, 77, 79, 81, §97B.68]

88 Acts, ch 1242, §48; 96 Acts, ch 1187, §54, 55; 98 Acts, ch 1183, §82; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

**97B.69** Repealed by 84 Acts, ch 1285, §30.

**97B.70 Interest and dividends to members.**

1. For calendar years prior to January 1, 1997, interest at two percent per annum and interest dividends declared by the system shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions and accumulated employer contributions thereby.

*a.* The average rate of interest earned shall be determined upon the following basis:

(1) Investment income shall include interest and cash dividends on stock.

(2) Investment income shall be accounted for on an accrual basis.

(3) Capital gains and losses, realized or unrealized, shall not be included in investment income.

(4) Mean assets shall include fixed income investments valued at cost or on an amortized basis, and common stocks at market values or cost, whichever is lower.

(5) The average rate of earned interest shall be the quotient of the investment income and the mean assets of the retirement fund.

*b.* The interest dividend shall be determined within sixty days after the end of each calendar year as follows:

(1) The dividend rate for a calendar year shall be the excess of the average rate of interest earned for the year over the statutory two percent rate plus twenty-five hundredths of one percent.

(2) The average rate of interest earned and the interest dividend rate in percent shall be calculated to the nearest one hundredth, that is, to two decimal places.

(3) Interest and interest dividends calculated pursuant to this subsection shall be compounded annually.

2. For calendar years beginning January 1, 1997, a per annum interest rate at one percent above the interest rate on one-year certificates of deposit shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions and accumulated employer contributions account. For purposes of this subsection, the interest rate on one-year certificates of deposit shall be determined by the system based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one-quarter of the annual interest rate to the sum of the accumulated contributions and the accumulated employer contributions as of the end of the previous calendar quarter.

3. Interest shall be credited to the accumulated contributions and accumulated employer contributions accounts, and supplemental accounts of active members, inactive vested members, and, effective January 1, 1999, to inactive nonvested members, until the quarter prior to the quarter in which the member's first retirement allowance is paid or in which the member is issued a refund under section 97B.53, or in which a death benefit is issued.

4. Prior to January 1, 1999, interest and interest dividends shall be credited to the accumulated contributions and accumulated employer contributions account of a person who leaves the contributions in the retirement fund upon termination from covered employment prior to achieving vested status, but who subsequently returns to covered employment. Upon return to covered employment but prior to January 1, 1999, interest and interest dividends

shall be credited to the accumulated contributions and accumulated employer contributions account of the person commencing upon the date on which the person has covered wages.

5. If the system no longer maintains the accumulated contributions and accumulated employer contributions account of the person pursuant to this chapter, but the person submits satisfactory proof to the system that the person, or the person's employer, did make contributions that should be included in the accumulated contributions and accumulated employer contributions account, the system shall credit interest and interest dividends in the manner provided in subsection 4.

[C66, 71, 73, 75, 77, 79, 81, §97B.70]

94 Acts, ch 1183, §52, 97; 96 Acts, ch 1187, §56; 98 Acts, ch 1183, §61, 62; 2000 Acts, ch 1077, §67; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §186

Referred to in **§97B.1A, §97B.9, §97B.10, §97B.48A, §97B.49H, §97B.66, §97B.80C**

**97B.71** Repealed by 92 Acts, ch 1201, §77.

**97B.72 through 97B.73A** Repealed by 2004 Acts, ch 1103, §60. See §97B.80C.

**97B.73B Patient advocates — unpaid contributions — service purchase.** Repealed by 2008 Acts, ch 1171, §46, 48.

**97B.74 Reinstatement as a vested member (buy-back).** Repealed by 2004 Acts, ch 1103, §60. See §97B.80C.

**97B.75 Prior service credit before January 1, 1946.** Repealed by 2004 Acts, ch 1103, §60.

**97B.76** Transferred to §97D.4. See 90 Acts, ch 1240, §93.

**97B.77 through 97B.79** Reserved.

**97B.80 Veteran's credit.**

1. Effective July 1, 1992, a vested or retired member who has one or more full calendar years of covered wages and who at any time served on active duty in the armed forces of the United States, upon submitting verification of the dates of the active duty service, may make contributions to the retirement system for all or a portion of the period of time of the active duty service, in increments of one or more calendar quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made.

2. The contributions required to be made for purposes of this section shall be determined as follows:

*a.* For a member making contributions for a purchase of additional service prior to July 1, 1999, the contributions to be paid, representing both employer and employee contributions, shall be based upon the member's covered wages for the most recent full calendar year in which the member had reportable wages at the applicable rates in effect for that year under sections 97B.11, 97B.49B, 97B.49C, and 97B.49G. If the member's most recent covered wages were earned prior to the most recent calendar year, the member's covered wages shall be adjusted by the system by an inflation factor to reflect changes in the economy.

*b.* For a member making contributions for a purchase of additional service on or after July 1, 1999, the member shall make contributions in an amount equal to the actuarial cost of the service purchase. For purposes of this paragraph, the actuarial cost of the service purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

3. Verification of active duty service and payment of contributions shall be made to the system. However, a member is not eligible to make contributions under this section if the member is receiving, is eligible to receive, or may in the future be eligible to receive retirement pay from the United States government for active duty in the armed forces, except

for retirement pay granted by the United States government under retired pay for nonregular service pursuant to 10 U.S.C. §12731 – 12739. A member receiving retired pay for nonregular service who makes contributions under this section shall provide information required by the system documenting time periods covered under retired pay for nonregular service.

4. Effective July 1, 2004, a member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to adjusted payments beginning with the month in which the member pays contributions under this section.

5. However, the system shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

88 Acts, ch 1242, §54; 90 Acts, ch 1240, §42; 92 Acts, ch 1201, §60; 93 Acts, ch 44, §14; 94 Acts, ch 1183, §59; 96 Acts, ch 1187, §67, 68; 97 Acts, ch 23, §11; 98 Acts, ch 1183, §68; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §51, 52

**97B.80A and 97B.80B** Repealed by 2004 Acts, ch 1103, §60. See §97B.80C.

**97B.80C Purchases of permissive service credit.**

1. *Definitions.* For purposes of this section:

*a.* "*Nonqualified service*" means any of the following:

(1) Service that is not qualified service.

(2) Any period of time for which there was no performance of services.

(3) Service as described in subsection 1, paragraph "*c*", subparagraph (2).

*b.* "*Permissive service credit*" means credit that will be recognized by the retirement system for purposes of calculating a member's benefit, for which the member did not previously receive service credit in the retirement system, and for which the member voluntarily contributes to the retirement system the amount required by the retirement system, not in excess of the amount necessary to fund the benefit attributable to such service.

*c.* (1) "*Qualified service*" means any of the following:

(a) Service with the United States government or any state or local government, including any agency or instrumentality thereof, regardless of whether that government, agency, or instrumentality was a covered employer at the time of the service.

(b) Service with an association representing employees of the United States government or any state or local government, including any agency or instrumentality thereof, regardless of whether that government, agency, or instrumentality was a covered employer at the time of the service.

(c) Service with an educational organization which normally maintains a regular faculty and curriculum, normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and is a public, private, or sectarian school which provides elementary education or secondary education through grade twelve.

(d) Military service other than military service required to be recognized under Internal Revenue Code section 414(u) or under the federal Uniformed Services Employment and Reemployment Rights Act.

(e) Service as a member of the general assembly.

(f) Previous service as a county attorney by a part-time county attorney.

(g) Service in public employment comparable to employment covered under this chapter in another state or in the federal government, or service as a member of another public retirement system in this state, including but not limited to the teachers insurance and annuity association-college retirement equities fund (TIAA-CREF), if the member was not retired under that system and has no further claim upon a retirement benefit from that other public system.

(h) Service as a member of the retirement system at any time on or after July 4, 1953, if the member received a refund of the member's accumulated contributions for that period of membership service.

(i) An approved leave of absence which does not constitute service as defined in section 97B.1A, which is granted on or after July 1, 1998.

(j) Employment of a person who at the time of the employment was not covered by this chapter, was employed by a covered employer under this chapter, and did not opt out of coverage under this chapter.

(k) Employment of a person as an adjunct instructor as defined in section 97B.1A, subsection 8.

(2) "*Qualified service*" does not include service as described in subparagraph (1) if the receipt of credit for such service would result in the member receiving a retirement benefit under more than one retirement plan for the same period of service.

2. *a.* A vested or retired member may make contributions to the retirement system to purchase up to the maximum amount of permissive service credit for qualified service as determined by the system, pursuant to Internal Revenue Code section 415(n), the requirements of this section, and the system's administrative rules.

*b.* A vested or retired member of the retirement system may make contributions to the retirement system to purchase up to a maximum of twenty quarters of permissive service credit for nonqualified service as determined by the system, pursuant to Internal Revenue Code section 415(n), the requirements of this section, and the system's administrative rules. A vested or retired member must have at least twenty quarters of covered wages in order to purchase permissive service credit for nonqualified service.

*c.* A vested or retired member may convert regular member service credit to special service credit by payment of the amount actuarially determined as necessary to fund the resulting increase in the member's accrued benefit. The conversion shall be treated as a purchase of qualified service credit subject to the requirements of paragraph "*a*" if the service credit to be converted was or would have been for qualified service. The conversion shall be treated as a purchase of nonqualified service credit subject to the requirements of paragraph "*b*" if the service credit to be converted was purchased as nonqualified service credit.

3. *a.* A member making contributions for a purchase of permissive service credit under this section, except as otherwise provided by this subsection, shall make contributions in an amount equal to the actuarial cost of the permissive service credit purchase.

*b.* For a member making contributions for a purchase of permissive service credit for qualified service as described in subsection 1, paragraph "*c*", subparagraph (1), subparagraph division (e), under this section, the member shall make contributions in an amount equal to forty percent of the actuarial cost of the service purchase. There is appropriated from the general fund of the state to the system an amount sufficient to pay sixty percent of the actuarial cost of the service purchase by a member pursuant to this paragraph.

*c.* For a member making contributions for a purchase of permissive service credit for qualified service as described in subsection 1, paragraph "*c*", subparagraph (1), subparagraph division (f), under this section, the member shall make contributions in an amount equal to forty percent of the actuarial cost of the service purchase. Upon notification of the applicable county board of supervisors of the member's election, the county board of supervisors shall pay to the system an amount sufficient to pay sixty percent of the actuarial cost of the service purchase by a member pursuant to this paragraph.

*d.* For a member making contributions for a purchase of permissive service credit for qualified service as described in subsection 1, paragraph "*c*", subparagraph (1), subparagraph division (h), in which, prior to July 1, 1998, the member received a refund of the member's accumulated contributions and subsequently returned to covered employment as a full-time employee for whom coverage under this chapter was mandatory the member shall receive a credit against the actuarial cost of the service purchase equal to the amount of the member's employer's accumulated contributions which were not paid to the member as a refund pursuant to section 97B.53 plus interest as calculated pursuant to section 97B.70.

*e.* For purposes of this subsection, the actuarial cost of the service purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of permissive service credit.

4. Effective July 1, 2004, a member eligible for an increased retirement allowance because of the payment of contributions under this or any other section providing for the purchase of

service credit is entitled to adjusted payments beginning with the month in which the member pays contributions under the applicable section.

5. Effective July 1, 2004, a purchase of service made in accordance with this or any other section providing for the purchase of service credit by a retired reemployed member shall be applied to the member's original retirement allowance. The member is eligible to receive adjustment payments beginning with the month of the purchase.

6. A member who is entitled to a benefit from another public retirement system and wishes to purchase the service covered by that public retirement system must waive, on a form provided by the Iowa public employees' retirement system, all rights to a retirement benefit under that other public system before purchasing credit in this system for the period of service covered by that other public system. The waiver must be accepted by the other public system. If the waiver is not obtained, a member may buy up to twenty quarters of such service credit. In no event can a member receive more than one service credit for any given calendar quarter.

7. The system shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

2002 Acts, ch 1135, §33; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §53 – 56; 2008 Acts, ch 1171, §41 – 43, 48, 49; 2009 Acts, ch 41, §263

Referred to in **§97B.43**, **§97B.50**, **§97B.82**

Payment of applicable contribution amount to replace contributions not made because of employer-mandated reductions in hours or employee-exercised reduction in pay during the time period beginning on or after January 1, 2009, and ending June 30, 2011; 2009 Acts, ch 170, §51, 55; 2010 Acts, ch 1167, §36, 41

**97B.81 Leaves of absence.** Repealed by 2004 Acts, ch 1103, §60. See §97B.80C.

**97B.82 Purchase of service credit — direct rollovers — direct transfers.**

1. Effective July 1, 2002, a member may, to the extent permitted by the internal revenue service, purchase any service credit permitted under this chapter by means of a direct rollover or a direct transfer as provided in this section pursuant to rules adopted by the system and consistent with applicable requirements of the federal Internal Revenue Code. Purchases of service credit by means of a direct rollover or direct transfer under this section shall not exceed the amounts permitted under section 415(n) of the federal Internal Revenue Code and section 97B.80C as determined by the system.

2. *a.* A member may purchase service credit as authorized by this section through a direct rollover to the retirement system of an eligible rollover distribution from an eligible retirement plan as permitted by the internal revenue service under the federal Internal Revenue Code. The amount of the direct rollover into the retirement system cannot exceed the cost of the service purchase by a member under this chapter. Once a direct rollover is made, the member must forfeit the applicable service credit from the eligible retirement plan from which the eligible rollover distribution is received.

*b.* (1) For purposes of this subsection, *"an eligible rollover distribution from an eligible retirement plan"* includes distributions from any of the following:

(a) Qualified plans described in federal Internal Revenue Code sections 401(a) and 403(a).

(b) Annuity contracts described in federal Internal Revenue Code section 403(b).

(c) Eligible plans described under federal Internal Revenue Code section 457(b) which are maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(d) Individual retirement accounts described in federal Internal Revenue Code section 408(a) or 408(b).

(2) An eligible rollover distribution from an eligible retirement plan does not include any of the following:

(a) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(b) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(c) (i) For rollover service purchases prior to January 1, 2007, the portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(ii) For rollover service purchases on or after January 1, 2007, the portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities, shall be treated as an eligible rollover distribution only when such portion is received from a qualified plan under section 401(a) or 403(a) of the federal Internal Revenue Code.

(d) Any amounts that are not permitted to be treated as eligible rollover distributions by the internal revenue service under the federal Internal Revenue Code.

3. A member may purchase any service credit as authorized by this section, to the extent permitted by the internal revenue service, by means of a direct transfer of pretax amounts, and effective January 1, 2007, any after-tax contributions, from an annuity contract qualified under federal Internal Revenue Code section 403(b), or an eligible plan described in federal Internal Revenue Code section 457(b), maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. A direct transfer is a trustee-to-trustee transfer to the retirement system of contributions made to annuity contracts qualified under federal Internal Revenue Code section 403(b) and eligible governmental plans qualified under federal Internal Revenue Code section 457(b) for purposes of purchasing service credit in the retirement system.

2000 Acts, ch 1077, §72; 2002 Acts, ch 1135, §34; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §44, 45, 48, 49