



LEGAL SERVICES DIVISION
Legislative Guide

IOWA PUBLIC RETIREMENT SYSTEMS

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LEGISLATIVE GUIDE TO IOWA PUBLIC RETIREMENT SYSTEMS



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I. Introduction.

References to the Iowa Code are to the 2007 Iowa Code and Code Supplement, except as otherwise indicated. The Iowa Administrative Code references are current to August 2007.

A. Overview.

1. Pension Plan Basics.

A pension plan is essentially a tax-deferred savings plan. Moneys are contributed to the plan during a person's working lifetime, earnings on that money accumulate tax free, and the person, upon retirement, withdraws the money in either a lump sum or periodically over the remainder of their lifetime. While the basic concept of a pension plan is fairly universal, the manner in which moneys are contributed, invested, and paid upon retirement can vary significantly based upon the type of pension plan created. Most pension plans are structured as either a defined contribution¹ or a defined benefit² plan, although some pension plans contain elements of both.

Under a defined contribution plan, such as a 401K style or other deferred compensation plan, moneys are contributed to an individual account for each participant and the moneys contributed, plus any investment earnings, determine the retirement benefit made available to the participant upon retirement.³ Generally, the investment risk is borne by the participant, and not the retirement system, and the benefits available to a participant upon retirement depend solely on the moneys contributed to the account and the earnings on those contributions.

Under a defined benefit plan, however, the determination of a person's retirement benefit is based upon a benefit formula prescribed by contract or statute. Unlike a defined contribution plan, moneys contributed to a defined benefit plan are pooled, and the pooled contributions are invested by the retirement system and not by the individual participants in the plan. Because the benefits paid to participants under a defined benefit plan are fixed and generally determined by formula, the retirement system operating a plan assumes the risk of ensuring that moneys contributed to the plan, plus the investment earnings on those contributions, are sufficient to pay the promised benefits. Since the extent of benefits to be paid to all members of a defined benefit plan cannot be known at any given time with absolute certainty, actuarial methods are used to better estimate the cost of the benefits already earned and to be earned, so that sufficient funds can be contributed to the system to pay for those benefits.

2. Iowa Public Employee Pension Plans.

State and local government employees in Iowa generally belong to four different publicly administered retirement systems, all of which are considered defined benefit

¹ A defined contribution system means the dollars contributed are defined in the plan and the benefit paid is determined by events.

² A defined benefit system means the benefit amount is defined in the plan and the amount of dollars contributed is determined by events.

³ Section 414(i) of the federal Internal Revenue Code defines a defined contribution plan as "... a plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account."



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plans. The largest system is the Iowa Public Employees' Retirement System (IPERS), which includes most public employees in Iowa. The Municipal Fire and Police Retirement System of Iowa (MFPRSI) includes most professional police officers and fire fighters who are employed by municipalities, and has the second highest number of members. The Iowa Department of Public Safety Peace Officers' Retirement, Accident, and Disability System (PORS) includes peace officers employed by the Department of Public Safety. The publicly operated system with the fewest number of members is the Judicial Retirement System, which includes appellate and trial court judges, district associate judges, and full-time associate juvenile and probate judges.

While most public employees belong to the four major public retirement systems, some employees, including many employees of public higher educational institutions, may elect to participate in an alternative retirement plan, generally structured as a defined contribution plan.⁴

3. Federal Law Impact.

Public employee pensions are primarily exempt from many of the federal law requirements governing private pensions, such as the Employee Retirement Income Security Act (ERISA) and the recently enacted Pension Protection Act of 2006.⁵ However, public pension plans need to ensure that the plan qualifies for favorable tax treatment so applicable federal Internal Revenue Code and Internal Revenue Service regulations are critically important. In addition, several other federal statutes, including the Americans With Disabilities Act (ADA) and the Age Discrimination in Employment Act (ADEA), impact the options which may be included in public retirement plans. The extent of other employee benefits, such as deferred compensation plans and other benefits designed to provide a favorable tax advantage for employees, also have an impact when determining whether a retirement plan meets federal requirements.

B. Legislative Oversight.

1. Overview.

The four main public retirement systems in Iowa are largely governed by state law. Iowa law establishes the benefits provided under each system, provides the mechanism for funding each system, and outlines the governance of each system. As a result, changes in benefits, funding, or governance policy for each of the systems is made through the legislative process, and not by any other means, such as collective bargaining.⁶ Consequently, the General Assembly is the critical decision-making body responsible for reviewing and making changes through legislation for each of the four main public retirement systems.

⁴ See discussion under section VI.

⁵ However, some of the provisions of the Pension Protection Act of 2006 do apply to public sector pension plans. The National Association of State Retirement Administrators (www.nasra.org) includes a document on its website describing the impact of the Act on public pensions: <http://www.nasra.org/federal/PPA%20Ice%20Miller.pdf> (last visited August 15, 2007).

⁶ Iowa Code § 20.9 governing the scope of collective bargaining provides that, "All retirement systems shall be excluded from the scope of negotiations."

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2. Guiding Principles for Public Pensions.

Code chapter 97D establishes guiding principles governing the consideration of future legislative changes to public retirement systems in the state. Specifically, Code section 97D.1 provides as follows:

97D.1 Guiding goals for future changes in public retirement systems-social security-portability.

1. The general assembly declares that legislative proposals for changes in specific public retirement systems should be considered within the context of all public retirement systems within the state, with emphasis on equity and equality among the systems. The following list of guiding goals shall apply to the consideration of proposed changes:

a. Select those benefit enhancement options which most successfully deliver the greatest good to the greatest number of employees.

b. Choose those options which best correct existing inequities between and among the various retirement groups in the state.

c. Determine those options which most ably serve the twin objectives of attracting and retaining quality employees.

d. Avoid enacting further incentives toward earlier retirement with full benefits.

e. Avoid further splintering of benefits by disproportionate enhancement of benefits for one group beyond those available to another.

f. Avoid enacting further benefit enhancements that fail to preserve or enhance intergenerational equity amongst all employees covered by the retirement system.

2. The public retirement systems committee established by section 97D.4 shall periodically weigh the advantages and disadvantages of establishing participation in the federal social security system for the members of public retirement systems operating under chapters 97A and 411 and the impact of such a change on total contributions and benefits.

3. The public retirement systems committee established by section 97D.4 shall consider proposals to achieve greater portability of pension benefits between the various public retirement systems in the state. Special attention should be given to the actuarial cost of transfers of value from one system to another.

3. Public Retirement Systems Committee.

The Public Retirement Systems Committee is a 10-member legislative committee tasked with the responsibility to examine and make recommendations to the General Assembly concerning public retirement systems in Iowa.⁷ Code section 97D.4, subsection 3, establishes the duties of the committee:

- Develop and recommend retirement standards and a coherent state policy on public retirement systems.

⁷ Iowa Code § 97D.4.



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- Continuously survey pension and retirement developments in other states and in industry and business and periodically review the state's policy and standards in view of these developments and changing economic and social conditions.
- Review the provisions in the public retirement systems in effect in this state.
- Review individually sponsored bills relating to the public retirement systems.
- Review proposals from interested associations and organizations recommending changes in the state's retirement laws.
- Study the feasibility of adopting a consolidated retirement system for the public employees of this state.
- Make recommendations to the General Assembly.

II. Iowa Public Employees' Retirement System (IPERS) — Chapter 97B.

A. Overview.

The Iowa Public Employees' Retirement System (IPERS) is established and governed by Code chapter 97B and rules adopted pursuant to that chapter.⁸ IPERS was established in 1953 to replace the Iowa Old Age and Survivor's Insurance System (IOASI), which existed from 1946 until July 1, 1953.⁹ Information concerning IPERS can be found on the IPERS website located at <http://www.ipers.org/>.

B. Governance.

1. Chief Executive Officer.

IPERS is an independent agency within the executive branch of state government charged with the administration of the retirement system established by Code chapter 97B.¹⁰ IPERS is managed by a chief executive officer, appointed by the Governor and subject to confirmation by the Senate, who serves for a four-year term.¹¹ During each term of office, the chief executive officer can only be removed from office for malfeasance in office or any cause that makes the person unfit for office.¹² The qualifications for chief executive officer include management-level pension fund administration experience.¹³ The chief executive officer is also required to employ a chief investment officer who is selected following consultation with the IPERS Investment Board and a chief benefits officer who is selected following consultation with the Benefits Advisory Committee.¹⁴

2. Investment Board.

The IPERS Investment Board has the duty to establish the investment policy relating to the retirement fund. The IPERS Investment Board is made the trustee of the IPERS Retirement Fund and is given the explicit authority, in consultation with the

⁸ The administrative rules for IPERS are located at Iowa Admin. Code 495.

⁹ See Iowa Code ch. 97 for some provisions of IOASI.

¹⁰ Iowa Code § 97B.1(1).

¹¹ Iowa Code § 97B.3(1).

¹² Iowa Code § 97B.3(1).

¹³ Iowa Code § 97B.3(2).

¹⁴ Iowa Code § 97B.4(3).



chief investment officer and other personnel of the system, to develop the investment policy and goal statement that will direct the investment activities concerning the fund.¹⁵ The 11-member board consists of the Treasurer of State, three members who must have substantial institutional investment or financial experience, three members who are members of IPERS, and four legislative members. The four legislative members are nonvoting members.¹⁶

3. Benefits Advisory Committee.

The Benefits Advisory Committee has the duty to review and make recommendations to the system and the General Assembly concerning the provision of benefits and services to members of the system and to submit nominees for the Governor's consideration to fill the positions on the investment board for members of the system. This board is comprised of representatives of constituent groups concerned with IPERS, and the nine voting members of the board must include an equal number of representatives of employers and employees who are covered by IPERS.¹⁷

C. Membership.

1. General Provisions.

For the most part, IPERS covers all nontemporary employees of the State of Iowa and its political subdivisions, including counties, municipalities, agencies, and public school districts, and all of their instrumentalities.

An employee, for purposes of coverage under IPERS, is an individual employed as defined by Code chapter 97B for whom coverage is mandatory.¹⁸ This status exists when the individual and an employer as defined by Code chapter 97B enter into a relationship which both recognize to be that of employer/employee.¹⁹ An employer is defined as 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 in an alternative qualified plan, joint planning commissions created under Code chapter 28E or 28I, and certain interstate agencies established under Code chapter 28E and similar enabling legislation in an adjoining state where an employer had made contributions to the system for employees performing functions which are transferred to the interstate agency.²⁰ Except for certain categories of employees who are specifically excluded from membership²¹ or who are authorized by law to elect alternative or no coverage,²² IPERS membership for covered employees is mandatory.²³

¹⁵ Iowa Code § 97B.8A(1), (2).

¹⁶ Iowa Code § 97B.8A(4).

¹⁷ Iowa Code § 97B.8B.

¹⁸ Iowa Code § 97B.1A(8).

¹⁹ Iowa Admin. Code 495-5.1(1).

²⁰ Iowa Code § 97B.1A(9).

²¹ Iowa Code § 97B.1A(8)(b).

²² Iowa Code § 97B.1A(8)(a).

²³ Iowa Code § 97B.42.



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2. Exclusions From Membership.

The following classes of employees who might otherwise be covered under IPERS are excluded from coverage under IPERS:²⁴

- Persons who are members of any other retirement system in the state which is maintained in whole or in part by public contributions.²⁵ Accordingly, members of MFPRSI, PORS, the Judicial Retirement System, and persons who have opted for coverage under an alternative retirement plan including those described in section VI of this guide are not included in IPERS.
- Enrolled students who are only incidentally employed by covered employers.²⁶
- Graduate medical students while serving as interns or resident doctors-in-training at any hospital.²⁷
- County medical examiners and deputy county medical examiners.²⁸
- Employees hired for temporary employment of less than six months or 1,040 hours in a calendar year.²⁹
- Adjunct instructors, who are defined as 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.³⁰
- Foreign exchange teachers and visitors.³¹
- Employees of the Iowa Dairy Industry Commission, the Iowa Beef Cattle Producers Association, the Iowa Pork Producers Council, the Iowa Turkey Marketing Council, the Iowa Soybean Association, the Iowa Corn Promotion Board, and the Iowa Egg Council.³²
- Judicial hospitalization referees appointed under Code section 229.21.³³
- 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.³⁴
- Persons employed through the Iowa Conservation Corps.³⁵
- Persons employed by the Iowa Student Loan Liquidity Corporation.³⁶
- Independent contractors.³⁷

²⁴ See, generally, Iowa Code §§ 97B.1A(8)(b), 97B.42; Iowa Admin. Code 495-5.2.

²⁵ Iowa Code § 97B.42; Iowa Admin. Code 495-5.2(20).

²⁶ Iowa Code § 97B.1A(8)(b)(1).

²⁷ Iowa Code § 97B.1A(8)(b)(2).

²⁸ Iowa Code § 97B.1A(8)(b)(2).

²⁹ Iowa Code § 97B.1A(8)(b)(3).

³⁰ Iowa Code § 97B.1A(8)(b)(3).

³¹ Iowa Code § 97B.1A(8)(b)(4).

³² Iowa Code § 97B.1A(8)(b)(5).

³³ Iowa Code § 97B.1A(8)(b)(6).

³⁴ Iowa Code § 97B.1A(8)(b)(7).

³⁵ Iowa Code § 97B.1A(8)(b)(8).

³⁶ Iowa Code § 97B.1A(8)(b)(9).



3. Optional Membership.

Several classes of employees are provided the option of whether or not to become a member of IPERS.³⁷ Commencing January 1, 1999, newly hired employees in these classes are included under IPERS unless an election to be excluded is made.³⁸ In addition, employees in these classes as of January 1, 1999, or July 1, 2000, for employees employed by a water utility or waterworks, who previously had not been a member of IPERS or a publicly funded retirement system became covered under IPERS unless they elected to opt out of coverage within a specified period of time.³⁹ The election to opt out of coverage under IPERS must generally be made within 60 days from the date the person was employed and is irrevocable.⁴⁰ The following classes of employees are provided the option of whether or not to become a member of IPERS.

- 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. (A county attorney is covered under IPERS whether that county attorney is employed on a full-time or part-time basis.)⁴¹
- Members of the General Assembly and temporary employees of the General Assembly. A member of the General Assembly covered under this chapter may terminate membership under this chapter by informing IPERS in writing of the member's intent to terminate membership.⁴²
- Nonvested employees of drainage and levee districts.⁴³
- Employees of a community action program, determined to be an instrumentality of the state or a political subdivision.⁴⁴
- Magistrates.⁴⁵
- Members of the ministry, rabbinate, or other religious order who have taken the vow of poverty.⁴⁶
- Persons employed as city managers, or as city administrators performing the duties of city managers.⁴⁷
- Members of the State Transportation Commission, the Board of Parole, and the State Health Facilities Council.⁴⁸

³⁷ Iowa Admin. Code 495-5.2(38).

³⁸ Iowa Code §§ 97B.1A(8)(a), 97B.42A.

³⁹ Iowa Code § 97B.42A(1).

⁴⁰ Iowa Code §§ 97B.42A(3), 97B.42A(5).

⁴¹ Iowa Code § 97B.42(1), (3), (5).

⁴² Iowa Code § 97B.1A(8)(a)(1).

⁴³ Iowa Code § 97B.1A(8)(a)(2).

⁴⁴ Iowa Code § 97B.1A(8)(a)(3).

⁴⁵ Iowa Code § 97B.1A(8)(a)(4).

⁴⁶ Iowa Code § 97B.1A(8)(a)(5); see also Iowa Code § 602.1611(3).

⁴⁷ Iowa Code § 97B.1A(8)(a)(6).

⁴⁸ Iowa Code § 97B.1A(8)(a)(7).

⁴⁹ Iowa Code § 97B.1A(8)(a)(8).



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- 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 Code section 97B.2.⁵⁰
- Persons employed by the Board of Trustees for the Statewide Fire and Police Retirement System established in Code section 411.36.⁵¹
- Persons employed by a municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to Code chapter 412.⁵²
- Employees of area community colleges are included unless they elect coverage under an alternative retirement benefits system pursuant to a one-time irrevocable election. An election to participate in the alternative retirement benefits system is irrevocable as to the person's employment with that community college and any other community college in this state.⁵³

4. Special Membership Classifications.

Retirement benefits, as well as contribution requirements, differ from the benefit and contribution requirements for the general membership for certain IPERS members who belong to one of two special membership classifications.

a. Protection Occupation. A member covered within the protection occupation special classification includes all of the following:

- A conservation peace officer employed under Code section 456A.13 or as designated by a county conservation board pursuant to Code section 350.5.⁵⁴
- A marshal in a city not covered under Code chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in Code chapter 410 or 411.⁵⁵
- A correctional officer or correctional supervisor employed by the 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.⁵⁶
- An airport safety officer employed under Code chapter 400 by an airport commission in a city of 100,000 population or more.⁵⁷
- An employee of the Department of Transportation who is designated as a "peace officer" by resolution under Code section 321.477.⁵⁸
- 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

⁵⁰ Iowa Code § 97B.1A(8)(a)(9).

⁵¹ Iowa Code § 97B.1A(8)(a)(10).

⁵² Iowa Code § 97B.1A(8)(a)(11).

⁵³ Iowa Code § 97B.42.

⁵⁴ Iowa Code § 97B.49B(1)(e)(1).

⁵⁵ Iowa Code § 97B.49B(1)(e)(2).

⁵⁶ Iowa Code § 97B.49B(1)(e)(3).

⁵⁷ Iowa Code § 97B.49B(1)(e)(4).

⁵⁸ Iowa Code § 97B.49B(1)(e)(5).

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Iowa Department of Public Safety Peace Officers' Retirement, Accident, and Disability System, as provided in Code section 97B.42B.⁵⁹

- A merit system protected employee whose primary duty is providing airport security and who carries or is licensed to carry a firearm while performing those duties.⁶⁰
- An airport fire fighter employed by the Military Division of the Department of Public Defense.⁶¹

b. Sheriffs and Deputy Sheriffs. A member covered within the sheriffs and deputy sheriffs special classification includes the following:

- A county sheriff as defined in Code section 39.17.⁶²
- A deputy sheriff appointed pursuant to Code section 341.1 prior to July 1, 1981, or Code section 331.903 on or after July 1, 1981.⁶³

D. Funding.

1. Contributions.

IPERS is funded through contributions made to IPERS for a member's public service by both the member and employer based on the wages⁶⁴ of the employee as established by statute. Since January 1, 1999, the employee's contribution to IPERS has not been considered part of an employee's gross wages for purposes of federal and state income taxation.⁶⁵ For all other purposes, such as IPERS and Federal Insurance Contributions Act (FICA) contributions, an employee's gross wages include the employee's contribution to IPERS.

a. General Membership. Code section 97B.11 provides the employer and employee contribution rates for the general membership of IPERS. Prior to July 1, 2007, the employee contributed 3.70 percent of the employee's covered wages and the employer contributed 5.75 percent of the employee's covered wages, for a combined rate of 9.45 percent. Beginning July 1, 2007, the base employer rate of 5.75 percent will increase by .3 percentage points per fiscal year and the base employee rate of 3.70 percent will increase by .2 percentage points per fiscal year for a total of four fiscal years. However, no increase in contribution rates will occur in any of the four fiscal years if the rate to amortize the unfunded actuarial liability of the system in 10 years is less than the total employer and employee contribution rate for the prior fiscal year. If the increases are needed each of the four years, the employer contribution rate will increase to 6.95 percent and the employee contribution rate will increase to 4.5 percent for fiscal years beginning on and after July 1, 2010, resulting in a combined rate of 11.45 percent.⁶⁶

⁵⁹ Iowa Code § 97B.49B(1)(e)(6).

⁶⁰ Iowa Code § 97B.49B(1)(e)(7).

⁶¹ Iowa Code § 97B.49B(1)(e)(8).

⁶² Iowa Code § 97B.49C(1)(e).

⁶³ Iowa Code § 97B.49C(1)(b).

⁶⁴ Iowa Code § 97B.1A(26).

⁶⁵ Iowa Code § 97B.11A.

⁶⁶ For the fiscal year beginning July 1, 2007, the employee contribution rate increased to 3.90 percent and the employer contribution rate increased to 6.05 percent. Iowa Admin. Code 495-4-6(1).



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b. Special Membership Classification. The contribution rate for the two special membership classifications is not fixed as a set percentage of covered wages by statute but is instead adjusted each fiscal year based upon the cost of the benefits provided to members of each classification, with members and employers paying a percentage of this adjusted rate. For members of the protection occupation special classification, 60 percent of the total contribution rate needed to pay the cost of benefits is charged to the employer and 40 percent to the employee.⁶⁷ For members of the sheriffs and deputy sheriffs special classification, 50 percent of the total contribution rate needed to pay the cost of benefits is charged to both the employer and the employee.⁶⁸

2. Investments.

The investment of moneys contributed to the IPERS retirement fund is managed pursuant to the investment policy established by the IPERS investment board.⁶⁹ Code section 97B.7A provides the parameters for establishing the investment policy for the retirement fund and requires that the system and board exercise such judgment and care in the investment of moneys in the fund as a prudent person would exercise in the management of their own affairs.⁷⁰ Consistent with these standards, IPERS is generally given the latitude to invest in every kind of property and investment⁷¹ and is exempt from most statutory restrictions otherwise applicable to the investment of public funds.⁷² Iowa law does provide, though, that, consistent with the investment policy established by the board and the prudent person standard, investments must be made in a manner that will enhance the economy of the state and result in increased employment of Iowa residents.⁷³ New legislation also restricts the ability of IPERS to invest in Sudan-related investments.⁷⁴

3. Limitations on Benefit Enhancements — Funded Status.

Code section 97B.65 provides that an increase in the benefits or retirement allowances provided under IPERS cannot 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 or that the increase is accompanied by a change in the contribution rates necessary to support the increase. Fully funded is defined as a funded ratio of at least 100 percent using the most recent actuarial valuation and calculated 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.⁷⁵

⁶⁷ Iowa Code § 97B.49B(3)(a); Iowa Admin. Code 495-4.6(3). For the fiscal year beginning July 1, 2007, the contribution rate schedule is 5.64 percent for the employee and 8.47 percent for the employer.

⁶⁸ Iowa Code § 97B.49C(3)(a); Iowa Admin. Code 495-4.6(2). For the fiscal year beginning July 1, 2007, the contribution rate schedule is 7.7 percent for the employee and 7.7 percent for the employer.

⁶⁹ Iowa Code § 97B.8A.

⁷⁰ Iowa Code § 97B.7A(1)(a).

⁷¹ Iowa Code § 97B.7A(2).

⁷² Iowa Code §§ 12B.10(6)(b), 12B.10A(6)(b), 12B.10B(3)(b), and 12B.10C(2).

⁷³ Iowa Code § 97B.7A(2).

⁷⁴ 2007 Iowa Acts, ch. 39; Iowa Code ch. 12A.

⁷⁵ Iowa Code § 97B.1A(11A).



E. Benefits.

Retirement benefits under IPERS differ depending upon three different membership classifications. The three primary classifications are the sheriffs and deputy sheriffs special classification; the protection occupation special classification; and the general IPERS membership classification, which includes all members not in any special classification.

1. Eligibility for Retirement.

a. Vesting Requirement. To receive a monthly retirement benefit under IPERS, an IPERS member must be vested. A member becomes vested under IPERS if the member has completed at least four years of service or has attained the age of 55 while an active member of the system.⁷⁶

b. General Membership Classification.

i. Normal Retirement Date. IPERS members may retire without an age reduction penalty applied to the benefits to which they would otherwise be entitled if: the member is age 65 or older; the member is age 62 or older and has at least 20 years of service; or the member is at least 55 years of age and meets the Rule of 88, which requires that the member's years of service plus the member's age equal or exceed 88.⁷⁷

ii. Early Retirement (Age Reduction Penalty). A member may retire after the member reaches 55 years of age but prior to the normal retirement date.⁷⁸ However, the member's benefit formula is reduced by one-quarter of 1 percent for each month the member's retirement date precedes the normal retirement date.⁷⁹

c. Protection Occupation Special Classification. A member employed under this classification can retire after the member reaches 55 years of age with no age reduction penalty.⁸⁰

d. Sheriffs and Deputy Sheriffs Special Classification. A member employed under this classification can retire after the member reaches the applicable early retirement age with no age reduction penalty.⁸¹ The applicable early retirement age for members retiring prior to July 1, 2004, is 55 and this age is reduced by one year for each of the next five fiscal years until the applicable early retirement age is 50 for members retiring on or after July 1, 2008.⁸²

2. Benefit Computation.

a. General Formula. The general formula used to calculate the service retirement benefit for all IPERS members is as follows:

Applicable percentage multiplier x three-year average covered wage x years of service ÷ applicable years of service denominator = yearly benefit amount.

⁷⁶ Iowa Code § 97B.1A(25).

⁷⁷ Iowa Code § 97B.45.

⁷⁸ Iowa Code § 97B.47.

⁷⁹ Iowa Code § 97B.50; Iowa Admin. Code 495-12.1(2).

⁸⁰ Iowa Code § 97B.49B(2).

⁸¹ Iowa Code § 97B.49C(2).

⁸² Iowa Code § 97B.49C(2)(c).



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b. Definitions.

i. **Applicable Percentage Multiplier.** The minimum applicable percentage multiplier for all IPERS members is 60 percent.⁸³ This percentage increased from 50 percent in 1986 until reaching 60 percent for members retiring on or after July 1, 1994.⁸⁴

Effective July 1, 1996, the percentage multiplier can be increased for additional years of service beyond the applicable years of service denominator for each classification of IPERS member.⁸⁵ For all IPERS classifications, the multiplier will increase by at least .25 percent for each additional calendar quarter year of service not to exceed an additional 5 percentage points above 60 percent.

For members of the protection occupation classification who retire on or after July 1, 2003, the multiplier will increase by .375 percent for each additional quarter year of service beyond 22 years of service not to exceed an additional 12 percentage points over 60 percent.⁸⁶

For members of the sheriffs and deputy sheriffs classification who retire on or after July 1, 1998, the multiplier will increase by .375 percent for each additional calendar quarter year of service beyond 22 years of service not to exceed an additional 12 percentage points above 60 percent.⁸⁷

ii. **Three-year Average Covered Wage.** The three-year average covered wage for an IPERS member is calculated by averaging the member's covered wages for the highest three years of the member's service.⁸⁸ However, for a member who retires on or after July 1, 2007, a member's three-year average covered wage for purposes of calculating a retirement benefit cannot exceed 121 percent of the member's fourth highest year of wages or, if none, the lowest of the member's three highest years of wages.⁸⁹ Covered wages means wages of a member during periods of service that do not exceed the annual covered wage maximum which is the amount permitted under section 401(a)(17) of the Internal Revenue Code.⁹⁰

Prior to January 1, 2002, a member's maximum three-year average covered wage was limited for certain higher-wage members of IPERS,⁹¹ and was limited to a specified wage ceiling for all IPERS members prior to January 1, 1997.⁹²

iii. **Years of Service.** For purposes of the formula, the years of service cannot exceed the applicable years of service denominator. Therefore, years of service divided by the applicable years of service denominator cannot exceed one.

⁸³ Iowa Code §§ 97B.49A(1)(a) (general membership classification), 97B.49B(1)(a) (protection occupation classification), 97B.49C(1)(a) (sheriffs classification).

⁸⁴ Iowa Code § 97B.49G(1).

⁸⁵ Iowa Code §§ 97B.49A(1)(a) (general membership classification), 97B.49B(1)(a) (protection occupation classification), 97B.49C(1)(a) (sheriffs classification).

⁸⁶ Iowa Code § 97B.49B(1)(a)(6).

⁸⁷ Iowa Code § 97B.49C(1)(a)(3).

⁸⁸ Iowa Code § 97B.1A(24).

⁸⁹ Iowa Code § 97B.1A(24)(c). A member's three-year average covered wage as of July 1, 2007, shall be used if it is higher than the average calculated pursuant to this paragraph.

⁹⁰ Iowa Admin. Code 495-6.4(2)(a). For 2007, the annual covered wage maximum is \$225,000.

⁹¹ Iowa Code § 97B.1A(24)(b).

⁹² Iowa Code § 97B.1A(26)(b) (includes all prior wage ceilings from 1953 to present under covered wage definition).

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- General membership classification. For IPERS general membership, an individual will be credited with a year of service for each year in which four quarters of coverage under IPERS are recorded.⁹³ An employee for a school district or other institution operating on a nine-month basis shall be credited with a year of service for each year three quarters of coverage is recorded if the employee returns to covered employment in the next operating year.⁹⁴
- Sheriffs classification. For purposes of calculating years of service for sheriffs and deputy sheriffs, eligible service includes membership service as a sheriff or deputy sheriff and prior service as a member in a protection occupation as defined in Code section 97B.49B.⁹⁵
- Protection occupation classification. For members of a protection occupation, years of service includes membership service as a member of a protection occupation and, for a member with service as a marshal, fire fighter, or police officer in a city not covered under Code chapter 400 or participating in the retirement systems established in Code chapter 410 or 411, service as a sheriff or deputy sheriff, as defined in Code section 97B.49C(1).⁹⁶
- Reclassified service — special membership classification. Effective July 1, 2006, for a member whose prior regular service position is reclassified by law as a special service position, all prior service by the member in such regular service position shall continue to be considered as regular service unless the legislation reclassifying such position specifically provides for payment of the related actuarial costs of such reclassified service.⁹⁷ Prior to July 1, 2006, such prior service was reclassified as service as a member in the special membership classification unless otherwise provided by law.⁹⁸

iv. Applicable Years of Service Denominator. The applicable years of service denominator differs depending on the membership classification for each IPERS member and is used in calculating the general retirement benefit and for determining how much of an increase in the applicable percentage multiplier a member may receive for longer membership service.⁹⁹

For the general membership, the years of service denominator is 30 years. For a member of the protection occupation classification and a member of the sheriff and deputy sheriff classification, the years of service denominator is 22 years.

c. Hybrid Formula. If IPERS members who are entitled to a service retirement have more than one type of membership service (such as some service as a general

⁹³ Iowa Code § 97B.1A(15), (20), and (21).

⁹⁴ Iowa Code § 97B.1A(20)(d); Iowa Admin. Code 495-7.1(2).

⁹⁵ Iowa Code § 97B.49C(1)(c).

⁹⁶ Iowa Code § 97B.49B(1)(c).

⁹⁷ Iowa Admin. Code 495-4.6(5)(b).

⁹⁸ Iowa Admin. Code 495-4.6(5)(a).

⁹⁹ See Iowa Code §§ 97B.49A(1)(b), 97B.49B(1)(b), (d), and 97B.49C(1)(d); and Iowa Admin. Code 495-12.1(6) (these provisions indicate the "applicable years" used in calculating benefits for all three membership classifications).



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IPERS member, service in a protection occupation, and service as a sheriff or deputy sheriff), a hybrid formula may be used to calculate that member's retirement benefit.¹⁰⁰ In general, the calculation is done by separately calculating the member's retirement allowance for each separate membership classification based on the member's service in that classification and then adding the totals together.

3. Benefit Options.

An IPERS member may choose from five benefit options for method of payment of a retirement allowance when the member files an application for retirement benefits.¹⁰¹ Option selection is irrevocable once the first benefit payment is made. The options are as follows:

- Option 1 — Under this option, members receive a monthly benefit for their entire lifetime and their beneficiaries receive a predetermined lump sum amount following the member's death.¹⁰²
- Option 2 — Members receive a lifetime annuity benefit. When members die, their beneficiary receives a death benefit equal to a refund of any remaining contributions, interest, and interest dividends, if any.¹⁰³
- Option 3 — Members receive the maximum lifetime annuity, as no death benefit payments are made to beneficiaries.¹⁰⁴
- Option 4 — Under this option, a member receives a lifetime monthly benefit. Upon death, the member's designated beneficiary receives a lifetime monthly benefit specified at the time of the member's retirement.¹⁰⁵ In addition, a member may elect this option with the added provision of having the member's lifetime annuity increase to the option 2 benefit if the member's designated beneficiary predeceases the member.¹⁰⁶
- Option 5 — Under this option, members receive a reduced lifetime benefit. If a member should die within 10 years after retirement, the member's beneficiary is guaranteed to receive the same payments for the remainder of the 10-year period.¹⁰⁷
- Special service members option — Under this option, a member retiring as a member in special service¹⁰⁸ can receive an increase in the member's monthly retirement allowance until the member reaches the age when the member can receive a reduced social security benefit (now age 62). Upon reaching that age, the member's retirement allowance will be reduced as determined by the IPERS actuary.¹⁰⁹

¹⁰⁰ Iowa Code § 97B.49D.

¹⁰¹ Iowa Code § 97B.51.

¹⁰² Iowa Code § 97B.51(1)(a).

¹⁰³ Iowa Code § 97B.51(1)(b).

¹⁰⁴ Iowa Code § 97B.51(1)(c).

¹⁰⁵ Iowa Code § 97B.51(1)(d)(1).

¹⁰⁶ Iowa Code § 97B.51(1)(d)(2).

¹⁰⁷ Iowa Code § 97B.51(1)(e).

¹⁰⁸ Iowa Code § 97B.1A(22). Special service includes service in a protection occupation and service as a sheriff or deputy sheriff.

¹⁰⁹ Iowa Code § 97B.51(1)(f).

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4. Adjustments to Benefits.

IPERS provides three mechanisms to increase the benefit otherwise provided to a retired member as calculated by the formula.

a. Minimum Benefits. Code section 97B.49E provides for a minimum benefit to certain retired IPERS members. The amount is not in addition to the retiree's current benefit but is in lieu of that benefit if the earned benefit is lower than the applicable minimum.

Effective January 1, 1997, for members who retired after July 1, 1953, and before July 1, 1990, with at least 10 years of membership service, the minimum benefit is \$200 per month, increasing by \$10 per month for each year of membership service beyond 10 years up to a maximum of 20 additional years of service (which amounts to \$400 per month).¹¹⁰ This amount is reduced if the retiree's benefits were reduced pursuant to an age reduction penalty or because of the option the retiree selected.¹¹¹ Prior to January 1, 1997, the minimum benefit was \$50 per month and this amount still applies to members who retired after July 1, 1990, with at least 10 years of service.¹¹²

b. Retirement Dividend. Retired members of IPERS are eligible to receive an additional dividend each year to reflect increases in the cost-of-living subsequent to the member's retirement.¹¹³ Unlike most cost-of-living-type adjustments, however, a member's monthly retirement benefit is not modified. Instead, a retired member receives, if eligible, an additional one-time payment each year based generally upon multiplying the total of the member's retirement benefit received in the previous year by a specified percentage tied in part to inflation. The manner of determining this percentage, however, varies depending on when the member retired.

i. Cost-of-living Dividend — Pre-July 1990 Retirees. Beginning in November 1997, members who retire before July 1, 1990, receive a cost-of-living dividend each November.¹¹⁴ This "cost-of-living dividend," now codified in Code section 97B.49F, subsection 1, provides that the retirement dividend payable to these members each November is determined by adding to the dividend paid in the preceding year an additional dividend amount based on a percentage tied to inflation. The percentage applied to calculate the adjustment of the dividend each year is the least of the percentage increase in the federal Consumer Price Index as of June 30 of the year the dividend is paid, the amount the actuary determines the system can afford without an increase in contribution rates, or 3 percent.¹¹⁵ Even if the actuary determines in any particular year that an additional dividend is not affordable, the member will still receive a cost-of-living dividend for that year equal to the amount paid in the previous year.

ii. Favorable Experience Dividend (FED) — Post-July 1990 Retirees. Commencing January 1, 1999, members who retired from IPERS on or after July

¹¹⁰ Iowa Code § 97B.49E(2).

¹¹¹ Iowa Code § 97B.49E(2).

¹¹² Iowa Code § 97B.49E(1).

¹¹³ Iowa Code § 97B.49F.

¹¹⁴ Prior to November 1997, eligible retirees received a dividend based upon an ad hoc determination by the Legislature that funds were available to provide a dividend for these retirees at a percentage fixed by the Legislature by statute.

¹¹⁵ Iowa Code § 97B.49F(1).



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1, 1990, and who have been retired for at least one year, are eligible to receive a "favorable experience dividend."¹¹⁶ In addition, a beneficiary of an active member who has received a monthly death benefit allowance for one year is also eligible.¹¹⁷ This dividend is payable, if at all, on the last business day of January each year following a determination by the actuary that there are sufficient moneys in the account to pay a dividend.¹¹⁸ The dividend is calculated by multiplying the member's annual benefit by the number of years the member has been retired and by a percentage, not to exceed 3 percent, determined by IPERS.¹¹⁹ While the determination of the percentage is not as definitively defined in the Code as it is for the cost-of-living dividend, the Code and IPERS regulations indicate that the intent is to make the dividends paid under both as similar as possible.¹²⁰ A member's beneficiary or contingent annuitant is also eligible to receive this dividend.

The favorable experience dividend is payable from moneys deposited in a favorable experience reserve account within the IPERS retirement fund. Moneys are deposited in the reserve account pursuant to rules adopted by IPERS based upon a determination by the actuary that the system is fully funded¹²¹ and the most recent valuation of the retirement fund indicates that the actual actuarial status of the retirement fund is better than what was anticipated by the actuary.¹²² Moneys sufficient to pay the dividend for five years were credited to the account in January 1999.¹²³ Unlike the cost-of-living dividend, the favorable experience dividend is not guaranteed to be paid in any year and the actual dividend increase in any particular year, if any, is not specified in Code except to limit it to 3 percent.

c. Supplemental Accounts for Active Members (SAAM). Code section 97B.49H provides for the establishment of active member supplemental accounts, sometimes referred to as SAAM accounts, for members of IPERS.¹²⁴ Moneys are deposited in these accounts only after the IPERS actuary determines that the retirement system does not have an unfunded actuarial liability as of the most recent actuarial valuation of the system.¹²⁵ If the IPERS actuary determines that the system does not have an unfunded liability, then, during the year following this determination, IPERS must deposit in each eligible active member's SAAM account an amount determined by multiplying the member's covered wages by a supplemental percentage rate as determined by the actuary so long as the total amount credited to the supplemental accounts of all active members does not exceed the amount that the system determines, in consultation with the system's actuary, can be absorbed without significantly impacting the funded status of the system.¹²⁶ The supplemental percentage rate is the rate that reflects the difference between the statutory

¹¹⁶ Iowa Code § 97B.49F(2); Iowa Admin. Code 495-15.2.

¹¹⁷ Iowa Code § 97B.49F(2)(a).

¹¹⁸ Iowa Code § 97B.49F(2)(a).

¹¹⁹ Iowa Code § 97B.49F(2)(d); Iowa Admin. Code 495-15.2(3).

¹²⁰ Iowa Code § 97B.49F(2)(d); Iowa Admin. Code 495-15.2(2)(a).

¹²¹ Iowa Code § 97B.1A(11A) defines "fully funded" as a funded ratio of at least 100 percent using the most recent actuarial valuation of the system.

¹²² Iowa Code § 97B.49F(2)(c)(2-6); see Iowa Admin. Code 495-15.2(1).

¹²³ Iowa Code § 97B.49F(2)(c)(1).

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contribution rate for both employers and employees and the contribution rate the actuary determines is necessary to fund the future benefits of the system.¹²⁷ Only IPERS members making contributions to the system from wages earned are eligible for this benefit. Amounts in a member's supplemental account earn interest at the rate specified in Code section 97B.70, subsection 2, and are payable upon a member's termination from covered service under certain circumstances, a member's death, or a member's retirement.

5. Disability Benefits.

a. General Membership. IPERS has no provision that establishes a separately determined benefit to a non-special service member who is unable to work due to a disability.¹²⁸ However, pursuant to Code section 97B.50, a vested IPERS member who retires because of disability, and commences receiving federal Social Security or railroad retirement benefits, is eligible to receive regular IPERS retirement benefits without any age reduction penalty applied.

b. Special Service Members. Code section 97B.50A provides for disability retirement benefits for special service members of IPERS that are similar to the disability benefits provided members of the Peace Officers' Retirement System and the Municipal Fire and Police Retirement System of Iowa. A special service member of IPERS includes a person who is a member of a protection occupation or who is a sheriff or deputy sheriff. An eligible special service member of IPERS who becomes disabled for duty while in the performance of the member's duty is entitled to a monthly in-service disability retirement allowance equal to the greater of 1/12 of 60 percent of the member's three-year average covered wage or the amount the member would receive under a normal retirement if the member had attained 55 years of age. For purposes of establishing an in-service disability, heart or lung disease is presumed to have been contracted while on duty. A member who becomes disabled while not in the performance of the member's duty and is unable to perform the member's job is entitled to a monthly ordinary disability retirement allowance equal to the greater of 1/12 of 50 percent of the member's three-year average covered wage or what the member would receive under a normal retirement. The costs of administering the disability program, and the cost of the enhanced disability benefit, are paid through contributions from the special service employees and their employers in the same manner as additional benefits are paid.

6. Death Benefits.

Death benefits are provided pursuant to Code section 97B.52 and differ based upon whether the member dies before or after receiving a retirement allowance under IPERS.

¹²⁴ Based on the method of determining the amount to be deposited in a supplemental account, members of the protection occupation and sheriffs classification will not likely be eligible.

¹²⁵ Iowa Code § 97B.49H(2). Since its creation in 1998, no moneys have ever been deposited in a SAAM account.

¹²⁶ Iowa Code § 97B.49H(3).

¹²⁷ Iowa Code § 97B.49H(3).

¹²⁸ Certain state employees are eligible for a disability program operated by the state. See Iowa Code § 70A.20.



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If a member dies after receiving a retirement allowance under IPERS, the amount of any death benefit is determined based upon the benefit option selected under Code section 97B.51.

If a member dies prior to receiving a retirement allowance under IPERS, the member's designated beneficiary receives a lump sum payment (or a monthly annuity) equal to the actuarial value of the member's accrued benefit as of the date of death¹²⁹ or, for an active member or an inactive member with four years of service credit, the amount determined by the following formula:

The amount of the member's contributions plus interest + (member's highest year of covered wage x years of membership service ÷ applicable denominator).

The applicable denominator is based on the membership classification of the member upon death, or the last classification prior to death, and is 30 for a member in regular service, 22 for a member in a protection occupation, or 22 for a member in the sheriffs or deputy sheriffs classification.¹³⁰

In addition to this death benefit, a designated beneficiary of a member in special service may receive a line of duty death benefit of \$100,000 if the death of a member in service was the direct result of a traumatic personal injury incurred in the line of duty.¹³¹

7. Health Benefits.

IPERS does not have any provisions dealing specifically with providing health care benefits to retirees from the system. However, certain IPERS members are eligible for programs designed to provide some assistance in paying for health care upon retirement.

Code section 509A.13 provides that if the state, school district, county, or city has procured some form of group health care insurance for its employees, that entity must permit its retired employees to continue participation in the group health insurance plan, at the retiree's expense, until the retiree reaches 65. In addition, certain surviving spouses of retired state employees are eligible to participate in the state's group health insurance plan, at their expense, until they reach 65.¹³² Eligible state employees may also be able to use a portion of their unused sick leave upon retirement to pay for that portion of the employee's state group health insurance premium that would otherwise be paid for by the state if the employee were still a state employee.¹³³

In addition, a school district may, at the board's discretion, agree to pay for the continuation of health care coverage for employees between 55 years of age, or some

¹²⁹ Iowa Code § 97B.52(1)(b).

¹³⁰ Iowa Code § 97B.52(1)(a).

¹³¹ Iowa Code § 97B.52(2).

¹³² Iowa Code § 509A.13A.

¹³³ Iowa Code § 70A.23.

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higher age as determined by the school district, and 65 years of age as an incentive for these employees to retire.¹³⁴

F. Portability.

Portability of pension benefits concerns the ability of a person to transfer pension rights and benefits earned in one retirement system to another.

1. Transfer to IPERS.

a. Overview. Since IPERS is a defined benefit system based on a person's salary and length of service, portability for purposes of persons who become members of IPERS is provided by granting the person the ability to purchase additional service credit under IPERS. Generally, a member of IPERS is eligible to purchase service credit for any governmental employment and for up to five years of nongovernmental employment.

b. Qualified Service. Employment in which a member of IPERS is not limited as to the maximum service that can be purchased, except as to limits otherwise provided by the federal Internal Revenue Code as determined by IPERS, is generally characterized as "qualified service."¹³⁵ To purchase qualified service credit, a member of IPERS must be vested or retired.¹³⁶ The following categories of employment are considered qualified service or are otherwise characterized as employment in which the purchase of service credit is only limited by the length of the employment:

i. Prior Service Buy-back. Service as a prior member of IPERS if the member received a refund for that period of service.¹³⁷

ii. Other Public Employment. Service in public employment comparable to IPERS covered employment in another state or the federal government, or another public retirement system in Iowa, if the member waives or has no claim for retirement benefits for that other public employment.¹³⁸

iii. Educational Employment. Employment at a public, private, or sectarian school which provides elementary education or secondary education through grade 12.¹³⁹

iv. Veteran's Credit. Active duty service in the armed forces of the United States¹⁴⁰ and other military service not otherwise required to be recognized under federal law.¹⁴¹ In either case, the service eligible to be purchased is not limited if the member is not receiving or is not eligible to receive military retirement pay.

v. Elected Officials Buy-in. Service as a member of the General Assembly,¹⁴² and prior service as a county attorney by a part-time county attorney.¹⁴³ Unlike other purchases of service, a member purchasing service in

¹³⁴ Iowa Code § 279.46.

¹³⁵ Iowa Code § 97B.80C(1)(c).

¹³⁶ Iowa Code § 97B.80C(2)(a).

¹³⁷ Iowa Code § 97B.80C(1)(c)(1)(h).

¹³⁸ Iowa Code § 97B.80C(1)(c)(1)(g).

¹³⁹ Iowa Code § 97B.80C(1)(c)(1)(c).

¹⁴⁰ Iowa Code § 97B.80.

¹⁴¹ Iowa Code § 97B.80C(1)(c)(1)(d).

¹⁴² Iowa Code § 97B.80C(1)(c)(1)(e).

¹⁴³ Iowa Code § 97B.80C(1)(c)(1)(f).



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this category is responsible for only paying 40 percent of the actuarial cost of the purchase with the remaining 60 percent paid by the state,¹⁴⁴ for legislative service,¹⁴⁴ or by the applicable county, for county attorney service.¹⁴⁵

vi. Noncovered Public Employment.

- Employment by an employer defined in Code chapter 97B or employment as an adjunct professor by a community college or regents university when the employee did not otherwise qualify for coverage under IPERS for that service.¹⁴⁶
- Service as a patient advocate prior to July 1, 2000, in which IPERS contributions for that service were not made.¹⁴⁷
- Employment in a position for which IPERS coverage could have been originally elected but was not, in which a subsequent election of coverage was made.¹⁴⁸

vii. Leave of Absence. An approved leave of absence which does not constitute service which is granted on or after July 1, 1998.¹⁴⁹

c. Nonqualified Service. Employment in which a member of IPERS is limited to a purchase of a maximum of five years of service is generally characterized as "nonqualified service."¹⁵⁰ To purchase nonqualified service credit, a member of IPERS must be vested or retired and have at least five years of IPERS covered wages.¹⁵¹ The following categories of employment are considered nonqualified service:

i. Federal Peace Corps Program. Full-time volunteer public service in the federal Peace Corps Program.¹⁵²

ii. Canadian Public Employment. Public employment comparable to employment covered under this chapter in a qualified Canadian governmental entity that is an elementary school, secondary school, college, or university.¹⁵³

iii. Retirement Plan Eligible Public Employment. Qualified service in which the member is eligible to receive a retirement benefit under more than one retirement plan for the same period of service.¹⁵⁴

iv. Private Employment. Employment with a private U.S. employer.¹⁵⁵

d. Service Purchase Requirements. A member is not required to purchase the maximum amount of eligible service. Instead, an eligible member can purchase service credit in increments of a quarter year of service. The total cost of the service purchase is the amount determined by IPERS which reflects the actuarial cost

¹⁴⁴ Iowa Code § 97B.80C(3)(b).

¹⁴⁵ Iowa Code § 97B.80C(3)(c).

¹⁴⁶ Iowa Code § 97B.80C(1)(c)(1)(j),(k).

¹⁴⁷ Iowa Code § 97B.73B.

¹⁴⁸ Iowa Code § 97B.42A(4-5).

¹⁴⁹ Iowa Code § 97B.80C(1)(c)(1)(i).

¹⁵⁰ Iowa Code § 97B.80C(1)(a).

¹⁵¹ Iowa Code § 97B.80C(2)(b).

¹⁵² Iowa Code § 97B.80C(1)(a)(1).

¹⁵³ Iowa Code § 97B.80C(1)(a)(2).

¹⁵⁴ Iowa Code § 97B.80C(1)(c)(2).

¹⁵⁵ Cf. Iowa Code § 97B.80C(1)(a); Iowa Admin. Code 495-8.5(3).

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necessary to fund an increased retirement allowance resulting from the purchase of the service credit.¹⁵⁶ Except as noted previously, a member is required to pay the full cost of the service purchase. In making a purchase, a member is authorized to pay for the purchase from a direct rollover or transfer of assets the member has in certain eligible retirement plans.¹⁵⁷ Eligible retirement plans include 401(a) and 403(a) qualified plans, IRA accounts and annuities, governmental 403(b) tax-sheltered annuities, and governmental 457(b) deferred compensation plans.¹⁵⁸

2. Transfer From IPERS.

a. Refunds. Upon termination of IPERS covered employment prior to retirement, a person may elect to leave the contributions made for the person in IPERS, and keep any service credit accrued, or may receive a refund and forfeit service credit.¹⁵⁹ In addition, a person can also elect to receive a refund of any amounts credited to that member's supplemental SAAM account, if any.¹⁶⁰ A refund returns all of the member's contributions and, beginning July 1, 1999, a portion of the total employer contributions paid on behalf of the member, plus accrued interest calculated as provided in Code section 97B.70. The employer contribution portion of the refund is calculated by multiplying the total employer contributions paid, plus interest, by the member's number of years of the member's service divided by the number of years the member would have to serve in order to receive a 60 percent retirement allowance. If the person who terminates IPERS covered employment is vested and elects to leave the contributions in without refund, the person continues to accrue interest on the contributions and can claim a retirement benefit based upon that person's service and upon applicable law.¹⁶¹

b. Rollovers of Members' Accounts. IPERS permits the member to directly transfer or roll over any lump-sum distribution received from IPERS, such as a refund, into an eligible retirement plan. Eligible retirement plans include those plans which can be used for the purchase of service credit.¹⁶²

G. Miscellaneous Provisions of Interest — Reemployment Rights.

Under IPERS, a member who retires and begins receiving a retirement benefit may return to employment with any employer which is not in IPERS without any impact on their retirement benefit. However, if the member seeks to return to employment with an employer which is covered by IPERS, several provisions apply to affect that person's retirement benefit.

1. Eligibility.

All members retiring before the age of 70 must have a bona fide retirement in order to remain eligible to receive a retirement benefit.¹⁶³ A bona fide retirement exists if the member terminates covered employment, files an application for benefits,

¹⁵⁶ Iowa Code § 97B.80C(3).

¹⁵⁷ Iowa Code § 97B.82.

¹⁵⁸ Iowa Code § 97B.82(2)(b).

¹⁵⁹ Iowa Code § 97B.53(1).

¹⁶⁰ Iowa Code § 97B.49H(5)(a).

¹⁶¹ Iowa Code § 97B.53(2).

¹⁶² Iowa Code § 97B.53B.

¹⁶³ Iowa Code § 97B.52A.



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and survives into the month for which benefits are payable.¹⁶⁴ In addition, to qualify as having a bona fide retirement upon termination from covered employment, a member must not return to any employment with a covered employer until the member has received at least one month of retirement benefits and must not return to any covered employment until the member has received at least four months of retirement benefits.¹⁶⁵ If the member returns to employment before qualifying as having a bona fide retirement, the member is not eligible to receive a retirement allowance and must return, with interest, any benefits paid.¹⁶⁶ An IPERS member who reaches 70, however, may remain in covered employment and still receive a retirement benefit.¹⁶⁷

2. Benefit Recomputation.

a. Reduction for Reemployment. A member who is less than 65 years of age, has a bona fide retirement, and is receiving a retirement benefit may have that benefit reduced if the member returns to regular full-time employment with an IPERS covered employer during a calendar year. By law, the member's retirement benefit will be reduced by 50 cents for each dollar the member earns in a calendar year over the higher of \$30,000 or the level prescribed for the reduction of federal Social Security benefits.¹⁶⁸ This reduction in benefits does not apply to a member, regardless of age, who returns to employment in an elective office.¹⁶⁹

b. Recalculation of Benefit. Upon a retirement after reemployment, a retired member may have the member's retirement benefit recalculated to reflect the additional years of covered service in reemployment.¹⁷⁰ If the recalculation does not increase the member's retirement benefit, or if the member chooses not to recalculate the benefit, the member will receive a refund of the member's and employer's accumulated contributions, plus interest, on those covered wages not used to recalculate the member's retirement benefit.¹⁷¹

III. Municipal Fire and Police Retirement System of Iowa (MFPRSI) — Chapter 411.

A. Overview.

The Municipal Fire and Police Retirement System of Iowa (MFPRSI) is established and governed by Code chapter 411. In general, members of MFPRSI include police officers and fire fighters in cities that have established civil service systems. Information concerning MFPRSI can be found on the system's website located at <http://www.mfprsi.org/>.

MFPRSI has only been a statewide system since January 1, 1992. In 1990 Iowa Acts, chapter 1240, legislation was enacted which provided for the creation of a statewide system effective January 1, 1992. The statewide system replaced 87 different local fire

¹⁶⁴ Iowa Code § 97B.52A(1).

¹⁶⁵ Iowa Code § 97B.52A(1)(c). However, until July 2010, a licensed health care professional can return to covered employment with a public hospital after only one month and still be considered to have a bona fide retirement.

¹⁶⁶ Iowa Code § 97B.52A(2).

¹⁶⁷ Iowa Code § 97B.46(2).

¹⁶⁸ Iowa Code § 97B.48A(1).

¹⁶⁹ Iowa Code § 97B.48A(2).

¹⁷⁰ Iowa Code § 97B.48A(3).

¹⁷¹ Iowa Code § 97B.48A(4).

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and police retirement systems which existed in 49 different cities prior to 1992. The 1990 legislation not only provided transition provisions and established the statewide system and a board of trustees, but also provided for extensive benefit enhancements as well as increases in contribution levels.

An important consideration is that members of MFPRSI do not contribute to Social Security; therefore, benefit formulas and contribution levels are adjusted to reflect this. Traditionally, the benefit formulas and contribution levels for MFPRSI have been nearly identical to those provided in PORS. However, recent legislation has led to some significant differences.

B. Governance.

MFPRSI is governed by a board of trustees established in Code section 411.36 and the board has the responsibility for the establishment and proper operation and administration of the retirement system.¹⁷² The board consists of 13 members, including nine voting and four nonvoting legislative members. The nine voting members consist of two fire fighters from different participating cities, one active and one retired, appointed by the Iowa Association of Professional Fire Fighters; two police officers from different participating cities, one active and one retired, appointed by the Iowa State Police Association; a city treasurer, city financial officer, or city clerk involved with financial matter of the city from four participating cities, appointed by the Iowa League of Cities; and one citizen member, appointed by the board.¹⁷³

C. Membership.

1. General Requirements.

The criteria for membership in the Municipal Fire and Police Retirement System of Iowa (MFPRSI) are set forth in Code sections 411.2 and 411.3. With certain exceptions, members of MFPRSI include police officers and fire fighters in cities included in civil service, which includes cities with a population of 8,000 or more as of the 1980 federal census, and other cities which voluntarily have appointed civil service commissions in accordance with the provisions of Code chapter 400.

Code section 411.2, subsection 1, provides, in general, that each city in which the fire fighters or police officers are appointed under the civil service law of this state shall participate in MFPRSI for the purpose of providing retirement allowances only for fire fighters or police officers, or both.

Once a city comes under MFPRSI, Code section 411.3, subsection 1, provides that all persons who become police officers or fire fighters after that date must become members of the retirement system as a condition of their employment, except that a police chief or a fire chief who would not complete 22 years of service under this retirement system by the time the chief attains 55 years of age is, upon written request to the system, exempted from this retirement system.¹⁷⁴

¹⁷² Iowa Code § 411.5.

¹⁷³ Iowa Code § 411.36(1).

¹⁷⁴ See Iowa Code § 384.6(1)(b) concerning the funding of an alternative retirement system.



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2. Exceptions to Coverage.

The following cities are exempted from required membership in MFPRSI:

- A city whose population was under 8,000 prior to the results of the federal census conducted in 1990.¹⁷⁵
- A city which did not have a paid fire department or a paid police department on May 3, 1990.¹⁷⁶
- A city which did not operate a city fire or police retirement system, or both, under Code chapter 411 on May 3, 1990.¹⁷⁷

3. Summary.

Code section 411.2 provides that MFPRSI includes those city fire or police departments which were included prior to the legislation consolidating the separate systems into a statewide system contained in 1990 Iowa Acts, chapter 1240, and does not require others which meet the criteria after the consolidation to join.

D. Funding.

1. Contributions.

Contributions are made to MFPRSI for a member's public service by both the member and employer based on the earnable compensation of the employee and are established by statute.¹⁷⁸ Since January 1, 1999, the employee's contribution to MFPRSI has not been considered part of an employee's gross wages for purposes of federal and state income taxation.¹⁷⁹ For all other purposes, such as determining earnable compensation under MFPRSI, an employee's gross wages include the employee's contribution to MFPRSI.¹⁸⁰

Code section 411.8 requires the employee to contribute at least 9.35 percent of earnable compensation to the system.¹⁸¹ The employer is required to contribute at a rate necessary to fund the system, taking into account the employee's contribution rate, which employer's rate shall be at least 17 percent of a member's earnable compensation to the system.¹⁸² However, if statutory changes to the system result in an increased cost to the system and the member's minimum contribution rate and the minimum rate established for cities is insufficient to cover this increased cost, then the employee contribution rate can be increased to 11.3 percent.¹⁸³ If this rate is still insufficient to fund the cost of the statutory changes, based on an actuarial evaluation of the liabilities of the system, then the contribution rates for both employers and employees are adjusted upward based upon the cost of the statutory changes with 60

¹⁷⁵ Iowa Code § 411.2(2).
¹⁷⁶ Iowa Code §§ 411.2(3), 411.2(4).
¹⁷⁷ Iowa Code § 411.2(5).
¹⁷⁸ Iowa Code § 411.8.
¹⁷⁹ Iowa Code § 411.8(1)(i)(1).
¹⁸⁰ Iowa Code § 411.8(1)(i)(2).
¹⁸¹ Iowa Code § 411.8(1)(f).
¹⁸² Iowa Code § 411.8(1)(b).
¹⁸³ Iowa Code § 411.8(1)(f)(8).

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percent of any increased cost charged to the employer and 40 percent to the employee.¹⁸⁴

2. Direct Appropriation.

Code section 411.20 provides an additional state appropriation, if necessary, to the retirement system for the cost of benefits payable under this chapter pursuant to legislation passed in 1976 so long as the appropriation does not reduce the normal rate of contribution of any city below 17 percent. Code section 8.59 provides that any appropriation authorized by Code section 411.20 is limited to the amount expended for this purpose during the fiscal year commencing July 1, 1992.

3. Investments.

The board of trustees is the trustee of the retirement fund and establishes, on an annual basis, the investment policy governing the investment and reinvestment of moneys in the fund.¹⁸⁵ The secretary of the board is given the authority to invest, in accordance with the investment policy established by the board, the portion of the fund not needed for the current payment of benefits in any investment authorized in Code section 97B.7A for investment of moneys in IPERS.¹⁸⁶ Consistent with this authority, MFPRSI is generally exempt from most statutory restrictions otherwise applicable to the investment of public funds.¹⁸⁷ New legislation restricts the ability of MFPRSI to invest in Sudan-related investments.¹⁸⁸

E. Benefits.

1. Service Retirement Benefit.

Under MFPRSI, the service retirement benefit is calculated by applying a percentage multiplier to the member's average final compensation and is governed by Code section 411.6, subsections 1 and 2. Average final compensation is defined as the average earnable compensation of members during the three years of service in which the members earned their highest salaries as police officers or fire fighters.¹⁸⁹

In order to qualify for a full service retirement benefit under MFPRSI, the member must be at least age 55 and have at least 22 years of membership service. If the member meets these qualifications, the member's retirement benefit is calculated as follows:

- For a member who retires on or after July 1, 2000, 66 percent of average final compensation,¹⁹⁰ plus an additional 2 percent for each year of additional service over 22 years of service,¹⁹¹ up to a maximum of eight additional years of service. Therefore, a member retiring with 30 years of service receives a retirement allowance equal to 82 percent of average final compensation. The applicable

¹⁸⁴ Iowa Code § 411.8(1)(f)(8).

¹⁸⁵ Iowa Code § 411.7(1).

¹⁸⁶ Iowa Code § 411.7(2).

¹⁸⁷ Iowa Code §§ 12B.10(6)(f), 12B.10A(6)(f), 12B.10B(3)(f), and 12B.10C(5).

¹⁸⁸ 2007 Iowa Acts, ch. 39; Iowa Code ch. 12A.

¹⁸⁹ Iowa Code § 411.1(3).

¹⁹⁰ Iowa Code § 411.6(2)(d).

¹⁹¹ Iowa Code § 411.6(2)(e)(5).



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percentage multipliers for members retiring prior to July 1, 2000, are specified in Code section 411.6, subsection 2.

- Benefits are vested under MFPRSI after four years of service. If a member terminates service after vesting, but prior to attaining 22 years of service, the member may elect to receive a benefit upon attaining age 55 that is equal to the retirement benefit the member would receive at retirement if the member's employment had not been terminated multiplied by a service ratio which consists of the years of service at termination divided by 22.¹⁹²

2. Ordinary Disability Benefit.

MFPRSI provides ordinary disability benefits for a disability that was not incurred in the line of duty for a member in good standing with the system.¹⁹³ Members are eligible to receive such benefits at any age with any length of service, so long as the medical board, after a medical examination of the member, certifies that the disability incapacitates the member for the further performance of duty, that the disability is likely to be permanent, and that the member should be retired.¹⁹⁴ Members who commenced membership on or after July 1, 1992, are not eligible for a disability benefit with respect to a disability which would not exist, but for a medical condition that was known to exist on the date membership commenced. The ordinary disability benefit is calculated as follows:

- If the member has at least five years of membership service, the ordinary disability benefit is a pension equal to the greater of 50 percent of the average final compensation of the member or the benefit amount calculated under a normal service retirement if the member had attained 55 years of age pursuant to Code section 411.6, subsection 2.¹⁹⁵
- If the member has less than five years of service at the time of the disability, the ordinary disability benefit is a pension equal to 25 percent of the member's average final compensation.¹⁹⁶

3. Accidental Disability Benefit.

Accidental disability benefits are also provided under MFPRSI for a member in good standing with the system.¹⁹⁷ A member is eligible to receive accidental disability benefits at any age with any number of years of service, so long as the member incurs a permanent incapacitating disability while acting in the line of duty.¹⁹⁸ Under MFPRSI, heart, lung, and respiratory tract diseases are presumed to have occurred in the line of duty, with certain exceptions related to persons commencing membership

¹⁹² Iowa Code § 411.6(1)(b).

¹⁹³ A member in good standing means the member has civil service rights and is not subject to removal by the employing city. See Iowa Code § 411.1(12).

¹⁹⁴ Iowa Code § 411.6(3).

¹⁹⁵ Iowa Code § 411.6(4)(b).

¹⁹⁶ Iowa Code § 411.6(4)(b).

¹⁹⁷ A member in good standing means the member has civil service rights and is not subject to removal by the employing city. See Iowa Code § 411.1(12).

¹⁹⁸ Iowa Code § 411.6(5).

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service after July 1, 1992, whose heart, lung, or respiratory tract disease would not exist, but for a preexisting medical condition.¹⁹⁹

The accidental disability benefit is calculated as follows:

- For a disability retirement prior to July 1, 1990, 66 2/3 percent of average final compensation at disability.²⁰⁰
- For a disability retirement on or after July 1, 1990, but before July 1, 1998, 60 percent of average final compensation at the time of the disability. However, if at the time of disability, the member has 22 or more years of service, the member receives the greater of 60 percent of average final compensation or the benefit amount calculated under a service retirement if the member were 55 years of age.²⁰¹
- For a disability retirement on or after July 1, 1998, the greater of 60 percent of average final compensation or the benefit amount calculated under a service retirement if the member had attained 55 years of age.²⁰²

4. Ordinary Death Benefit.

a. Eligibility. Under MFPRSI, a deceased member's beneficiary may receive an ordinary death benefit if the member's death was from causes not sustained in the line of duty.²⁰³ In order to be eligible, the death must occur while the member is in service, or else for a member who is not in service, the member must be vested (requiring at least four years of service).

b. Benefit Calculation. Ordinary death benefits are calculated and distributed pursuant to one of the following two options as follows:

i. Lump-sum Payment Option. Upon the death of a member in service with at least one year of membership service, or upon the death of a member not in service with at least four years of service, the greater of a lump-sum benefit payable to the designated beneficiary equal to one-half the earnable compensation during the last year of employment or during the last year of service if the deceased member was vested but not in service²⁰⁴ or a refund from the member's account.²⁰⁵

ii. Monthly Pension Option. A monthly pension equal to 1/12 of 40 percent of the member's average final compensation, but not less than 20 percent of the average monthly earnable compensation paid to an active member of the system (for members not in service, the benefit is multiplied by a service ratio of years of service at termination divided by 22, not to exceed 1.0), PLUS for each child, 6 percent of the average monthly compensation payable to an active member of the system.²⁰⁶ The monthly pension option may be selected in lieu of

¹⁹⁹ Iowa Code § 411.6(5)(c).

²⁰⁰ Iowa Code § 411.6(6)(a).

²⁰¹ Iowa Code § 411.6(6)(b).

²⁰² Iowa Code § 411.6(6)(c).

²⁰³ Iowa Code § 411.6(8).

²⁰⁴ Iowa Code § 411.6(8)(a)(1).

²⁰⁵ Iowa Code § 411.6(8)(a)(2).

²⁰⁶ Iowa Code § 411.6(8)(b).



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a lump-sum payment, under certain circumstances, only by the member's surviving spouse, the guardian of the member's surviving children, or the member's dependent parents.²⁰⁷ For an eligible beneficiary that chooses this option, payment commences immediately upon the death of the member if the member was in service at the time of death. If the member was not in service at the time of death, monthly pension benefits are not payable until the member would have reached age 55. However, if there is a child or children under the age of 18 or a full-time student who is under age 22, the spousal pension is paid from the time of death until the child reaches age 18 or 22, as applicable, and then resumes commencing when the member would have attained the age of 55.

5. Service-related Death Benefit.

a. Accidental Death Benefit. Accidental death benefits are available to the member's designated beneficiary under MFPRSI if death results to a member in service from causes sustained while acting in the line of duty.²⁰⁸ If the member's designated beneficiary predeceases the member or the member's designated beneficiary is the member's surviving spouse, child, or dependent parent, the benefit payable to the applicable surviving spouse, guardian of children, or dependent parent consists of a pension equal to one-half of the member's average final compensation, PLUS, if applicable, for each child, a child's benefit equal to 6 percent of the average monthly compensation payable to an active member of the system. If the member's designated beneficiary survives the member and is not the member's surviving spouse, child, or dependent parent, the member's designated beneficiary receives a lump-sum benefit which equals the lump-sum benefit provided as an ordinary death benefit.

b. Line of Duty Death Benefit. If the death of a member in service is the direct result of a traumatic personal injury incurred in the line of duty, a line of duty death benefit of \$100,000 is also paid to a person authorized to receive an accidental death benefit for that member.²⁰⁹

6. Death Benefit After Retirement.

If a member dies while receiving a service retirement or disability benefit, a pension is payable to the surviving spouse which is equal to one-half of the benefits received by the deceased member, but not less than 20 percent of the average monthly earnable compensation of an active member of the system, PLUS a child's benefit for each child equal to 6 percent of the average monthly earnable compensation of an active member of the system.²¹⁰ If the member's spouse dies either prior or subsequent to the member's death, the guardian of each surviving child receives a child's benefit (as described in this section) for the support of that child.²¹¹

²⁰⁷ Iowa Code § 411.6(8)(c).

²⁰⁸ Iowa Code § 411.6(9).

²⁰⁹ Iowa Code § 411.6(15).

²¹⁰ Iowa Code § 411.6(11).

²¹¹ Iowa Code § 411.6(11)(b).

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7. Annual Readjustment of Pensions.²¹²

Commencing July 1, 1997, the monthly benefits payable to eligible retired members and beneficiaries are adjusted each July 1 by adding an amount to the pension that represents an increase of 1.5 percent over the previous year's monthly pension plus a set dollar amount based on the number of years the member has been retired.²¹³ The set dollar amount is determined as follows:

- Fifteen dollars where the member's retirement date was less than five years prior to the effective date of the increase.
- Twenty dollars where the member's retirement date was at least five years, but less than 10 years, prior to the effective date of the increase.
- Twenty-five dollars where the member's retirement date was at least 10 years, but less than 15 years, prior to the effective date of the increase.
- Thirty dollars where the member's retirement date was at least 15 years, but less than 20 years, prior to the effective date of the increase.
- Thirty-five dollars where the member's retirement date was at least 20 years prior to the effective date of the increase.

This annual adjustment is generally available to retired members and beneficiaries receiving a full service retirement allowance, an ordinary disability retirement allowance, or an accidental disability allowance.²¹⁴ However, this annual adjustment is not available for a retired member who receives a service retirement allowance if the member had less than 22 years of service or had not attained 55 years of age at the time of termination from employment.²¹⁵

8. Benefit Options.

a. Optional Retirement Benefits. Code section 411.6A permits a member of the system to elect, at the time of retirement, an optional retirement benefit as provided by the board of trustees. The optional benefit payment may provide adjustments to the amount of the retirement allowance paid to the member, may alter the pension amount and period of payment to the member's spouse after the death of the member, and may provide for payments to a designated recipient other than the member's spouse for a designated period of time or an unlimited period of time.²¹⁶ The amount of the optional retirement benefit provided the member is limited to the actuarial equivalent of the member's normal retirement allowance.²¹⁷

Benefit options selected by MFPRSI are the following:²¹⁸

²¹² Until July 1, 2007, MFPRSI provided for the escalation of benefits in a manner identical to PORS. See discussion for current mechanism under MFPRSI, which is now significantly different from PORS.

²¹³ Iowa Code § 411.6(12).

²¹⁴ Iowa Code § 411.6(12).

²¹⁵ Iowa Code § 411.6(12)(d).

²¹⁶ Iowa Code § 411.6A(1).

²¹⁷ Iowa Code § 411.6A(3).

²¹⁸ MFPRSI Administrative Rule 8.1(5)(c).



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- **Straight Life Annuity.** An actuarially adjusted benefit is payable to the member for the member's lifetime with no further benefits payable upon the member's death.
- **Joint and 100 Percent Survivor Annuity.** The member receives an actuarially adjusted benefit for the member's lifetime and upon the member's death, the named beneficiary, if living, receives 100 percent of the gross amount of the member's benefit for the named beneficiary's lifetime.
- **Joint and 75 Percent Survivor Annuity.** The member receives an actuarially adjusted benefit for the member's lifetime and upon the member's death, the named beneficiary, if living, receives 75 percent of the gross amount of the member's benefit for the named beneficiary's lifetime.
- **Single Life Annuity With Designated Lump Sum.** The member receives an actuarially adjusted benefit for the member's lifetime. Upon the death of the member, a predesignated lump sum is paid to the named beneficiary or beneficiaries, if living, or to the member's estate.

b. Deferred Retirement Option Plan. Code section 411.6C establishes a deferred retirement option plan (DROP plan) for members of MFPRSI. Members of MFPRSI who are at least 55 years of age and have at least 22 years of service are eligible to participate in the DROP plan. The DROP plan provides that an eligible member can delay retirement, continue working for a set number of additional years not to exceed five years, and have a portion of the retirement allowance they otherwise would have received if they had retired instead of participating in the DROP plan deposited in an account that is then distributed to them when they eventually retire. The member's retirement allowance once the member finally leaves work is set at the time the member enters the DROP plan. Upon electing to participate in the DROP plan, the eligible member continues to work but has a portion of the retirement allowance they would have received if they had decided to retire credited to an account which is equal to a percentage of the retirement allowance they would have received. The percentage rate is in a range from 52 percent up to a maximum of 100 percent based upon the number of months between the month the member first became eligible to participate in the DROP plan and the month the member actually participates. The amount deposited in the member's account does not accrue interest or dividends. Upon termination from the DROP plan, the eligible member begins to receive a retirement allowance based upon the amount the member would have received when the member commenced participation in the DROP plan plus the amount in the member's account as a lump sum distribution or as a rollover to an eligible retirement plan.

9. Health Benefits.

Code section 509A.13 provides that if the state, school district, county, or city has procured some form of group health care insurance for its employees, that entity must permit its retired employees to continue participation in the group health insurance plan, at the retiree's expense, until the retiree reaches age 65.

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In addition, the board of trustees of the system has the authority to establish a voluntary benefit program which would allow members to contribute to the benefit program and withdraw contributions, with interest, upon retirement, to be used for health insurance, long-term care, and life insurance.²¹⁹

10. Limitations on Benefits.

a. Prisoners. A member who is otherwise entitled to a retirement allowance cannot receive a retirement allowance for any month during which the member is confined in a jail, prison, or correctional facility pursuant to the individual's conviction of a felony and the member has a spouse, or a child or children, as defined in Code section 411.1.²²⁰ The amount not paid is instead paid to the individual's spouse, if any, or, if there is no spouse, then to the individual's child or children, as defined in Code section 411.1.

b. Reemployment Restrictions. A member who retires and then is reemployed as a police officer or fire fighter by any city covered by the system cannot become an active member of the system upon reemployment and is not eligible to receive the member's retirement allowance during the period the member is reemployed.²²¹ Once the member is no longer reemployed, the member's retirement allowance is reinstated.

F. Portability.

Portability of pension benefits concerns the ability of a person to transfer pension benefits earned in one retirement system to another. As a defined benefit system based on a person's salary and length of service, portability for purposes of persons who become members of MFPRSI would be provided by granting the person the ability to obtain service credit for non-MFPRSI service. With only limited exceptions, however, MFPRSI does not allow service credit for prior non-MFPRSI covered employment.²²²

1. Transfer to MFPRSI.

a. MFPRSI Buy-back.²²³ A member who withdraws the member's contributions following a layoff for an indefinite period of time and who is subsequently recalled to service may repay the contributions and regain service credit to the extent the contributions are repaid. The contribution amount to be repaid by the member for such service is equal to the amount of contributions withdrawn, plus interest computed based upon the investment interest rate assumption established by the board of trustees as of the time the contributions are repaid. The member must make the contributions within two years of the date of the member's return to service.

b. Iowa Department of Public Safety Peace Officers' Retirement, Accident, and Disability System (PORS) Transfers. Code section 411.31 establishes a mechanism for allowing vested members of PORS who terminate employment under that system and commence employment under MFPRSI to transfer to MFPRSI and

²¹⁹ Iowa Code § 411.40.

²²⁰ Iowa Code § 411.6(17).

²²¹ Iowa Code § 411.3(3).

²²² A person who transfers employment from one city covered under MFPRSI to another does retain service credit from the prior position.

²²³ Iowa Code § 411.23(2).



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receive credit under MFPRSI for the period of service the member received as a member under PORS.²²⁴ Essentially, a transfer of funds between the two retirement systems occurs to effectuate the transfer of service credit.²²⁵ The member is not required to contribute any additional funds to MFPRSI to receive the additional credit.

c. Military Service Credit. A member who is absent while serving in the armed services who receives an honorable discharge has the period or periods of absence included as part of the member's service under MFPRSI.²²⁶ Generally, a member is limited to four years of additional service credit unless the longer period of absence is "at the request and for the convenience of the federal government." The member must return to service under MFPRSI within one year after receiving the honorable discharge.

2. Transfer From MFPRSI.

Members who terminate service under MFPRSI may elect to receive a refund of their own contributions, plus interest, whether or not they are vested.²²⁷ MFPRSI also permits the member to directly roll over all or a portion of a member's account into an eligible retirement plan.²²⁸

IV. Iowa Department of Public Safety Peace Officers' Retirement, Accident, and Disability System (PORS) — Chapter 97A.

A. Overview.

The Iowa Department of Public Safety Peace Officers' Retirement, Accident, and Disability System (PORS) is established and governed by Code chapter 97A and rules adopted pursuant to that chapter.²²⁹ Important to consider is that members of PORS do not contribute to Social Security; therefore, benefit formulas and contribution levels are adjusted to reflect this. Traditionally, the benefit formulas and contribution levels for PORS have been identical to those provided in MFPRSI. However, recent legislation has led to some significant differences. Information concerning PORS can be found on the following link at the Department of Public Safety's website:

<http://www.dps.state.ia.us/asd/por/por.shtml>.

B. Governance.

PORS is governed by a five-member board of trustees established in Code section 97A.5. The members of the board include the Commissioner of Public Safety, who serves as board chairperson, the Treasurer of State, an active member of the system, a retired member of the system, and a public member appointed by the Governor. The active member of the system and the retired member of the system, who both serve for a term of two years, are chosen by secret ballot from their respective memberships. The public member appointed by the Governor, who also serves a two-year term, is an insurance executive, bank executive, or financial services executive. The Department of Public

²²⁴ See also Iowa Code § 97A.17 for transfers from MFPRSI to PORS.

²²⁵ Iowa Code § 411.31(4).

²²⁶ Iowa Code § 411.9(1).

²²⁷ Iowa Code § 411.23(1).

²²⁸ Iowa Code § 411.6B.

²²⁹ The administrative rules for PORS are located at Iowa Admin. Code 661-400-404.

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Safety provides administrative services to the board and the Treasurer of State is responsible for the administration of investments.²³⁰

C. Membership.

Membership in the system is described in Code section 97A.3, subsection 1, to include employees of the Department of Public Safety, except clerical workers, who are peace officer members of the Division of State Patrol and the Division of Criminal Investigation, members of the Division of Narcotics Enforcement, members of the Division of State Fire Marshal, gaming enforcement officers employed by the Division of Criminal Investigation for excursion boat and gambling structure gambling enforcement activities, and fire prevention inspector peace officers employed by the department.

D. Funding.

1. Contributions.

PORS is funded through contributions made for a member's public service by both the member and employer based on the earnable compensation of the employee in amounts established by statute based on the actuarial experience of PORS.²³¹ Since January 1, 1999, the employee's contribution to PORS has not been considered part of an employee's gross wages for purposes of federal and state income taxation.²³² For all other purposes, such as determining earnable compensation under PORS, an employee's gross wages include the employee's contribution to PORS.²³³

Code section 97A.8 provides that the employee contributes at least 9.35 percent of earnable compensation to the system.²³⁴ The employer is required to contribute at a rate necessary to fund the system, taking into account the employee's contribution rate, which employer's rate shall be at least 17 percent of the employee's earnable compensation to the system.²³⁵ However, if the member's minimum contribution rate and the minimum rate established for employers is insufficient to cover the increased cost of statutory changes to the system, the employee contribution rate can be increased to 11.3 percent.²³⁶ If this rate is still insufficient based upon an actuarial evaluation of the liabilities of the system to fund the cost of the statutory changes, then the contribution rates for both employers and employees are adjusted upward based upon the cost of the statutory changes provided for these members with 60 percent of any increased cost charged to the employer and 40 percent to the employee.²³⁷

2. Investments.

The board of trustees is the trustee of the retirement funds created for purposes of PORS and has the authority to invest in any investment authorized in Code section 97B.7A for investment of moneys in IPERS.²³⁸ Consistent with this authority, PORS is

²³⁰ Iowa Code § 97A.5(5).

²³¹ Iowa Code § 97A.8. Prior to July 1, 1996, the normal contribution rate and the member's contribution rate under PORS was required by statute to be equivalent to the respective rates provided under MFPRS.

²³² Iowa Code § 97A.8(1)(i)(1).

²³³ Iowa Code § 97A.8(1)(i)(2).

²³⁴ Iowa Code § 97A.8(1)(f).

²³⁵ Iowa Code § 97A.8(1)(b).

²³⁶ Iowa Code § 97A.8(1)(f)(8).

²³⁷ Iowa Code § 97A.8(1)(f)(8).

²³⁸ Iowa Code § 97A.7(2).



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generally exempt from most statutory restrictions otherwise applicable to the investment of public funds.²³⁹ New legislation restricts the ability of MFPRSI to invest in Sudan-related investments.²⁴⁰

E. Benefits.

1. Service Retirement Benefit.

Under PORS, the service retirement benefit is calculated by applying a percentage multiplier to the member's average final compensation and is governed by Code section 97A.6, subsections 1 and 2. Average final compensation is defined as the average earnable compensation of the member during the three years of service the member earned the highest salary as a member of the Department of Public Safety.²⁴¹

In order to qualify for a full service retirement benefit under PORS, the member must be at least age 55 and have at least 22 years of membership service. If the member meets these qualifications, the member's retirement benefit is calculated as follows:

- For retirement on or after July 1, 2000, 2.75 percent of the member's average final compensation for each year of service up to a total of 32 years of service for a maximum percentage multiplier of 88 percent for 32 years of service. The applicable percentage multipliers for retirements prior to July 1, 2000, are specified in Code section 97A.6, subsection 2.
- Benefits are vested under PORS after four years of service. If a member terminates service after vesting, but prior to attaining 22 years of service, the member may elect to receive a benefit upon attaining age 55 that is equal to the retirement benefit the member would receive at retirement if the member's employment had not been terminated multiplied by a service ratio which consists of the years of service at termination divided by 22.²⁴²
- A member who has completed 22 years of service and is at least 50 years old, but less than 55, may elect to receive early retirement benefits.²⁴³ The benefits are to be calculated in the same manner as the regular retirement allowance except that the percentage multiplier will be reduced for each month the member retires prior to the member reaching 55 years of age. The reduction in the multiplier will be determined by the Board of Trustees based upon a determination of the reduction necessary to avoid adding any additional cost to the system to pay for the early retirement benefits.²⁴⁴

²³⁹ Iowa Code §§ 12B.10(6)(a), 12B.10A(6)(a), 12B.10B(3)(a), and 12B.10C(1).

²⁴⁰ 2007 Iowa Acts, ch. 39; Iowa Code ch. 12A.

²⁴¹ Iowa Code § 97A.1(3).

²⁴² Iowa Code § 97A.6(1)(b).

²⁴³ Iowa Code § 97A.6(2A).

²⁴⁴ Iowa Code § 97A.6(2A)(b).



2. Ordinary Disability Benefit.

PORS provides ordinary disability benefits to a member for a disability that was not incurred in the line of duty. Members are eligible to receive such benefits at any age with any length of service, so long as the medical board, after a medical examination of the member, certifies that the disability incapacitates the member for the further performance of duty, that the disability is likely to be permanent, and that the member should be retired.²⁴⁵ Members who commenced membership on or after July 1, 1992, are not eligible for a disability benefit 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. The ordinary disability benefit varies based upon years of service as follows:

- If the member has at least five years of membership service, the ordinary disability benefit is a pension equal to the greater of 50 percent of the average final compensation of the member or the benefit amount calculated under a normal service retirement if the member were 55 years of age pursuant to Code section 97A.6, subsection 2.²⁴⁶
- If the member has less than five years of service at the time of the disability, the ordinary disability benefit is a pension equal to 25 percent of the member's average final compensation.²⁴⁷

3. Accidental Disability Benefit.

Accidental disability benefits are also provided under PORS. A member is eligible to receive accidental disability benefits at any age with any number of years of service, so long as the member incurs a permanent incapacitating disability while acting in the line of duty.²⁴⁸ Under PORS, heart, lung, and respiratory tract diseases are presumed to have occurred in the line of duty, with certain exceptions related to persons commencing membership service after July 1, 1992, whose heart, lung, or respiratory tract disease would not exist but for a preexisting medical condition.²⁴⁹

The accidental disability benefit is calculated as follows:

- For disability retirement prior to July 1, 1990, 66 2/3 percent of average final compensation at disability.²⁵⁰
- For disability retirement on or after July 1, 1990, but prior to July 1, 1998, 60 percent of average final compensation at the time of the disability. However, if at the time of disability, the member has 22 or more years of service, the member is to receive the greater of 60 percent of average final compensation or the benefit amount calculated under a service retirement if the member were 55 years of age.²⁵¹

²⁴⁵ Iowa Code § 97A.6(3).

²⁴⁶ Iowa Code § 97A.6(4)(b).

²⁴⁷ Iowa Code § 97A.6(4)(b).

²⁴⁸ Iowa Code § 97A.6(5).

²⁴⁹ Iowa Code § 97A.6(5)(c).

²⁵⁰ Iowa Code § 97A.6(6)(a).

²⁵¹ Iowa Code § 97A.6(6)(b).



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- For disability retirement on or after July 1, 1998, the greater of 60 percent of average final compensation or the benefit amount calculated under a service retirement if the member were 55 years of age.²⁵²

4. Ordinary Death Benefit.

a. Eligibility. Under PORS, a deceased member's beneficiary may receive an ordinary death benefit if the member's death was from causes not sustained in the line of duty.²⁵³ In order to be eligible, the death must occur while the member is in service, or else for a member who is not in service, the member must be vested (requiring at least four years of service).

b. Benefit Calculation. Ordinary death benefits are calculated and distributed pursuant to one of the following two options as follows:

i. Lump-sum Payment. Upon the death of a member in service with at least one year of membership service, or upon the death of a member not in service with at least four years of service, a lump-sum benefit payable to the designated beneficiary equal to one-half the earnable compensation during the last year of employment or during the last year of service if the deceased member was vested but not in service.²⁵⁴

ii. Monthly Pension. A monthly pension equal to 1/12 of 40 percent of the member's average final compensation, but not less than 25 percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the State Patrol (for members not in service, the benefit is multiplied by a service ratio of years of service at termination divided by 22, not to exceed 1.0), PLUS for each child, 6 percent of the compensation payable to an active member having the rank of senior patrol officer of the State Patrol.²⁵⁵ This option may be selected in lieu of a lump-sum payment, under certain circumstances, only by the member's surviving spouse, the guardian of the member's surviving children, or the member's dependent parents.²⁵⁶ For an eligible beneficiary that chooses this option, payment commences immediately upon the death of the member if the member was in service at the time of death. If the member was not in service at the time of death, monthly pension benefits are not payable until the member would have reached age 55. However, if there is a child or children under the age of 18 or a full-time student who is under age 22, the spousal pension is paid from the time of death until the child reaches age 18 or 22, as applicable, and then resumes commencing when the member would have attained the age of 55.

5. Service-related Death Benefit.

a. Accidental Death Benefit. Accidental death benefits are available under PORS if death results to a member in service from causes sustained while acting in

²⁵² Iowa Code § 97A.6(6)(c).

²⁵³ Iowa Code § 97A.6(8).

²⁵⁴ Iowa Code § 97A.6(8)(a).

²⁵⁵ Iowa Code § 97A.6(8)(b).

²⁵⁶ Iowa Code § 97A.6(8)(c).



the line of duty.²⁵⁷ The accidental death benefit consists of a benefit payable to the surviving spouse, guardian of children, or dependent parents consisting of a pension equal to one-half of the member's average final compensation, PLUS for each child, a child's benefit equal to 6 percent of the compensation payable to an active member having the rank of senior patrol officer of the State Patrol. If there is no surviving spouse, guardian of children, or dependent parent, the member's estate receives a lump-sum benefit which equals the lump-sum benefit provided as an ordinary death benefit.

b. Line of Duty Death Benefit. If the death of a member in service is the direct result of a traumatic personal injury incurred in the line of duty, a line of duty death benefit of \$100,000 is also paid to a person authorized to receive an accidental death benefit for that member.²⁵⁸

6. Death Benefit After Retirement.

If a member dies while receiving a service retirement or disability benefit, a pension is payable to the surviving spouse which is equal to one-half of the benefits received by the deceased member, but not less than 25 percent of the earnable compensation of an active member having the rank of senior patrol officer of the State Patrol, PLUS a child's benefit for each child equal to 6 percent of the earnable compensation of an active member having the rank of senior patrol officer of the State Patrol.²⁵⁹ If the member's spouse dies either prior or subsequent to the member's death, the guardian of each surviving child receives a child's benefit (as described in this section) for the support of that child.²⁶⁰

7. Pension Adjustments — Escalation.

Monthly benefits payable to eligible members and beneficiaries, except children of deceased members, are subject to escalation each January 1 and July 1.²⁶¹ The escalation, or adjustment, of monthly benefits payable is calculated by adding an amount calculated as a percentage of the increase in salary for active members of the system (the salary component) with a set dollar amount depending on how long the member has been retired (the longevity component).²⁶²

The salary component of escalation is based upon the increases in earnable compensation for active members in positions of the same rank as the member held upon retirement or death.²⁶³ This escalation amount is determined by subtracting the earnable compensation as of the date of the most recent escalation of benefits for active members in positions of the same rank as the member from the current earnable compensation for that rank. The resulting difference is multiplied by the following percentages to calculate the salary component of escalation:

²⁵⁷ Iowa Code § 97A.6(9).

²⁵⁸ Iowa Code § 97A.6(16).

²⁵⁹ Iowa Code § 97A.6(12)(a).

²⁶⁰ Iowa Code § 97A.6(12)(b).

²⁶¹ Iowa Code § 97A.6(14)(a).

²⁶² Iowa Code § 97A.6(14)(a).

²⁶³ Iowa Code § 97A.6(14)(a)(1).



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- 40 percent for members receiving a service retirement and for beneficiaries of accidental death benefits, and for members with five or more years of service receiving ordinary disability benefits.²⁶⁴
- 40 percent for members receiving an accidental disability benefit.²⁶⁵
- 24 percent for members with less than five years of service who are receiving ordinary disability benefits and for beneficiaries receiving ordinary death benefits.²⁶⁶

When a surviving spouse is receiving benefits because of the death of the member after retirement, the salary component of escalation for the surviving spouse is calculated as if the member were still living and then is multiplied by 50 percent.²⁶⁷

The longevity component of escalation is determined based upon how many years the member has been retired. The additional amount added in determining escalation is \$15 for a member retired less than five years, \$20 for a member retired between five and 10 years, \$25 for a member retired between 10 and 15 years, \$30 for a member retired between 15 and 20 years, and \$35 for a member retired more than 20 years.²⁶⁸

Surviving children's benefits are adjusted to equal 6 percent of monthly earnable compensation payable to an active member having the rank of senior patrol officer of the State Patrol.²⁶⁹

This semiannual adjustment is generally available to retired members and beneficiaries receiving a full service retirement allowance, an early retirement allowance, an ordinary disability retirement allowance, or an accidental disability allowance.²⁷⁰ However, this semiannual adjustment is not available for a retired member who receives a service retirement allowance if the member had less than 22 years of service at the time of termination from employment.²⁷¹

8. Benefit Options.

Code section 97A.6A permits a member of the system to elect, at the time of retirement and subject to board approval, to receive an optional retirement benefit during the member's lifetime so that the member's beneficiary can receive a benefit after the member dies and during the lifetime of the beneficiary. The amount of the optional retirement benefit provided the member is limited to the actuarial equivalent of the member's normal retirement allowance.

The Board of Trustees of PORS has authorized several optional benefits that may be selected by the member's spouse with the member's agreement. These options are in lieu of providing the spouse with a joint and 50 percent survivor annuity.

²⁶⁴ Iowa Code § 97A.6(14)(a)(1)(a), (d).
²⁶⁵ Iowa Code § 97A.6(14)(a)(1)(b).
²⁶⁶ Iowa Code § 97A.6(14)(a)(1)(c).
²⁶⁷ Iowa Code § 97A.6(14)(a)(1).
²⁶⁸ Iowa Code § 97A.6(14)(a)(2).
²⁶⁹ Iowa Code § 97A.6(14)(a).
²⁷⁰ Iowa Code § 97A.6(14).
²⁷¹ Iowa Code § 97A.6(14)(d).

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Benefits options authorized by the Board of Trustees under PORS that may be selected as of August 15, 2007, include the following:²⁷²

- a. Straight life annuity with no benefits payable upon the death of the member.
- b. Straight life annuity with five or 10 years certain. If the member dies before receiving five or 10 years of benefits, the spouse would continue to receive benefits for the remainder of the five or 10 years, as applicable. No benefits would be payable to the spouse if the member has already received five or 10 years of benefits.
- c. Joint and 50 percent survivor annuity with a beneficiary other than the spouse. Upon the death of the member, the optional beneficiary would receive survivor benefits for the remainder of the optional beneficiary's life and the member's surviving spouse would receive no benefits after the death of the member.
- d. Joint and 75 percent survivor annuity. Upon the death of the member, the spouse, if living, would receive 75 percent of the member's monthly benefit for the remainder of the spouse's life.
- e. Joint and 100 percent survivor annuity. Upon the death of the member, the spouse, if living, would continue to receive the same monthly benefit that the member was receiving prior to the member's death.
- f. Single life annuity with a designated lump sum. Upon the death of the member, the spouse would receive a lump-sum payment.

9. Health Benefits.

PORS does not have any provisions dealing specifically with providing health care benefits to retirees from the system. However, certain PORS members are eligible for programs designed to provide some assistance in paying for health care upon retirement.

Code section 509A.13 provides that if the state, school district, county, or city has procured some form of group health care insurance for its employees, that entity must permit its retired employees to continue participation in the group health insurance plan, at the retiree's expense, until the retiree reaches age 65. Certain surviving spouses of retired state employees are also eligible to participate in the state's group health insurance plan, at their expense, until they reach age 65.²⁷³ In addition, the Department of Public Safety is required to pay the health and life insurance monthly premium costs for retired Department of Public Safety employees and beneficiaries who are eligible to receive benefits for accrued sick leave under the collective bargaining agreement with the State Police Officers Council or pursuant to Code section 70A.23 from moneys credited to the Sick Leave Benefits Fund for this purpose.²⁷⁴

F. Portability.

Portability of pension benefits concerns the ability of a person to transfer pension benefits earned in one retirement system to another. As a defined benefit system based

²⁷² Information on alternative benefit options can be found on the PORS website.

²⁷³ Iowa Code § 509A.13A.

²⁷⁴ Iowa Code § 80.42.



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on a person's salary and length of service, portability for purposes of persons who become members of PORS would be provided by granting the person the ability to obtain service credit for non-PORS service. With only limited exceptions, however, PORS does not allow a person who becomes a member covered by PORS to obtain service credit for prior employment.

1. Transfer to PORS.

a. PORS Buy-back.²⁷⁵ A member who withdraws the member's contributions following a layoff for an indefinite period of time and who is subsequently recalled to service may repay the contributions and regain service credit to the extent the contributions are repaid. The contribution amount to be repaid by the member for such service is equal to the amount of contributions withdrawn, plus interest computed based upon the investment interest rate assumption established by the Board of Trustees as of the time the contributions are repaid. The member must make the contributions within two years of the date of the member's return to service.

b. Municipal Fire and Police Retirement System of Iowa (MFPRSI) Transfers. Code section 97A.17 establishes a mechanism for allowing vested members of MFPRSI who terminate employment under that system and commence employment under PORS to transfer to PORS and receive credit under PORS for the period of service the member received as a member under MFPRSI.²⁷⁶ Essentially, a transfer of funds between the two retirement systems occurs to effectuate the transfer of service credit.²⁷⁷ The member is not required to contribute any additional funds to PORS to receive the additional credit.

c. Military Service Credit. A member who is absent while serving in the armed services who receives an honorable discharge is entitled to have the period or periods of absence included as part of the member's service under PORS.²⁷⁸ A member is limited to four years of additional service credit for such military service. The member must return to service under PORS within one year after receiving the honorable discharge.

d. Public Safety Service — Service Purchase. A member of PORS may purchase service for certain public safety employment and have it credited for purposes of calculating a retirement under PORS.²⁷⁹ The service allowed to be purchased includes service as a gaming enforcement officer, fire inspector, or nonclerical employee of the capitol police prior to July 1, 1994, or as a member of a city fire or police retirement system under Code chapter 411 prior to January 1, 1992. The member seeking to purchase service must pay the full actuarial cost of the service purchase and must make application for the purchase of service by July 1, 2007.

²⁷⁵ Iowa Code § 97A.16(2).

²⁷⁶ See also Iowa Code § 411.31 for transfers from MFPRSI to PORS.

²⁷⁷ Iowa Code § 97A.17(4).

²⁷⁸ Iowa Code § 97A.9.

²⁷⁹ Iowa Code § 97A.10.

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2. Transfer From PORS.

Members who terminate service under PORS may elect to receive a refund of their own contributions, plus interest, whether or not they are vested.²⁸⁰ PORS also permits the member to directly roll over all or a portion of a member's account into an eligible retirement plan.²⁸¹

V. Judicial Retirement System — Chapter 602, Article 9.

A. Overview.

The Judicial Retirement System is established in Code chapter 602, article 9.²⁸² The Judicial Retirement System is generally restricted to judges of the Supreme Court and Court of Appeals, district judges, district associate judges, full-time associate probate judges, and full-time associate juvenile judges.²⁸³ A unique feature of the retirement system is that it is referenced in the Constitution. Article V, section 18, of the Constitution of Iowa provides that the General Assembly "shall prescribe mandatory retirement for judges of the supreme court and the district court at a specific age and shall provide for retirement compensation."

B. Governance.

The Judicial Retirement System is administered by the State Court Administrator, who is appointed by the Supreme Court.²⁸⁴ Moneys in the Judicial Retirement Fund are invested by the Treasurer of State, who has the authority to enter into contracts with investment advisors and consultants to assist in the administration of the fund.²⁸⁵

C. Membership.

Judges of the Supreme Court and Court of Appeals, district court judges, district associate judges appointed after July 1, 1984, and full-time associate probate judges and full-time associate juvenile judges appointed after July 1, 1998, are members of the Judicial Retirement System and not IPERS.²⁸⁶ A district associate judge appointed prior to July 1, 1984, or a full-time associate probate judge or full-time associate juvenile judge appointed prior to July 1, 1998, had the option to remain under IPERS or become a member of the Judicial Retirement System.²⁸⁷ Alternate district associate judges, magistrates, and other employees of the Judicial Department are generally members of IPERS and are excluded as members of the Judicial Retirement System.²⁸⁸

D. Funding.

1. Contributions.

The Judicial Retirement System is funded through contributions made to the Judicial Retirement Fund for service as a judge by both the employee and the

²⁸⁰ Iowa Code § 97A.16(1).

²⁸¹ Iowa Code § 97A.6B.

²⁸² See Iowa Code §§ 602.9101 through 602.9209.

²⁸³ Iowa Code § 602.1611.

²⁸⁴ Iowa Code §§ 602.1208, 602.1209(5), 602.9102.

²⁸⁵ Iowa Code § 602.9111.

²⁸⁶ Iowa Code § 602.1611(1).

²⁸⁷ Iowa Code §§ 602.11115 (district associate judges), 602.11116 (associate juvenile and probate judges).

²⁸⁸ Iowa Code §§ 602.1611(2), (3), 602.1613.



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employer in amounts established by statute. Because the amount designated as the employee's contribution is paid directly by the state and is not specifically deducted from the judge's salary, the judge's contribution is provided pretax treatment for both state and federal income tax purposes.²⁸⁹

The Judicial Retirement System has not always been funded solely through contributions from the judges and the state. Prior to July 1, 1994, a substantial portion of the costs of the system was funded through court fees and fines, in addition to a 4 percent employee contribution and a 3 percent state contribution. Beginning in July 1994, the funding formula was changed by shifting the earmarked court fees to the State General Fund and by providing that the system be funded solely through contributions to the system based upon the basic salary of judges covered by the system.²⁹⁰ As a result, the state contribution was set at a maximum of 23.7 percent²⁹¹ while the effective employee contribution rate was set at 4 percent.²⁹² While the state's required percentage has remained at 23.7 percent since 1994, the employee contribution rate has been modified.²⁹³ Beginning July 1, 2006, the employee contribution rate is set at a percentage determined by multiplying 6 percent by a fraction determined by taking the actual state contribution rate for the fiscal year divided by 23.7.²⁹⁴

Once the Judicial Retirement System reaches "fully funded status," however, the contribution rate will no longer be a fixed percentage but will instead be a percentage rate that is adjusted each fiscal year based upon the total contribution rate the system determines is necessary, using the projected unit credit actuarial method, to amortize the unfunded actuarial liability of the system within 20 years.²⁹⁵ Once the total required contribution rate for a particular fiscal year is determined, 50 percent of the total contribution rate needed is charged to both the employer²⁹⁶ and the employee.²⁹⁷ "Fully funded status" means that the most recent actuarial valuation of the system, using the projected unit credit method of actuarial valuation, reflects that the funded status of the system is at least 90 percent based upon the benefits provided judges as of July 1, 2006.²⁹⁸ As of the fiscal year ending June 30, 2007, the system had not yet reached fully funded status.

2. Investments.

The Treasurer of State has the authority to invest moneys in the retirement fund in any investment authorized in Code section 97B.7A for investment of moneys in IPERS.²⁹⁹ Consistent with this authority, the treasurer is generally exempt from most statutory restrictions otherwise applicable to the investment of public funds when

²⁸⁹ Iowa Code § 602.9104(2).

²⁹⁰ Iowa Code § 602.9104A(4).

²⁹¹ Iowa Code § 602.9104(4)(e)(1). The 23.7 percent rate was reduced in session law for each fiscal year beginning on or after July 1, 2001, through fiscal year 2007-2008.

²⁹² Iowa Code § 602.9104(1), (4).

²⁹³ From July 1, 2000, to June 30, 2006, the employee contribution rate was 5 percent.

²⁹⁴ Iowa Code § 602.9104. For the fiscal year beginning July 1, 2006, the employee contribution rate was 2.32 percent. For the fiscal year beginning July 1, 2007, the employee contribution rate will be 5.7 percent.

²⁹⁵ Iowa Code § 602.9104(4)(d).

²⁹⁶ Iowa Code § 602.9104(4)(e)(2).

²⁹⁷ Iowa Code § 602.9104(4)(c)(2).

²⁹⁸ Iowa Code § 602.9104(4)(b).

²⁹⁹ Iowa Code § 602.9111.

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investing for purposes of the Judicial Retirement System.³⁰⁰ New legislation restricts the ability of the Treasurer of State to invest in Sudan-related investments.³⁰¹

E. Benefits.

1. Basic Retirement Benefit.

In order to be eligible to receive the basic retirement benefit provided under the Judicial Retirement System, a member must have at least four years of membership service and have attained the age of 65, or have at least 20 years of consecutive membership service and have attained the age of 50.³⁰²

The annual annuity of a judge under this system is an amount equal to 3.25 percent of the judge's average annual basic salary for the judge's highest three years of salary as a judge, multiplied by the judge's years of service as a judge of one or more of the courts for which contributions were made to the system.³⁰³ The maximum annuity payable, however, is limited to a set specified percentage of the highest basic salary the judge is receiving or had received at the time the judge becomes separated from service.³⁰⁴ For judges retiring on or after July 1, 2006, the maximum percentage is 65 percent.³⁰⁵ This basic retirement benefit is altered, however, if the judge participates in the Senior Judge Program, primarily by modifying the salary used in calculating the benefit.

2. Escalation of Benefit — Senior Judge Program.

a. Overview. The Senior Judge Program serves as a method of escalation of a judge's retirement benefit for those judges who retired on or after July 1, 1977. The Senior Judge Program allows a judge, upon retirement, to perform judicial work without being paid a salary³⁰⁶ in return for an increased retirement benefit based in part on the current salary paid to an active judge and the date the judge became a senior judge.³⁰⁷

Upon retirement, a judge who meets the requirements for service as a senior judge may elect to serve as a senior judge.³⁰⁸ Service as a senior judge obligates the judge to work a minimum of 13 weeks out of each successive 12-month period.³⁰⁹ A judge may continue to serve as a senior judge until the judge completes a 12-month period of service during which the judge attains 78 years of age.³¹⁰

b. Benefit Calculation. For judges who first became senior judges on or after July 1, 1994, the senior judge's retirement yearly benefit is calculated by multiplying the percentage multiplier that applied at the time the judge first retired³¹¹ by the basic

³⁰⁰ Iowa Code §§ 12B.10(6)(g), 12B.10A(6)(g), 12B.10B(3)(g), and 12B.10C(6).

³⁰¹ 2007 Iowa Acts, ch. 39; Iowa Code ch. 12A.

³⁰² Iowa Code § 602.9106.

³⁰³ Iowa Code § 602.9107(1)(a).

³⁰⁴ Iowa Code § 602.9107(1)(b).

³⁰⁵ Iowa Code § 602.9107(1)(b)(5).

³⁰⁶ However, since July 1, 1995, each senior judge has been paid a salary. See 2007 Iowa Acts, ch. 215, § 12(2)(k).

³⁰⁷ Iowa Code § 602.9206.

³⁰⁸ Iowa Code § 602.9203.

³⁰⁹ Iowa Code § 602.9203(2).

³¹⁰ Iowa Code § 602.9207(1).

³¹¹ See Iowa Code § 602.9107.



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senior judge salary.³¹² For purposes of this formula, "basic senior judge salary" is the highest basic annual salary the judge received or had received just prior to retirement plus 75 percent of the difference between the current annual salary of a judge at the time payment is made and the basic annual salary the judge received just prior to retirement.³¹³ However, the basic senior judge salary used in calculating the senior judge benefit is capped at the basic senior judge salary at the time the judge is no longer eligible to be a senior judge.³¹⁴

c. Relinquishing Senior Judge Status. If a member relinquishes a senior judgeship pursuant to Code section 602.9208, by requesting removal from the senior judge roster before reaching the age of 78, the member's annuity is calculated differently than for those senior judges who remain a senior judge for as long as they are eligible. Code section 602.9208, subsection 3, establishes the method for calculating a retirement benefit for a senior judge who relinquishes status as a senior judge before required to do so. If the member served six or more years as a senior judge, the member continues to receive the same amount for a retirement annuity as the member was receiving prior to the relinquishment. Thus, the member will receive the benefit of any escalation in salaries prior to the relinquishment, but not afterwards. However, if the member has less than six years of service as a senior judge, the judge receives the basic annuity amount without senior status based upon original retirement date, plus an amount equal to the number of years served as a senior judge divided by six, multiplied by the difference between the amount of the annuity the person is receiving at the time of relinquishment and the basic annuity amount.

d. Medical Insurance Coverage. In addition to an increased retirement benefit, the state is required to pay for medical insurance for a senior judge, a retired judge who was a senior judge for at least six years, and that judge's spouse, until the judge reaches 78 years of age.³¹⁵

3. Disability Benefit.

Code section 602.9112 provides that any active member with four or more years of service who is deemed permanently incapacitated, mentally or physically, to perform the member's duties is entitled to an annuity which is calculated in the same manner as a basic retirement annuity.

4. Basic Surviving Spouse Benefit.

Code section 602.9115 provides the basic benefit available to a surviving spouse, unless the member has elected an optional annuity. The basic surviving spouse benefit is provided upon the member's death or when the surviving spouse reaches age 60, whichever is later. The amount of the benefit is one-half of the amount of the annuity the judge was receiving or would have been entitled to receive at the time of the judge's death, or if the judge died before reaching age 65, then one-half of the amount the judge would have been entitled to receive at age 65 based on the judge's years of service for which contributions were made to the system. A survivor who is

³¹² Iowa Code § 602.9204(1).

³¹³ Iowa Code § 602.9204(2)(c).

³¹⁴ Iowa Code § 602.9204(2)(d).

³¹⁵ Iowa Code § 602.9204(1). This coverage is not paid from the retirement fund.



less than 60 years of age at the time of the death of the member may elect to receive a decreased retirement annuity beginning on the judge's death that is the actuarial equivalent of the amount otherwise payable under Code section 602.9115.

Code section 602.9209 provides, however, that a survivor of a senior judge, a retired senior judge, or a person who relinquished a senior judgeship under Code section 602.9208, subsection 1, is entitled to be paid an annuity which is equal to one-half of the amount of the annuity the senior judge, retired senior judge, or person who relinquished a senior judgeship was receiving at the time of death, provided the survivor is otherwise qualified under Code section 602.9115 to receive an annuity.

5. Optional Annuity.

Code section 602.9115A provides that prior to retirement, a judge may elect to receive an optional annuity and have that optional annuity or a designated fraction of the optional annuity continued and paid to the judge's survivor after the judge's death and during the lifetime of the survivor.

If a judge with a survivor dies prior to retirement, the election remains valid and the survivor is entitled to receive the annuity beginning at the time of the death of the judge.

The optional annuity provides a member with a reduced retirement benefit, but that same benefit or a designated fraction thereof goes to the survivor. The reduced amount is the actuarial equivalent of the amount which would otherwise be paid to the judge and a surviving spouse without the election of the optional benefit. The election must be made in writing.

6. Minimum Benefits.

Code section 602.9107B provides that, beginning July 1, 1998, the minimum retirement annuity paid to a judge, or a survivor of a judge, who retired prior to July 1, 1977, is \$500 per month.

7. Health Benefits.

Code section 509A.13 provides that if the state, school district, county, or city has procured some form of group health care insurance for its employees, that entity is required to permit its retired employees to continue participation in the group health insurance plan, at the retiree's expense, until the retiree reaches age 65. In addition, certain surviving spouses of retired state employees, such as judges, are eligible to participate in the state's group health insurance plan, at their expense, until they reach age 65.³¹⁶ This provision applies to all retired judges, whether they take senior judge status or not. As discussed previously, senior judges, retired judges with at least six years of service as a senior judge, and their spouses receive the added benefit of having medical insurance provided by the state until they reach age 78.

F. Portability.

Portability of pension benefits concerns the ability of a person to transfer pension benefits earned in one retirement system to another. As a defined benefit system based

³¹⁶ Iowa Code § 509A.13A.



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on a person's salary and length of service, portability for purposes of persons who become members of the Judicial Retirement System would be provided by granting the person the ability to obtain service credit for service not covered by the system.

1. Transfer to Judicial Retirement System.

Until July 1, 2002, except for certain district associate judges, full-time associate juvenile judges, and full-time associate probate judges given the election to join the Judicial Retirement System, the system did not grant a person who becomes a member covered by the Judicial Retirement System the ability to obtain service credit for prior employment.³¹⁷ A judge who has at least four years of service as a judge and who was a member of IPERS can receive service credit under the Judicial Retirement System for IPERS service upon making a contribution to the system equal to the actuarial cost of the service purchase.³¹⁸

2. Transfer From Judicial Retirement System.

A judge who terminates service prior to vesting receives a refund of the amount contributed by the judge to the retirement fund.³¹⁹ The system also permits the judge or surviving spouse to directly roll over all or a portion of a judge's account into an eligible retirement plan.³²⁰

VI. Alternative Public Retirement Plans.

A. Defined Contribution Plans — Educational.

1. Eligible Participants.

Employees of the three State Board of Regents universities and the board's offices may elect to participate in an employer-sponsored 403(b) tax-sheltered annuity plan managed by the Teachers Insurance and Annuity Association — College Retirement Equities Fund (TIAA-CREF). In addition, Code section 97B.42 provides that under certain circumstances, certain employees of the community colleges may elect coverage under TIAA-CREF or a similar plan that meets the requirements of section 401(a), 403(a), or 403(b) of the Internal Revenue Code.³²¹

2. TIAA-CREF Overview.³²²

TIAA-CREF is very different from the other public retirement systems discussed in this Guide, as it is privately, rather than publicly, operated; it is a defined contribution, as opposed to a defined benefit, plan; and it includes participants nationwide, rather than just persons employed in Iowa. TIAA-CREF is a financial services organization that provides retirement plans for educational and research institutions. TIAA and CREF actually offer different types of annuities, with TIAA offering traditional annuities providing a fixed investment return with dividends and

³¹⁷ Iowa Code §§ 602.11115 and 602.11116 detail the method for transferring IPERS service credit to the Judicial Retirement System for district associate judges, full-time associate juvenile judges, and full-time associate probate judges who become members of the Judicial Retirement System.

³¹⁸ Iowa Code § 602.9107C.

³¹⁹ Iowa Code § 602.9108.

³²⁰ Iowa Code § 602.9105.

³²¹ Iowa Code § 260C.14(17).

³²² Information on TIAA-CREF discussed in this section can be found at www.tiaa-cref.org.



CREF offering diversified investment options through variable annuities. Participants may elect a variety of payment methods. TIAA-CREF allows participants to direct their investments in several allocation choices, encompassing a traditional annuity, real estate, fixed income and money market, and several stock and bond accounts.

3. Financial Provisions.

Like members of IPERS and the Judicial Retirement System, TIAA-CREF participants also contribute to Social Security. In addition, employee contributions to TIAA-CREF are accorded pretax treatment for both state and federal income tax purposes, unless the participant completes a tax deduction form.

For employees of community colleges that elect to participate in an eligible defined contribution system, employer contributions are limited to that amount the employer would have been required to contribute if the person was a member of IPERS.³²³ For eligible Board of Regents employees, the employee contribution is 3 1/3 percent of the first \$4,800 of budgeted salary for employees with less than five years of service and 5 percent on all additional salary. Employers contribute 6 2/3 percent of the first \$4,800 of budgeted salary for employees with less than five years of service and 10 percent on all additional salary.³²⁴

Both employee and employer contributions to TIAA-CREF are fully and immediately vested. Plan benefits are available only after retirement or termination of employment.

B. Pension and Annuity Retirement System — Public School Teachers.

Any school district located in a city having a population of 25,100 or more may establish a pension and annuity retirement system for the public school teachers of such district in lieu of IPERS.³²⁵ Few of these plans have been established in this state. Statutory provisions governing a pension system established with this authority are found in Code sections 294.8 through 294.16.

C. Pension and Annuity Retirement System — Municipal Utility Employees.

The council or board authorized to manage and operate a municipal waterworks or other public utility may establish a pension and annuity retirement system for employees of such waterworks or public utility.³²⁶ Membership in the system, if created, is optional for employees but a decision to opt out of IPERS coverage to become a member of a system created for municipal employees is irrevocable.³²⁷ However, authority exists to merge a pension system created pursuant to Code chapter 412 with IPERS.³²⁸

The funding for the municipal pension system can come from the assessments on the wages and salaries of covered employees, interest on any fund, and moneys derived from the operation of the waterworks or public utility. Moneys deposited in a fund for the

³²³ Iowa Code § 97B.42.

³²⁴ TIAA-CREF contribution rates for eligible employees at both the University of Iowa and Iowa State University were accessed on August 15, 2007, from the human resources web page for both institutions. (<http://www.uiowa.edu/hr/benefits/index.html>) (<http://www.hrs.iastate.edu/main/homepage.shtml>)

³²⁵ Iowa Code § 294.8.

³²⁶ Iowa Code § 412.1.

³²⁷ Iowa Code § 97B.42A(5).

³²⁸ Iowa Code § 97B.42C.



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purpose of the retirement system must be invested in accordance with the investment policy for the retirement fund, as established by the governing body of the public utility, and are governed by the standards applicable to IPERS as set forth in Code section 97B.7A.³²⁹ Although Iowa law is not consistent on this point, investments by municipal utility retirement systems are also generally exempt from most statutory restrictions otherwise applicable to the investment of public funds.³³⁰

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³²⁹ Iowa Code § 412.4.

³³⁰ Iowa Code §§ 12B.10(6)(k), 12B.10B(3)(j), and 12B.10C(9). However, Code section 412.4 provides that permissible investments shall be limited to those investments authorized in Code section 12B.10(5), and investments are not exempt from the requirements of Code section 12B.10A.