



**LEGISLATIVE  
SERVICES AGENCY**

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# LEGISLATIVE GUIDE

## *Legal Services Division*



**Note to Reader:**

Legislative Guides, prepared in an objective and nonpartisan manner, provide a general survey of a particular area of the law and are intended for use primarily by members of the Iowa General Assembly and their staffs. Legislative Guides are updated periodically to reflect changes in the law. The reader is cautioned against using information contained in a Legislative Guide to draw conclusions as to the legality of a particular behavior or set of circumstances.

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## IOWA PUBLIC RETIREMENT SYSTEMS

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## I. Introduction

Unless otherwise indicated, references to the Iowa Code incorporate the 2016 Iowa Code. The Iowa Administrative Code references are current to September 2015.

### 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. Stated another way, the basic funding equation for any pension plan is that contributions to the plan plus investment returns, equals the benefits paid, less expenses. While the basic funding concept of any pension plan is fairly universal, the manner in which moneys are contributed, invested, and paid as benefits upon retirement can vary significantly based upon the type of pension plan created. Most pension plans are structured as either a defined contribution<sup>1</sup> or a defined benefit<sup>2</sup> 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.<sup>3</sup> 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.

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

<sup>2</sup> A defined benefit system means the benefit amount is defined in the plan and the amount of dollars contributed is determined by factors specified in the plan.

<sup>3</sup> 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."



# Iowa Public Retirement Systems

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## 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 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.<sup>4</sup>

## 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 Pension Protection Act of 2006. 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.<sup>5</sup> 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.

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<sup>4</sup> See discussion under Part VI.

<sup>5</sup> Iowa Code §20.9 governing the scope of collective bargaining provides that, "All retirement systems shall be excluded from the scope of negotiations." (However, the amount and manner of assessing the wages of employees for purposes of funding a municipal utility retirement system established under Code chapter 412 is subject to collective bargaining. Iowa Code §412.2(1).)



## 2. Guiding Principles for Public Pensions

Iowa Code chapter 97D establishes guiding principles governing the consideration of future legislative changes to public retirement systems in the state. Specifically, Iowa 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. Reporting Requirements

**a. Actuarial Valuation.** Each public retirement system in the state is required to provide an annual actuarial valuation or actuarial update of the assets and liabilities of that retirement system.<sup>6</sup> An actuarial valuation provides a financial snapshot as of the date of the valuation relative to the assets available in the retirement fund to pay benefits and the liabilities, or projected benefit costs, of the system. As part of the actuarial valuation, actuaries include information on the extent of additional funding, i.e. contributions, needed during the upcoming fiscal year to ensure that sufficient

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<sup>6</sup> PORS, Iowa Code §97A.5(12); IPERS, Iowa Code §97B.4(4)(d); MFPRSI, Iowa Code §411.5(11); Judicial, Iowa Code §602.9116(1) (annual actuarial update; actuarial valuation once every four years).



## Iowa Public Retirement Systems

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funds will be available to pay benefits expected to be paid to members of the retirement system in the future. As a result of this determination, each retirement system establishes a percentage of expected payroll — a contribution rate — for the upcoming year that should be paid by employers and employees covered by the system.<sup>7</sup>

**b. Actuarial Investigation.** Actuarial assumptions are a critical component of the actuarial valuation process because the ultimate cost of providing benefits to each member of the system, and the determination of whether sufficient funds are available to pay the benefits, is largely based upon future events. The cost of paying benefits in the future is largely dependent on how each member's career will evolve in terms of salary growth, future years of service, death, disability, termination, and retirement, and since each one of these factors impacts the ultimate cost of the benefit earned by that member, the actuary develops assumptions designed to predict future experience. In addition, determining what assets will be available to pay these future benefits also requires making certain economic assumptions, such as the expected rate of return on assets, and inflation. Because these assumptions have an enormous impact on determining the funded status of a retirement system, continued examination of the validity of these assumptions based upon actual experience is necessary. As a result, the public retirement systems in this state are generally required to examine the actuarial assumptions and methods utilized on a regularly scheduled,<sup>8</sup> or ad hoc,<sup>9</sup> basis.

**c. Supplemental Reporting.** Commencing with the fiscal year beginning July 1, 2008, each public retirement system is required to include, as part of their actuarial valuation or actuarial update, additional information based upon the entry age normal actuarial cost method.<sup>10</sup> The additional information required is the actuarially required contribution rate for that public retirement system which is equal to the normal cost rate<sup>11</sup> plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percent of payroll basis over thirty years and the normal cost rate for that public retirement system which is determined for each individual member on a level percentage of salary basis and then summed for all members to obtain the total normal cost. While the additional reporting requires utilizing the entry age normal actuarial cost method, each retirement system is not required to utilize this method for purposes of their annual actuarial valuation or update.<sup>12</sup>

**d. Governmental Accounting Standards Board Standards.** The Governmental Accounting Standards Board (GASB) is an independent organization

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<sup>7</sup> See discussion in this Guide concerning contribution rates for each retirement system: PORS, IPERS, MFPRSI, and Judicial.

<sup>8</sup> PORS is required to conduct an actuarial investigation of the entire system at least once every two years and an additional actuarial investigation every five years beginning 2019 related to the actuarial costs associated with providing that certain cancers and infectious diseases are presumed to have been contracted while on active duty, Iowa Code §97A.5(11); IPERS is required to conduct an actuarial investigation every four years beginning in calendar year 2002, Iowa Code §97B.4(4)(c); and MFPRSI is required to conduct an actuarial investigation at least once in every five-year period, Iowa Code §411.5(10).

<sup>9</sup> For the Judicial Retirement System, the state court administrator is required to adopt those actuarial methods and assumptions necessary to conduct an actuarial valuation upon the recommendation of the actuary, Iowa Code §602.9116(1).

<sup>10</sup> Iowa Code §97D.5.

<sup>11</sup> "Normal cost" is generally the cost of providing future benefits and is the contribution that is a level percent of pay, determined for each member, which if paid from date of hire (entry age) to retirement date will finance all future benefit payments.

<sup>12</sup> PORS, Iowa Code §97A.5(11), (12); IPERS, Iowa Code §97B.8A(3)(b); MFPRSI, Iowa Code §411.5(10), (11); Judicial, Iowa Code §602.9116(1).



that adopts statements establishing standards of accounting and financial reporting for United States state and local governments.<sup>13</sup> While the standards are not federal laws or regulations, they are utilized by auditors when examining whether a particular governmental entity is in conformity with generally accepted accounting principles (GAAP). The audits and financial statements of Iowa’s public retirement systems apply GASB standards.

In June 2012, GASB adopted two new standards concerning the accounting and financial reporting of public employee pensions by state and local governments.<sup>14</sup> Statement No. 67, Financial Reporting for Pension Plans, applies for fiscal years beginning on or after June 15, 2013, and addresses financial reporting for state and local government pension plans. Statement No. 68, Accounting and Financial Reporting for Pensions, applies for fiscal years beginning on or after June 15, 2014, and establishes new accounting and financial reporting requirements for governments that provide their employees with pensions. In describing the impact of these two new pension statements, GASB commented that “It is important to note that the new Statements relate to accounting and financial reporting issues only—how pension costs and obligations are measured and reported in audited external financial reports. The Statements do not address how governments approach pension plan funding—a government’s policy regarding how much money it will contribute to its pension plan each year.”<sup>15</sup>

#### 4. 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.<sup>16</sup> Iowa 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.
- 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.

<sup>13</sup> Information on GASB and the items discussed in this section can be found at [www.gasb.org](http://www.gasb.org).

<sup>14</sup> GASB Pension Statements, News Release (June 25, 2012), [http://www.gasb.org/cs/ContentServer?c=GASBContent\\_C&pagename=GASB/GASBContent\\_C/GASBNewsPage&cid=1176160126951](http://www.gasb.org/cs/ContentServer?c=GASBContent_C&pagename=GASB/GASBContent_C/GASBNewsPage&cid=1176160126951).

<sup>15</sup> GASB Pension Statements, Plain-language documents – Pension Accounting and Financial Reporting, (December 2013), [http://www.gasb.org/cs/ContentServer?site=GASB&c=Document\\_C&pagename=GASB%2FDocument\\_C%2FGASBDocumentPage&cid=1176160140567](http://www.gasb.org/cs/ContentServer?site=GASB&c=Document_C&pagename=GASB%2FDocument_C%2FGASBDocumentPage&cid=1176160140567).

<sup>16</sup> Iowa Code §97D.4.



# Iowa Public Retirement Systems

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- 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 Iowa Code chapter 97B and rules adopted pursuant to that chapter.<sup>17</sup> 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.<sup>18</sup> Information concerning IPERS can be found on the IPERS Internet site 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 Iowa Code chapter 97B.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup> The qualifications for chief executive officer include management-level pension fund administration experience.<sup>22</sup> 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.<sup>23</sup>

#### 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 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.<sup>24</sup> In addition, the IPERS Investment Board has the authority to select the actuary to be employed by IPERS and to adopt the actuarial methods and assumptions to be used by the actuary.<sup>25</sup> The 11-member board consists of the Treasurer of State, three public members who must have substantial institutional

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<sup>17</sup> The administrative rules for IPERS are located at Iowa Admin. Code 495.

<sup>18</sup> See Iowa Code chapter 97 for some provisions of IOASI.

<sup>19</sup> Iowa Code §97B.1(1).

<sup>20</sup> Iowa Code §97B.3(1).

<sup>21</sup> Iowa Code §97B.3(1).

<sup>22</sup> Iowa Code §97B.3(2).

<sup>23</sup> Iowa Code §97B.4(3)(a), (b).

<sup>24</sup> Iowa Code §97B.8A(1), (2).

<sup>25</sup> Iowa Code §97B.8A(3).



investment or financial experience, three members who are members of IPERS, and four legislative members. The four legislative members are nonvoting members.<sup>26</sup>

### 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 IPERS Investment Board for members of the system. This committee is comprised of representatives of constituent groups concerned with IPERS, the director of the department of administrative services, and a public member appointed by the voting members of the committee. Of the nine voting members of the committee, four members shall represent employers and four shall represent employees who are covered by IPERS.<sup>27</sup>

## 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 Iowa Code chapter 97B for whom coverage is mandatory.<sup>28</sup> This status exists when the individual and an employer as defined by Iowa Code chapter 97B enter into a relationship which both recognize to be that of employer/employee.<sup>29</sup> 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 area agencies on aging employing persons in an alternative qualified plan, joint planning commissions created under Iowa Code chapter 28E or 28I, and certain interstate agencies established under Iowa 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.<sup>30</sup> Except for certain categories of employees who are specifically excluded from membership<sup>31</sup> or who are authorized by law to elect alternative or no coverage,<sup>32</sup> IPERS membership for covered employees is mandatory.<sup>33</sup>

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<sup>26</sup> Iowa Code §97B.8A(4).

<sup>27</sup> Iowa Code §97B.8B.

<sup>28</sup> Iowa Code §97B.1A(8).

<sup>29</sup> Iowa Admin. Code 495-5.1(1).

<sup>30</sup> Iowa Code §97B.1A(9).

<sup>31</sup> Iowa Code §97B.1A(8)(b).

<sup>32</sup> Iowa Code §§97B.1A(8)(a), 97B.42A.

<sup>33</sup> 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.<sup>34</sup>

- Persons who are members of any other retirement system in the state which is maintained in whole or in part by public contributions.<sup>35</sup> 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 part VI of this Legislative Guide, are not included in IPERS.
- Enrolled students who are only incidentally employed by covered employers.<sup>36</sup>
- Graduate medical students while serving as interns or resident doctors-in-training at any hospital.<sup>37</sup>
- County medical examiners and deputy county medical examiners who are not full-time county employees.<sup>38</sup>
- Employees hired for temporary employment of less than six consecutive months or 1,040 hours in a calendar year.<sup>39</sup>
- 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.<sup>40</sup>
- Foreign exchange teachers and visitors.<sup>41</sup>
- 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.<sup>42</sup>
- Judicial hospitalization referees appointed under Iowa Code section 229.21.<sup>43</sup>
- 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.<sup>44</sup>
- Persons employed through the Iowa Conservation Corps.<sup>45</sup>

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<sup>34</sup> See, generally, Iowa Code §§97B.1A(8)(b), 97B.42; Iowa Admin. Code 495-5.2.

<sup>35</sup> Iowa Code §97B.42; Iowa Admin. Code 495-5.2(20).

<sup>36</sup> Iowa Code §97B.1A(8)(b)(1).

<sup>37</sup> Iowa Code §97B.1A(8)(b)(2).

<sup>38</sup> Iowa Code §97B.1A(8)(b)(2).

<sup>39</sup> Iowa Code §97B.1A(8)(b)(3).

<sup>40</sup> Iowa Code §97B.1A(8)(b)(3).

<sup>41</sup> Iowa Code §97B.1A(8)(b)(4).

<sup>42</sup> Iowa Code §97B.1A(8)(b)(5).

<sup>43</sup> Iowa Code §97B.1A(8)(b)(6).

<sup>44</sup> Iowa Code §97B.1A(8)(b)(7).

<sup>45</sup> Iowa Code §97B.1A(8)(b)(8).



- Persons employed by the Iowa Student Loan Liquidity Corporation.<sup>46</sup>
- Independent contractors.<sup>47</sup>

### 3. Optional Membership

Several classes of employees are provided the option of whether or not to become a member of IPERS.<sup>48</sup> Commencing January 1, 1999, newly hired employees in these classes are included under IPERS unless an election to be excluded is made.<sup>49</sup> In addition, employees in these classes as of January 1, 1999, or July 1, 2000, for employees employed by a municipal 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.<sup>50</sup> 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.<sup>51</sup> 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.<sup>52</sup>
- Members of the General Assembly and temporary employees of the General Assembly. A member of the General Assembly covered under Iowa Code chapter 97B may terminate membership under that chapter by informing IPERS in writing of the member's intent to terminate membership.<sup>53</sup>
- Nonvested employees of drainage and levee districts.<sup>54</sup>
- Employees of a community action program determined to be an instrumentality of the state or a political subdivision.<sup>55</sup>
- Magistrates.<sup>56</sup>
- Members of the ministry, rabbinate, or other religious order who have taken the vow of poverty.<sup>57</sup>

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<sup>46</sup> Iowa Code §97B.1A(8)(b)(9).

<sup>47</sup> Iowa Admin. Code 495-5.2(38).

<sup>48</sup> Iowa Code §§97B.1A(8)(a), 97B.42A.

<sup>49</sup> Iowa Code §97B.42A(1).

<sup>50</sup> Iowa Code §97B.42A(3), (5).

<sup>51</sup> Iowa Code §97B.42A(1), (3), (5).

<sup>52</sup> Iowa Code §97B.1A(8)(a)(1).

<sup>53</sup> Iowa Code §97B.1A(8)(a)(2).

<sup>54</sup> Iowa Code §97B.1A(8)(a)(3).

<sup>55</sup> Iowa Code §97B.1A(8)(a)(4).

<sup>56</sup> Iowa Code §97B.1A(8)(a)(5); see also Iowa Code §602.1611(2).

<sup>57</sup> Iowa Code §97B.1A(8)(a)(6).



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- Persons employed as city managers or as city administrators performing the duties of city managers.<sup>58</sup>
- Members of the State Transportation Commission, the Board of Parole, and the State Health Facilities Council.<sup>59</sup>
- 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 Iowa Code section 97B.2.<sup>60</sup>
- Persons employed by the Board of Trustees for the Statewide Fire and Police Retirement System established in Iowa Code chapter 411.<sup>61</sup>
- Persons employed by a municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to Iowa Code chapter 412.<sup>62</sup>
- Employees of a regional administrator for a mental health and disability services region formed by counties in accordance with Iowa Code section 331.392, determined to be an instrumentality of the political subdivision forming the regional administrator.<sup>63</sup>
- Employees of area community colleges, 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.<sup>64</sup>

## 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 Iowa Code section 456A.13 or as designated by a county conservation board pursuant to Iowa Code section 350.5.<sup>65</sup>
- A marshal in a city not covered under Iowa Code chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in Iowa Code chapter 410 or 411.<sup>66</sup>

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<sup>58</sup> Iowa Code §97B.1A(8)(a)(7).

<sup>59</sup> Iowa Code §97B.1A(8)(a)(8).

<sup>60</sup> Iowa Code §97B.1A(8)(a)(9).

<sup>61</sup> Iowa Code §97B.1A(8)(a)(10).

<sup>62</sup> Iowa Code §97B.1A(8)(a)(11).

<sup>63</sup> Iowa Code §97B.1A(8)(a)(12).

<sup>64</sup> Iowa Code §97B.42(6), (7).

<sup>65</sup> Iowa Code §97B.49B(1)(e)(1).

<sup>66</sup> Iowa Code §97B.49B(1)(e)(2).



- 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.<sup>67</sup>
- An airport safety officer employed under Iowa Code chapter 400 by an airport commission in a city of 100,000 population or more.<sup>68</sup>
- An employee of the Department of Transportation who is designated as a “peace officer” by resolution under Iowa Code section 321.477.<sup>69</sup>
- A fire prevention inspector peace officer employed by the Department of Public Safety prior to July 1, 1994, who does not elect coverage under the Iowa Department of Public Safety Peace Officers’ Retirement, Accident, and Disability System, as provided in Iowa Code section 97B.42B.<sup>70</sup>
- A state merit system employee whose primary duty is providing airport security and who carries or is licensed to carry a firearm while performing those duties.<sup>71</sup>
- An airport fire fighter employed by the Department of Public Defense.<sup>72</sup>
- A jailer or detention officer who performs duties as a jailer, including but not limited to the transportation of inmates, who is certified as having completed jailer training pursuant to Iowa Code chapter 80B, and who is employed by a county as a jailer.<sup>73</sup>
- A state merit system employee whose primary duty is providing security at Iowa National Guard installations and facilities and who carries or is licensed to carry a firearm while performing those duties.<sup>74</sup>
- An emergency medical care provider who provides emergency medical services, as defined in Iowa Code section 147A.1, and who is not a member of MFPRSI.<sup>75</sup>
- An investigator employed by a county attorney’s office who is a certified law enforcement officer and who is deputized as an investigator for the county attorney’s office by the sheriff of the applicable county.<sup>76</sup>
- An employee of the Insurance Division of the Department of Commerce who is required to be certified by the Iowa Law Enforcement Academy and who performs the duties of a peace officer.<sup>77</sup>

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<sup>67</sup> Iowa Code §97B.49B(1)(e)(3).

<sup>68</sup> Iowa Code §97B.49B(1)(e)(4).

<sup>69</sup> Iowa Code §97B.49B(1)(e)(5).

<sup>70</sup> Iowa Code §97B.49B(1)(e)(6).

<sup>71</sup> Iowa Code §97B.49B(1)(e)(7).

<sup>72</sup> Iowa Code §97B.49B(1)(e)(8).

<sup>73</sup> Iowa Code §97B.49B(1)(e)(9).

<sup>74</sup> Iowa Code §97B.49B(1)(e)(10).

<sup>75</sup> Iowa Code §97B.49B(1)(e)(11).

<sup>76</sup> Iowa Code §97B.49B(1)(e)(12).

<sup>77</sup> Iowa Code §97B.49B(1)(e)(13).



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- An employee of a judicial district department of correctional services required to be certified by the Iowa Law Enforcement Academy and to perform the duties of a parole officer.<sup>78</sup>
- 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 Iowa Code section 39.17.<sup>79</sup>
  - A deputy sheriff appointed pursuant to Iowa Code section 341.1 prior to July 1, 1981, or Iowa Code section 331.903 on or after July 1, 1981.<sup>80</sup>

## 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 wages<sup>81</sup> of the employee as established by statute. For purposes of both federal and state income taxation, the employee's contribution to IPERS is not considered part of an employee's gross wages.<sup>82</sup> For all other purposes, such as computing IPERS benefits and computing Federal Insurance Contributions Act (FICA) contributions, an employee's gross wages include the employee's contribution to IPERS.

**a. General Membership.** Iowa Code section 97B.11 provides the employer and employee contribution rates for the general membership of IPERS.

- **Pre-July 1, 2007.** 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.<sup>83</sup>
- **July 1, 2007 — June 30, 2011.** Beginning July 1, 2007, the base employer rate of 5.75 percent increased by .3 percentage points per fiscal year and the base employee rate of 3.70 percent increased by .2 percentage points per fiscal year for a total of four fiscal years. As a result, the employer contribution rate increased to 6.95 percent and the employee contribution rate increased to 4.5 percent for the fiscal year beginning July 1, 2010, resulting in an increase of two percentage points for a combined rate of 11.45 percent.<sup>84</sup>
- **Post-July 1, 2011.** For fiscal years beginning on and after July 1, 2011, the contribution rate paid by employers and employees will not be fixed as a set percentage of covered wages by statute but will instead be adjusted each fiscal year based upon the total contribution rate required by the system to discharge its liabilities as a percentage of the covered wages of members in the retirement system. Once the total contribution rate is established for a

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<sup>78</sup> Iowa Code §97B.49B(1)(e)(14).

<sup>79</sup> Iowa Code §97B.49C(1)(e).

<sup>80</sup> Iowa Code §97B.49C(1)(b).

<sup>81</sup> Iowa Code §97B.1A(26).

<sup>82</sup> Iowa Code §97B.11A.

<sup>83</sup> 2005 Iowa Code §99B.11.

<sup>84</sup> Iowa Admin. Code 495-4.6(1).



fiscal year, 60 percent of the total contribution rate needed to pay the cost of benefits will be charged to the employer and 40 percent to the employee.<sup>85</sup> However, the total required contribution rate set by the system for a fiscal year cannot vary by more than one percentage point from the total required contribution rate for the prior fiscal year.<sup>86</sup>

**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.<sup>87</sup> 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.<sup>88</sup>

## 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.<sup>89</sup> Iowa 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.<sup>90</sup> Consistent with these standards, IPERS is generally given the latitude to invest in every kind of property and investment<sup>91</sup> and is exempt from most statutory restrictions otherwise applicable to the investment of public funds.<sup>92</sup> 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.<sup>93</sup> Iowa law also restricts the ability of IPERS to invest in Sudan- and Iran-related investments.<sup>94</sup>

## 3. Limitations on Benefit Enhancements — Funded Status

Iowa 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

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<sup>85</sup> Iowa Code §97B.11(3)(a); Iowa Admin. Code 495-4.6(1). For the fiscal year beginning July 1, 2015, the contribution rate schedule is 5.95 percent for the employee and 8.93 percent for the employer, for a combined rate of 14.88 percent.

<sup>86</sup> Iowa Code §97B.11(3)(d).

<sup>87</sup> Iowa Code §97B.11(3)(b); Iowa Admin. Code 495-4.6(3). For the fiscal year beginning July 1, 2015, the contribution rate schedule is 6.56 percent for the employee and 9.84 percent for the employer, for a combined rate of 16.40 percent.

<sup>88</sup> Iowa Code §97B.11(3)(c); Iowa Admin. Code 495-4.6(2). For the fiscal year beginning July 1, 2015, the contribution rate schedule is 9.88 percent for the employee and 9.88 percent for the employer, for a combined rate of 19.76 percent.

<sup>89</sup> Iowa Code §97B.8A.

<sup>90</sup> Iowa Code §97B.7A(1)(a).

<sup>91</sup> Iowa Code §97B.7A(2).

<sup>92</sup> Iowa Code §§12B.10(6)(b), 12B.10A(6)(b), 12B.10B(3)(b), 12B.10C(4)(b).

<sup>93</sup> Iowa Code §97B.7A(2).

<sup>94</sup> Iowa Code ch. 12F (Sudan), 12H (Iran).



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immediately following enactment of the increase and the increase can be absorbed within the contribution rates otherwise established for the affected membership group, or that the increase is accompanied by a change in the required contribution rate of the membership group affected that is 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.<sup>95</sup>

## 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.** Vesting requirements vary, beginning in July 2012, based upon the service classification to which an IPERS member belongs.<sup>96</sup>

**i. Regular Service.** Members in regular service are those members, generally included within the general membership classification, who are not in special service.<sup>97</sup> A member in regular service becomes vested after seven years of service or upon reaching age 65 while an active member of the system, whichever comes first.<sup>98</sup> In addition, a member in regular service is vested under IPERS if the member completed at least four years of service or attained the age of 55 while an active member of the system prior to July 1, 2012.<sup>99</sup>

**ii. Special Service.** Members in special service are those members in the protection occupation and sheriffs and deputy sheriffs classifications.<sup>100</sup> A member in special service 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.<sup>101</sup>

### 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.<sup>102</sup>

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<sup>95</sup> Iowa Code §97B.1A(11A).

<sup>96</sup> Iowa Code §97B.1A(25).

<sup>97</sup> Iowa Code §97B.1A(17).

<sup>98</sup> Iowa Code §§97B.1A(25)(a)(4)(b), 97B.1A(25)(d)(4)(b).

<sup>99</sup> Iowa Code §§97B.1A(25)(a)(1)-(3), 97B.1A(25)(d)(3).

<sup>100</sup> Iowa Code §97B.1A(22).

<sup>101</sup> Iowa Code §§97B.1A(25)(a)(4)(a), 97B.1A(25)(d)(4)(a).

<sup>102</sup> Iowa Code §97B.45.



**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.<sup>103</sup> However, the member's benefit formula is reduced depending on when the member retires and begins receiving a retirement allowance.

- **Pre-July 1, 2012.** For a member retiring prior to July 1, 2012, 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.<sup>104</sup>
- **Post-July 1, 2012 (Vested).**<sup>105</sup> For a member who is vested on June 30, 2012, and who is retiring on or after July 1, 2012, the member's benefit formula is reduced for that portion of the retirement allowance based on years of service through June 30, 2012, by one-quarter of 1 percent for each month the member's retirement date precedes the normal retirement date using the member's age and years of service as of June 30, 2012. For years of service after June 30, 2012, the member's benefit formula is reduced on that portion of the retirement allowance by one-half of 1 percent for each month the member's retirement date precedes the date the member attains age 65.
- **Post-July 1, 2012 (Nonvested).**<sup>106</sup> For a member who is not vested on June 30, 2012, and who is retiring on or after July 1, 2012, the member's benefit formula is reduced by one-half of 1 percent for each month the member's retirement date precedes the date the member attains age 65.

**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.<sup>107</sup>

**d. Sheriffs and Deputy Sheriffs Special Classification.** A member employed under this classification can retire after the member reaches 50 years of age with no age reduction penalty, for members retiring on or after July 1, 2008.<sup>108</sup>

## 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 final average covered wage x years of service  
÷ applicable years of service denominator = yearly benefit amount.

### b. Definitions.

**i. Applicable Percentage Multiplier.** The minimum applicable percentage multiplier for all IPERS members is 60 percent.<sup>109</sup> This percentage

<sup>103</sup> Iowa Code §97B.47.

<sup>104</sup> 2011 Iowa Code §97B.50(1).

<sup>105</sup> Iowa Code §97B.50(1)(b).

<sup>106</sup> Iowa Code §97B.50(1)(a).

<sup>107</sup> Iowa Code §97B.49B(2).

<sup>108</sup> Iowa Code §97B.49C(2).



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increased from 50 percent in 1986 until reaching 60 percent for members retiring on or after July 1, 1994.<sup>110</sup> 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.

For members in regular service, the multiplier increases by at least .25 percent for each additional calendar quarter year of service not to exceed an additional 5 percentage points above 60 percent.<sup>111</sup>

For members of the protection occupation classification who retire on or after July 1, 2003, the multiplier increases 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.<sup>112</sup>

For members of the sheriffs and deputy sheriffs classification who retire on or after July 1, 1998, the multiplier increases 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.<sup>113</sup>

**ii. Final Average Covered Wage.** A member's final average covered wage varies, beginning in July 2012, based upon the service classification to which an IPERS member belongs.

**(1) Regular Service.** Beginning July 1, 2012, for members in regular service, a member's final average covered wage for purposes of calculating a retirement benefit is the greater of the average of the member's highest five years of covered wages or, for members vested on or before June 30, 2012, the member's highest three years of covered wages as determined on June 30, 2012.<sup>114</sup> For members retiring prior to July 1, 2012, a member's final average covered wage is the member's highest three years of covered wages.

**(2) Special Service.** The final average covered wage for a member in special service is calculated by averaging the member's covered wages for the highest three years of the member's service.<sup>115</sup>

**iii. Limitations on Final Average Covered Wage.** For all members, 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.<sup>116</sup>

In addition, a member's final average covered wage can be limited if the member's final average covered wage is significantly higher than what the member's average covered wage would have been if an additional calendar year

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<sup>109</sup> Iowa Code §§97B.49A(1)(a) (general membership classification), 97B.49B(1)(a) (protection occupation classification), 97B.49C(1)(a) (sheriffs and deputy sheriffs classification).

<sup>110</sup> Iowa Code §97B.49G(1).

<sup>111</sup> Iowa Code §97B.49A(1)(a).

<sup>112</sup> Iowa Code §97B.49B(1)(a)(6).

<sup>113</sup> Iowa Code §97B.49C(1)(a)(3).

<sup>114</sup> Iowa Code §97B.1A(10A).

<sup>115</sup> Iowa Code §97B.1A(24).

<sup>116</sup> Iowa Admin. Code 495-6.4(2)(a). For 2015, the annual covered wage maximum is \$265,000.



of wages was used, otherwise known as an “anti-spiking” provision. As a result, for a member retiring on or after July 1, 2007, the member’s three-year average covered wage, if used for purposes of calculating the member’s final average covered wage, cannot exceed 121 percent of the member’s fourth highest year of wages or, if no fourth year, the lowest of the member’s three highest years of wages.<sup>117</sup> For a member in regular service retiring on or after July 1, 2012, the member’s five-year average covered wage, if used for purposes of calculating the member’s final average covered wage, cannot exceed 134 percent of the member’s sixth highest year of wages, or if none, such other calendar year of wages as determined by the retirement system.<sup>118</sup>

Finally, prior to January 1, 2002, a member’s maximum three-year average covered wage was limited for certain higher-wage members of IPERS,<sup>119</sup> and was limited to a specific wage ceiling for all IPERS members prior to January 1, 1997.<sup>120</sup>

**iv. 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.

- General membership classification. For IPERS general membership, an individual is credited with a year of service for each year in which four quarters of coverage under IPERS are recorded.<sup>121</sup> An employee for a school district or other institution operating on a nine-month basis is 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.<sup>122</sup>
- Sheriffs and deputy 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 Iowa Code section 97B.49B.<sup>123</sup>
- 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 Iowa Code chapter 400 or participating in the retirement systems established in Iowa Code chapter 410 or 411, service as a sheriff or deputy sheriff, as defined in Iowa Code section 97B.49C, subsection 1.<sup>124</sup>

<sup>117</sup> Iowa Code §97B.1A(24)(c).

<sup>118</sup> Iowa Code §97B.1A(10A)(a)(2).

<sup>119</sup> Iowa Code §97B.1A(24)(b).

<sup>120</sup> Iowa Code §97B.1A(26)(b)(1) (includes all prior wage ceilings from 1953 to present under covered wage definition).

<sup>121</sup> Iowa Code §97B.1A(15), (20), (21).

<sup>122</sup> Iowa Code §97B.1A(20)(d); Iowa Admin. Code 495-7.1(2).

<sup>123</sup> Iowa Code §97B.49C(1)(c).

<sup>124</sup> Iowa Code §97B.49B(1)(c).



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- 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 continues 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.<sup>125</sup> 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.<sup>126</sup>

**v. 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.<sup>127</sup>

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 sheriffs and deputy sheriffs 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 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.<sup>128</sup> In general, the calculation is performed 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, with the written acknowledgement of the member's spouse if applicable, from six benefit options for method of payment of a retirement allowance when the member files an application for retirement benefits.<sup>129</sup> Special service members of IPERS may choose an additional benefit option. Option selection is irrevocable once the first benefit payment is made. The options are as follows:

- Option 1: Annuity with Fixed Lump-Sum Survivor Benefit — Members receive a reduced monthly benefit for their entire lifetime and their beneficiaries receive a predetermined lump sum amount following the member's death.<sup>130</sup>
- Option 2: Annuity with Variable Decreasing Lump Sum — Members receive a lifetime annuity benefit. When members die, their beneficiary receives a death

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<sup>125</sup> Iowa Admin. Code 495-4.6(5)(b).

<sup>126</sup> Iowa Admin. Code 495-4.6(5)(a).

<sup>127</sup> See Iowa Code §§97B.49A(1)(b), 97B.49B(1)(b), (d), 97B.49C(1)(d) (these provisions indicate the "applicable years" used in calculating benefits for all three membership classifications).

<sup>128</sup> Iowa Code §97B.49D.

<sup>129</sup> Iowa Code §97B.51.

<sup>130</sup> Iowa Code §97B.51(1)(a).



benefit equal to a refund of any remaining contributions, interest, and interest dividends, if any.<sup>131</sup>

- Option 3: Single Life Annuity — Members receive the maximum lifetime annuity, as no death benefit payments are made to beneficiaries.<sup>132</sup>
- Option 4: 100 percent, 75 percent, 50 percent, or 25 percent Joint and Survivor Annuity — Members receive a reduced lifetime monthly benefit. Upon death, the member's designated beneficiary receives a lifetime monthly benefit specified at the time of the member's retirement.<sup>133</sup>
- Option 5: 120-Month Term Certain Annuity — 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.<sup>134</sup>
- Option 6: 100 percent, 75 percent, 50 percent, or 25 percent Joint and Survivor Pop-Up Annuity — A member receives a reduced lifetime monthly benefit. Upon death, the member's designated beneficiary receives a lifetime monthly benefit specified at the time of the member's retirement. In addition, and unlike the option 4 benefit, the member's lifetime annuity increases to the option 2 benefit if the member's designated beneficiary predeceases the member.<sup>135</sup>
- Special Service Members: Level Payment Option — A member retiring as a member in special service<sup>136</sup> 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).<sup>137</sup> Upon reaching that age, the member's retirement allowance will be reduced as determined by the IPERS actuary.<sup>138</sup> By choosing this option, a special service member may have a relatively level income before and after age 62 when combining IPERS with Social Security benefits.

#### 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.** Iowa 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

<sup>131</sup> Iowa Code §97B.51(1)(b).

<sup>132</sup> Iowa Code §97B.51(1)(c).

<sup>133</sup> Iowa Code §97B.51(1)(d)(1).

<sup>134</sup> Iowa Code §97B.51(1)(e).

<sup>135</sup> Iowa Code §97B.51(1)(d)(2).

<sup>136</sup> Iowa Code §97B.1A(22). Special service includes service in a protection occupation and service as a sheriff or deputy sheriff.

<sup>137</sup> Iowa Admin. Code 495-12.7(2).

<sup>138</sup> Iowa Code §97B.51(1)(f).



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\$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).<sup>139</sup> This amount is reduced if the retiree's benefits were reduced pursuant to an age reduction penalty or because of the benefit option the retiree selected.<sup>140</sup> 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.<sup>141</sup>

**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.<sup>142</sup> Unlike most types of cost-of-living 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.<sup>143</sup> This "cost-of-living dividend," codified in Iowa 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.<sup>144</sup> 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 1, 1990, and who have been retired for at least one year, are eligible to receive a "favorable experience dividend."<sup>145</sup> In addition, a beneficiary of an active member who has received a monthly death benefit allowance for one year is also eligible.<sup>146</sup> 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.<sup>147</sup> The dividend is calculated by

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<sup>139</sup> Iowa Code §97B.49E(2).

<sup>140</sup> Iowa Code §97B.49E(2).

<sup>141</sup> Iowa Code §97B.49E(1).

<sup>142</sup> Iowa Code §97B.49F.

<sup>143</sup> Prior to November 1997, eligible retirees received a dividend based upon a percentage fixed by the Legislature by statute. See, e.g.,

Iowa Code §97B.49G(5).

<sup>144</sup> Iowa Code §97B.49F(1).

<sup>145</sup> Iowa Code §97B.49F(2); Iowa Admin. Code 495-15.2.

<sup>146</sup> Iowa Code §97B.49F(2)(a).

<sup>147</sup> Iowa Code §97B.49F(2)(a).



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.<sup>148</sup> While the determination of the percentage is not as explicitly defined in the Iowa Code as it is for the cost-of-living dividend, the Iowa Code and IPERS regulations indicate that the intent is to make the dividends paid under both as similar as possible.<sup>149</sup> A retired 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 would be deposited in the reserve account pursuant to rules adopted by IPERS based upon a determination by the actuary that the system is fully funded<sup>150</sup> and would remain fully funded following the allocation of favorable experience to the reserve account.<sup>151</sup> Moneys sufficient to pay the dividend for five years were credited to the account in January 1999.<sup>152</sup> 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.<sup>153</sup>

**c. Supplemental Accounts for Active Members (SAAM).** Iowa Code section 97B.49H provides for the establishment of active member supplemental accounts, sometimes referred to as SAAM accounts, for members of IPERS. Moneys would be 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.<sup>154</sup> Since its creation in 1998, no moneys have been deposited in a SAAM account. If the IPERS actuary would determine 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 leaves the system fully funded following the crediting of the total amount to the supplemental accounts.<sup>155</sup> The supplemental percentage rate is the rate that reflects the difference between the statutory contribution rate for both employers and employees and the contribution rate the actuary determines is necessary to fund the future benefits of the system.<sup>156</sup> 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

<sup>148</sup> Iowa Code §97B.49F(2)(d); Iowa Admin. Code 495-15.2(3).

<sup>149</sup> Iowa Code §97B.49F; Iowa Admin. Code 495-15.2(2)(a).

<sup>150</sup> 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.

<sup>151</sup> Iowa Code §97B.49F(2)(c)(2)-(6); Iowa Admin. Code 495-15.2(1).

<sup>152</sup> Iowa Code §97B.49F(2)(c)(1).

<sup>153</sup> IPERS has indicated that moneys in the favorable experience dividend account were depleted following the FED payment in January 2014, and no further FED payments will be made until moneys are transferred to the account. See IPERS FED FAQ at <https://www.ipers.org/retirees/benefit-payments/november-dividends/favorable-experience-dividend-faq> (last visited September 14, 2015).

<sup>154</sup> Iowa Code §97B.49H(2).

<sup>155</sup> Iowa Code §97B.49H(3).

<sup>156</sup> Iowa Code §97B.49H(3).



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specified in Iowa Code section 97B.70, subsection 2,<sup>157</sup> and are payable upon a member's termination from covered service under certain circumstances, a member's death, or a member's retirement.<sup>158</sup>

### 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.<sup>159</sup> However, pursuant to Iowa Code section 97B.50, subsection 2, 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.** Iowa 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.<sup>160</sup> For purposes of establishing an in-service disability, heart, lung, and respiratory tract diseases, as well as certain cancers and infectious diseases, are presumed to have been contracted while on duty.<sup>161</sup> 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.<sup>162</sup> 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 as determined pursuant to Iowa Code section 97B.11.<sup>163</sup>

### 6. Death Benefits

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

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 Iowa Code section 97B.51.

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<sup>157</sup> Iowa Code §97B.49H(4).

<sup>158</sup> Iowa Code §97B.49H(5).

<sup>159</sup> Certain state employees are eligible for a disability program operated by the state. See Iowa Code §70A.20.

<sup>160</sup> Iowa Code §97B.50A(2)(d).

<sup>161</sup> Iowa Code §97B.50A(2)(c).

<sup>162</sup> Iowa Code §97B.50A(3)(c).

<sup>163</sup> Iowa Code §97B.50A(12).



If an inactive member who is not vested by service<sup>164</sup> dies prior to receiving a retirement allowance under IPERS, the member's designated beneficiary receives a lump-sum payment equal to the amount of the deceased member's accumulated contributions with interest plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the applicable denominator.<sup>165</sup>

If, however, at the time of death and prior to receiving a retirement allowance, the member was an active IPERS member or an inactive member who was vested by service, the member's designated beneficiary has the option to receive the greater of the amount calculated for an inactive member who was not vested by service or a lump-sum payment (or, at the beneficiary's election, a monthly annuity) equal to the actuarial value of the member's accrued benefit as of the date of death.<sup>166</sup>

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.<sup>167</sup>

## 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.

Iowa 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, surviving spouses of eligible retired state employees may elect to continue participation in the state's group health insurance plan, at their expense, until they reach 65.<sup>168</sup> 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 state group health insurance premium that would otherwise be paid for by the state if the employee were still a state employee.<sup>169</sup>

In addition, a school district may, at the board's discretion, agree to pay for the continuation of health care coverage for employees 55 years of age or older as an incentive for these employees to retire.<sup>170</sup>

<sup>164</sup> "Vested by service" is defined at Iowa Code §97B.1A(25)(d).

<sup>165</sup> Iowa Code §97B.52(1)(a). The "applicable denominator" is 30 for a member in regular service, or 22 for a member in a protection occupation and for a member in the sheriffs' or deputy sheriffs' classification.

<sup>166</sup> Iowa Code §97B.52(1)(b), (c).

<sup>167</sup> Iowa Code §97B.52(2).

<sup>168</sup> Iowa Code §509A.13A.

<sup>169</sup> Iowa Code §70A.23.

<sup>170</sup> Iowa Code §279.46.



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## 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."<sup>171</sup> To purchase qualified service credit, a member of IPERS must be vested or retired.<sup>172</sup> 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.<sup>173</sup>

**ii. Other Public Employment.** Service in public employment comparable to IPERS covered employment in another state or in 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.<sup>174</sup>

**iii. Educational Employment.** Employment at a public, private, or sectarian school which provides elementary education or secondary education through grade 12.<sup>175</sup>

**iv. Veteran's Credit.** Active duty service in the armed forces of the United States<sup>176</sup> and other military service not otherwise required to be recognized under federal law.<sup>177</sup> 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,<sup>178</sup> and prior service as a county attorney by a part-time county attorney.<sup>179</sup> Unlike other purchases of service, a member purchasing service in this category is responsible for only paying 40 percent of the actuarial cost of the

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<sup>171</sup> Iowa Code §97B.80C(1)(c).

<sup>172</sup> Iowa Code §97B.80C(2)(a).

<sup>173</sup> Iowa Code §97B.80C(1)(c)(1)(h).

<sup>174</sup> Iowa Code §97B.80C(1)(c)(1)(g).

<sup>175</sup> Iowa Code §97B.80C(1)(c)(1)(c).

<sup>176</sup> Iowa Code §97B.80.

<sup>177</sup> Iowa Code §97B.80C(1)(c)(1)(d).

<sup>178</sup> Iowa Code §97B.80C(1)(c)(1)(e).

<sup>179</sup> Iowa Code §97B.80C(1)(c)(1)(f).



purchase with the remaining 60 percent paid by the state, for legislative service,<sup>180</sup> or by the applicable county, for county attorney service.<sup>181</sup>

**vi. Noncovered Public Employment.**

- Employment by an employer defined in Iowa Code chapter 97B or employment as an adjunct instructor by a community college or regents university, when the employee did not otherwise qualify for coverage under IPERS for that service.<sup>182</sup>
- 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.<sup>183</sup>

**vii. Leave of Absence.** An approved leave of absence which does not constitute service and which is granted on or after July 1, 1998.<sup>184</sup>

**c. Nonqualified Service.** Service that is not considered qualified service is characterized as “nonqualified service” and the purchase of such service is limited to a maximum of five years of service.<sup>185</sup> Nonqualified service includes any public or private sector service that is not qualified service,<sup>186</sup> any period of time for which there was no performance of services,<sup>187</sup> or service that would otherwise be considered qualified service except that the receipt of credit for that service would result in the member receiving a retirement benefit under more than one retirement plan for the same period of service.<sup>188</sup> To purchase nonqualified service credit, a member of IPERS must be vested or retired and have at least five years of IPERS covered wages.<sup>189</sup>

**d. Service Conversion.** IPERS members may convert existing regular service credit to special service credit upon paying the actuarial cost of that enhanced benefit.<sup>190</sup> To convert service credit to special service credit, an IPERS member must be vested or retired and the purchase must be made, if the existing service was nonqualified service, pursuant to the requirements governing the purchase of nonqualified service, or alternatively, if the existing service was qualified service, pursuant to the requirements governing the purchase of qualified service.

**e. 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 necessary to fund an increased retirement allowance resulting from the purchase of

<sup>180</sup> Iowa Code §97B.80C(3)(b).

<sup>181</sup> Iowa Code §97B.80C(3)(c).

<sup>182</sup> Iowa Code §97B.80C(1)(c)(1)(j), (k).

<sup>183</sup> Iowa Code §97B.42A(4), (5).

<sup>184</sup> Iowa Code §97B.80C(1)(c)(1)(i).

<sup>185</sup> Iowa Code §§97B.80C(1)(a), 97B.80C(2)(b).

<sup>186</sup> Iowa Code §97B.80C(1)(a)(1).

<sup>187</sup> Iowa Code §97B.80C(1)(a)(2).

<sup>188</sup> Iowa Code §97B.80C(1)(a)(3).

<sup>189</sup> Iowa Code §97B.80C(2)(b).

<sup>190</sup> Iowa Code §97B.80C(2)(c).



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the service credit.<sup>191</sup> Effective January 1, 2016, the final determination of the total cost of the service purchase shall be made by IPERS as of the member's anticipated retirement date once all of the member's wages are submitted to IPERS.<sup>192</sup> Once IPERS generates the final service purchase cost quote, the member shall have six months to purchase the additional service.<sup>193</sup> Except as noted previously, a member is required to pay the full cost of the service purchase.<sup>194</sup> 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.<sup>195</sup> Eligible retirement plans are 401(a) and 403(a) qualified plans, IRA accounts and annuities, governmental 403(b) tax-sheltered annuities, and governmental 457(b) deferred compensation plans.<sup>196</sup>

## 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.<sup>197</sup> In addition, a person can also elect to receive a refund of any amounts credited to that member's supplemental SAAM account, if any.<sup>198</sup> 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 Iowa 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.<sup>199</sup> 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.<sup>200</sup>

**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.<sup>201</sup>

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<sup>191</sup> Iowa Code §97B.80C(3).

<sup>192</sup> Iowa Admin. Code 495-8.1(2)(g)(2).

<sup>193</sup> Iowa Admin. Code 495-8.1(2)(g)(2).

<sup>194</sup> A person who, prior to July 1, 1998, left IPERS, received a refund of their contributions, and returned to IPERS service as a full-time employee, receives a credit on the cost of purchasing service for that prior service equal to the amount of the employer's contributions made to IPERS during the prior service. Iowa Code §97B.80C(3)(d).

<sup>195</sup> Iowa Code §97B.82.

<sup>196</sup> Iowa Code §97B.82(2)(b).

<sup>197</sup> Iowa Code §97B.53(1).

<sup>198</sup> Iowa Code §97B.49H(5)(a).

<sup>199</sup> Iowa Code §97B.53(1).

<sup>200</sup> Iowa Code §97B.53(2).

<sup>201</sup> Iowa Code §97B.53B.



## 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.<sup>202</sup> A bona fide retirement exists if the member terminates covered employment, files an application for benefits, and survives into the month for which benefits are payable.<sup>203</sup> 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.<sup>204</sup> 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.<sup>205</sup> An IPERS member who reaches age 70, however, may remain in covered employment and still receive a retirement benefit.<sup>206</sup>

### 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.<sup>207</sup> This reduction in benefits does not apply to a member, regardless of age, who returns to employment in an elective office.<sup>208</sup>

**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.<sup>209</sup> 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.<sup>210</sup>

<sup>202</sup> Iowa Code §97B.52A.

<sup>203</sup> Iowa Code §97B.52A(1).

<sup>204</sup> Iowa Code §97B.52A(1)(c). Prior to July 2014, a licensed health care professional could return to covered employment with a public hospital after only one month and still be considered to have a bona fide retirement.

<sup>205</sup> Iowa Code §97B.52A(2).

<sup>206</sup> Iowa Code §97B.46(2).

<sup>207</sup> Iowa Code §97B.48A(1).

<sup>208</sup> Iowa Code §97B.48A(2).

<sup>209</sup> Iowa Code §97B.48A(3).

<sup>210</sup> Iowa Code §97B.48A(4).



# Iowa Public Retirement Systems

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## 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 Iowa 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 been a statewide system since January 1, 1992. In 1990, legislation was enacted which provided for the creation of a statewide system effective January 1, 1992.<sup>211</sup> The statewide system replaced 87 different local fire 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, and, therefore, benefit formulas and contribution levels are adjusted to reflect this. Historically, the benefit formulas and contribution levels for MFPRSI have been nearly identical to those provided in PORS. However, legislation has led to some significant differences.

### B. Governance

MFPRSI is governed by a board of trustees established in Iowa Code section 411.36 and the board has the responsibility for the establishment and proper operation and administration of the retirement system.<sup>212</sup> The board consists of 13 members, including nine voting members 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 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, city clerk, or other city officer involved with the management of the financial matters of the city from four participating cities, appointed by the Iowa League of Cities; and one citizen member, appointed by the board.<sup>213</sup>

### C. Membership

#### 1. General Requirements

The criteria for membership in the Municipal Fire and Police Retirement System of Iowa are set forth in Iowa 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

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<sup>211</sup> 1990 Iowa Acts, ch. 1240.

<sup>212</sup> Iowa Code §411.5.

<sup>213</sup> Iowa Code §411.36(1).



census, and other cities which voluntarily have appointed civil service commissions in accordance with the provisions of Iowa Code chapter 400.

Iowa 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, Iowa 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.<sup>214</sup>

## 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.<sup>215</sup>
- A city which did not have a paid fire department or a paid police department on May 3, 1990.<sup>216</sup>
- A city which did not operate a city fire or police retirement system, or both, under Iowa Code chapter 411 on May 3, 1990.<sup>217</sup>

## 3. Summary

Iowa Code section 411.2 provides that MFPRSI includes those city fire or police departments which were included prior to the 1990 legislation consolidating the separate systems into a statewide system 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.<sup>218</sup> For purposes of both federal and state income taxation, the employee's contribution to MFPRSI is not considered part of an employee's gross wages.<sup>219</sup> For all other purposes, such as determining earnable compensation under MFPRSI, an employee's gross wages include the employee's contribution to MFPRSI.<sup>220</sup>

<sup>214</sup> See Iowa Code §384.6(1)(b) concerning the funding of an alternative retirement system.

<sup>215</sup> Iowa Code §411.2(2).

<sup>216</sup> Iowa Code §411.2(3), (4).

<sup>217</sup> Iowa Code §411.2(5).

<sup>218</sup> Iowa Code §411.8.

<sup>219</sup> Iowa Code §411.8(1)(i)(1).

<sup>220</sup> Iowa Code §411.8(1)(i)(2).



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Iowa Code section 411.8 requires the employee to contribute at least 9.40 percent of earnable compensation to the system.<sup>221</sup> 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.<sup>222</sup> 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 11.35 percent.<sup>223</sup> If this rate is still insufficient to fund the cost of the statutory changes, based on an actuarial valuation 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 percent of any increased cost charged to the employer and 40 percent to the employee.<sup>224</sup>

## 2. Direct Appropriation

Prior to July 1, 2010, Iowa law provided an additional state appropriation to the retirement system, which amount was capped in 1992,<sup>225</sup> for the cost of benefits payable under this chapter pursuant to legislation passed in 1976.<sup>226</sup> As a result of legislation enacted in 2010, however, this annual direct state appropriation was eliminated and a reduced state appropriation to the system was established for the fiscal years beginning July 1, 2010, and July 1, 2011.<sup>227</sup> Beginning in July 1, 2012, no direct state appropriation to the system will be required.

## 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.<sup>228</sup> 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 Iowa Code section 97B.7A for investment of moneys in IPERS.<sup>229</sup> Consistent with this authority, MFPRSI is generally exempt from most statutory restrictions otherwise applicable to the investment of public funds.<sup>230</sup> Iowa law does restrict the ability of MFPRSI to invest in Sudan- and Iran-related investments.<sup>231</sup>

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<sup>221</sup> Iowa Code §411.8(1)(f)(8).

<sup>222</sup> Iowa Code §411.8(1)(b).

<sup>223</sup> Iowa Code §411.8(1)(f)(8).

<sup>224</sup> Iowa Code §411.8(1)(f)(8).

<sup>225</sup> 2009 Iowa Code §8.59.

<sup>226</sup> 2009 Iowa Code §411.20.

<sup>227</sup> 2010 Iowa Acts ch. 1167, §53, 54.

<sup>228</sup> Iowa Code §411.7(1).

<sup>229</sup> Iowa Code §411.7(2).

<sup>230</sup> Iowa Code §§12B.10(6)(f), 12B.10A(6)(f), 12B.10B(3)(f), 12B.10C(4)(e).

<sup>231</sup> Iowa Code ch. 12F (Sudan), 12H (Iran).



## 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 Iowa 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.<sup>232</sup>

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,<sup>233</sup> plus an additional 2 percent for each year of additional service over 22 years of service, up to a maximum of eight additional years of service.<sup>234</sup> Therefore, a member retiring with 30 years of service receives a retirement allowance equal to 82 percent of average final compensation. The applicable percentage multipliers for members retiring prior to July 1, 2000, are specified in Iowa Code section 411.6, subsection 2.
- Benefits are vested under MFPRSI after four years of service or upon attaining age 55 while performing membership 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 based on 22 years of service multiplied by a service ratio which consists of the years of service at termination divided by 22.<sup>235</sup>

### 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.<sup>236</sup> 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.<sup>237</sup> 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:

<sup>232</sup> Iowa Code §411.1(3).

<sup>233</sup> Iowa Code §411.6(2)(d).

<sup>234</sup> Iowa Code §411.6(2)(e)(5).

<sup>235</sup> Iowa Code §411.6(1)(b).

<sup>236</sup> 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(14).

<sup>237</sup> Iowa Code §411.6(3).



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- 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 Iowa Code section 411.6, subsection 2.<sup>238</sup>
- 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.<sup>239</sup>

### 3. Accidental Disability Benefit

Accidental disability benefits are also provided under MFPRSI for a member in good standing with the system. 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.<sup>240</sup> Under MFPRSI, heart, lung, and respiratory tract diseases, as well as certain cancers,<sup>241</sup> and infectious diseases,<sup>242</sup> are presumed to have occurred in the line of duty, with certain exceptions related to persons commencing membership service after July 1, 1992, whose disease or cancer would not exist, but for a preexisting medical condition.<sup>243</sup>

The accidental disability benefit for a disability retirement on or after July 1, 1998, is calculated as 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.<sup>244</sup>

### 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.<sup>245</sup> 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

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<sup>238</sup> Iowa Code §411.6(4)(b).

<sup>239</sup> Iowa Code §411.6(4)(b).

<sup>240</sup> Iowa Code §411.6(5).

<sup>241</sup> Cancers included are prostate cancer, primary brain cancer, breast cancer, ovarian cancer, cervical cancer, uterine cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, colorectal cancer, multiple myeloma, testicular cancer, and kidney cancer. Iowa Code §411.1(6).

<sup>242</sup> "Infectious disease" is defined to mean HIV or AIDS, all strains of hepatitis, meningitis, and tuberculosis. Iowa Code §411.1(11).

<sup>243</sup> Iowa Code §411.6(5)(c).

<sup>244</sup> Iowa Code §411.6(6)(c).

<sup>245</sup> Iowa Code §411.6(8).



service if the deceased member was vested but not in service<sup>246</sup> or a refund from the member's account.<sup>247</sup>

**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.<sup>248</sup> The monthly pension option may be selected in lieu of a lump-sum payment, under certain circumstances, only by the member's surviving spouse or the guardian of the member's surviving children.<sup>249</sup> For an eligible beneficiary who 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 when the member would have attained the age of 55.<sup>250</sup>

## 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.<sup>251</sup> 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 or to the member's adult children, if applicable.<sup>252</sup>

<sup>246</sup> Iowa Code §411.6(8)(a)(1).

<sup>247</sup> Iowa Code §411.6(8)(a)(2).

<sup>248</sup> Iowa Code §411.6(8)(b).

<sup>249</sup> Iowa Code §§411.6(8)(c), 411.6(11).

<sup>250</sup> Iowa Code §411.6(8)(b).

<sup>251</sup> Iowa Code §411.6(9).

<sup>252</sup> Iowa Code §411.6(15).



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## 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.<sup>253</sup> 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 for the support of that child.<sup>254</sup>

## 7. Annual Readjustment of Pensions<sup>255</sup>

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.<sup>256</sup> 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.<sup>257</sup> 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.<sup>258</sup>

## 8. Benefit Options

**a. Optional Retirement Benefits.** Iowa 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

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<sup>253</sup> Iowa Code §411.6(11)(a).

<sup>254</sup> Iowa Code §411.6(11)(b).

<sup>255</sup> Until July 1, 1997, MFPRSI provided for the escalation of benefits in a manner identical to PORS. The current mechanism under MFPRSI is now significantly different from PORS.

<sup>256</sup> Iowa Code §411.6(12).

<sup>257</sup> Iowa Code §411.6(12).

<sup>258</sup> Iowa Code §411.6(12)(d).



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.<sup>259</sup> The amount of the optional retirement benefit provided the member is limited to the actuarial equivalent of the member's normal retirement allowance.<sup>260</sup>

Benefit options selected by MFPRSI are the following:<sup>261</sup>

- **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.
- **Joint and 100 Percent Survivor Annuity with Readjustment Option (Pop-up).**<sup>262</sup> The member receives an allowance as determined for the joint and 100 percent survivor annuity. Unlike that option, however, if the named beneficiary predeceases the member, the member's retirement allowance is increased to the amount of the service retirement allowance the member would receive as calculated under Iowa Code section 411.6 with no survivor benefit payable following the death of the member.
- **Joint and 75 Percent Survivor Annuity with Readjustment Option (Pop-up).**<sup>263</sup> The member receives an allowance as determined for the joint and 75 percent survivor annuity. Unlike that option, however, if the named beneficiary predeceases the member, the member's retirement allowance is increased to the amount of the service retirement allowance the member would receive as calculated under Iowa Code section 411.6 with no survivor benefit payable following the death of the member.

<sup>259</sup> Iowa Code §411.6A(1).

<sup>260</sup> Iowa Code §411.6A(3).

<sup>261</sup> MFPRSI Administrative Rule 8.1(5)(c), [http://www.mfprsi.org/site\\_media/uploads/admin\\_rules.pdf](http://www.mfprsi.org/site_media/uploads/admin_rules.pdf).

<sup>262</sup> Option available effective March 1, 2011.

<sup>263</sup> Option available effective March 1, 2011.



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**b. Deferred Retirement Option Plan.** Iowa 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, which decision is irrevocable, 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. However, if a participant terminates participation in the DROP plan prior to the date selected by the participant for reasons other than death or disability, the system assesses a 25 percent penalty on the amount credited to the member's account.

### 9. Health Benefits

Cities are required to provide medical attention for members when injured while in the performance of their duties, and must continue to provide medical attention for injuries or diseases incurred while in the performance of their duties for members receiving an accidental disability retirement benefit.<sup>264</sup> Cities, and not the retirement fund, are required to fund the cost of this medical attention and are prohibited from funding the cost through an employee-paid health insurance policy.

Iowa 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.

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.<sup>265</sup>

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<sup>264</sup> Iowa Code §411.15.

<sup>265</sup> Iowa Code §411.40.



## 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. 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.<sup>266</sup>

**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. Once the member is no longer reemployed, the member's retirement allowance is reinstated.<sup>267</sup>

## 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 credited service. With only limited exceptions, however, MFPRSI does not allow service credit for prior non-MFPRSI covered employment.

### 1. Transfer to MFPRSI

#### a. MFPRSI Buy-Back.

- **Layoff.** 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.<sup>268</sup> 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.
- **Prior MFPRSI Service.** An active member of the system who has been a member of the retirement system for five or more years may purchase service credit for prior service under MFPRSI in which the member received a refund of the member's contributions.<sup>269</sup> The member may purchase up to five years of membership service for that period of prior service upon making contributions to the system in an amount equal to the actuarial cost of the purchase of service credit.

<sup>266</sup> Iowa Code §411.6(17).

<sup>267</sup> Iowa Code §411.3(3).

<sup>268</sup> Iowa Code §411.23(2).

<sup>269</sup> Iowa Code §411.10A.



# Iowa Public Retirement Systems

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**b. Iowa Department of Public Safety Peace Officers' Retirement, Accident, and Disability System (PORS) Transfers.** Iowa 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 receive credit under MFPRSI for the period of service the member received as a member under PORS.<sup>270</sup> Essentially, a transfer of funds between the two retirement systems occurs to effectuate the transfer of service credit.<sup>271</sup> 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.<sup>272</sup> 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. In addition, if a member is unable to return to membership service following the member's death or disability that occurred while performing qualified military service, the member is credited with membership service for the period of military service for purposes of MFPRSI.<sup>273</sup>
- **Prior Military Service.** An active member of the system with at least five years of service may purchase up to five years of service credit under the system for prior military service.<sup>274</sup> The member is required to pay the full actuarial cost of the service purchase and must make written application with the retirement system for the purchase of service.

## 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.<sup>275</sup> MFPRSI also permits the member to directly roll over all or a portion of a member's account into an eligible retirement plan.<sup>276</sup>

## 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 Iowa Code chapter 97A and

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<sup>270</sup> See also Iowa Code §97A.17 for transfers from MFPRSI to PORS.

<sup>271</sup> Iowa Code §411.31(4).

<sup>272</sup> Iowa Code §411.9(1).

<sup>273</sup> Iowa Code §411.9(2)-(4).

<sup>274</sup> Iowa Code §411.10.

<sup>275</sup> Iowa Code §411.23(1).

<sup>276</sup> Iowa Code §411.6B.



rules adopted pursuant to that chapter.<sup>277</sup> Important to consider is that members of PORS do not contribute to Social Security, and, therefore, benefit formulas and contribution levels are adjusted to reflect this. Historically, the benefit formulas and contribution levels for PORS have been nearly identical to those provided in MFPRSI. However, legislation has led to some significant differences. Information concerning PORS can be found on the following link at the Department of Public Safety's Internet site:  
<http://www.dps.state.ia.us/asd/por/por.shtml>.

## B. Governance

PORS is governed by a five-member board of trustees established in Iowa 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.<sup>278</sup> The Department of Public Safety provides administrative services to the board and the Treasurer of State is responsible for the administration of investments.<sup>279</sup>

## C. Membership

Membership in the system is described in Iowa 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.<sup>280</sup> For purposes of both federal and state income taxation, the employee's contribution to PORS is not considered part of an employee's gross wages.<sup>281</sup> For all other purposes, such as determining earnable compensation under PORS, an employee's gross wages include the employee's contribution to PORS.<sup>282</sup>

<sup>277</sup> The administrative rules for PORS are located at Iowa Admin. Code 661-400-403.

<sup>278</sup> Iowa Code §97A.5(1).

<sup>279</sup> Iowa Code §97A.5(5).

<sup>280</sup> 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 MFPRSI.

<sup>281</sup> Iowa Code §97A.8(1)(h)(1).

<sup>282</sup> Iowa Code §97A.8(1)(h)(2).



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Iowa Code section 97A.8 provides the employer and employee contribution rates for the system. From July 1, 2006, until June 30, 2011, employees were required to contribute 9.35 percent of earnable compensation to the system.<sup>283</sup> From July 1, 2011, until June 30, 2014, the employee contribution to the system increased by one-half percentage point each fiscal year until reaching 10.85 percent of earnable compensation for the fiscal year beginning on July 1, 2013.<sup>284</sup> Beginning July 1, 2014, and ending June 30, 2020, employees are required to contribute 11.4 percent of earnable compensation to the system.<sup>285</sup> Finally, for fiscal years beginning on or after July 1, 2020, employees are required to contribute 11.35 percent of earnable compensation, plus an additional percentage, as determined by the PORS board of trustees, necessary to finance the costs associated with providing that certain cancers and infectious diseases are presumed to have been contracted while a member of the system is on active duty.<sup>286</sup>

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.<sup>287</sup> However, beginning July 1, 2008, the employer contribution rate is specified to be 19 percent and increases by 2 percentage points per fiscal year, until reaching 35 percent for the fiscal year beginning July 1, 2016.<sup>288</sup> Commencing with the fiscal year beginning July 1, 2017, the employer contribution rate is the lesser of 37 percent or the rate necessary to fund the system, taking into account the employee's contribution rate.<sup>289</sup> If, however, statutory changes made to the system on or after January 1, 2011, increase the cost to the system so that the member's minimum contribution rate and the minimum rate established for employers are insufficient to cover the increased cost, 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.<sup>290</sup>

## 2. Direct Appropriation

Iowa Code section 97A.11A provides an additional state appropriation of \$5 million each fiscal year beginning with the fiscal year commencing July 1, 2013. The additional state appropriation continues until the system's funded ratio of assets to liabilities is at least 85 percent.

## 3. 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 Iowa Code

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<sup>283</sup> Iowa Code §97A.8(1)(e)(8)(a)(i).

<sup>284</sup> Iowa Code §97A.8(1)(e)(8)(a)(ii)-(iv).

<sup>285</sup> Iowa Code §97A.8(1)(e)(8)(a)(v).

<sup>286</sup> Iowa Code §97A.8(1)(e)(8)(a)(vi).

<sup>287</sup> Iowa Code §97A.8(1)(b).

<sup>288</sup> Iowa Code §97A.8(1)(b)(2)(a)-(i).

<sup>289</sup> Iowa Code §97A.8(1)(b)(2)(j).

<sup>290</sup> Iowa Code §97A.8(1)(i).



section 97B.7A for investment of moneys in IPERS.<sup>291</sup> Consistent with this authority, PORS is generally exempt from most statutory restrictions otherwise applicable to the investment of public funds.<sup>292</sup> Iowa law does restrict the ability of PORS to invest in Sudan- and Iran-related investments.<sup>293</sup>

## 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 Iowa 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.<sup>294</sup>

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.<sup>295</sup>
- 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.<sup>296</sup>
- 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.<sup>297</sup> 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.<sup>298</sup>

<sup>291</sup> Iowa Code §97A.7(1), (2).

<sup>292</sup> Iowa Code §§12B.10(6)(a), 12B.10A(6)(a), 12B.10B(3)(a), 12B.10C(4)(a).

<sup>293</sup> Iowa Code ch. 12F (Sudan), 12H (Iran).

<sup>294</sup> Iowa Code §97A.1(3).

<sup>295</sup> Iowa Code §§97A.6(2)(d), 97A.6(2)(e)(6). The applicable percentage multipliers for retirements prior to July 1, 2000, are also specified in §97A.6(2).

<sup>296</sup> Iowa Code §97A.6(1)(b).

<sup>297</sup> Iowa Code §97A.6(2A).

<sup>298</sup> Iowa Code §97A.6(2A)(b).



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## 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.<sup>299</sup> 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 Iowa Code section 97A.6, subsection 2.<sup>300</sup>
- 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.<sup>301</sup>

## 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.<sup>302</sup> Under PORS, heart, lung, and respiratory tract diseases, as well as certain cancers and infectious 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 disease or cancer would not exist but for a preexisting medical condition.<sup>303</sup>

The accidental disability benefit for a disability retirement on or after July 1, 1998, is calculated as 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.<sup>304</sup>

## 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.<sup>305</sup> In order to be eligible, the death must occur while the member is in service,

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<sup>299</sup> Iowa Code §97A.6(3).

<sup>300</sup> Iowa Code §97A.6(4)(b).

<sup>301</sup> Iowa Code §97A.6(4)(b).

<sup>302</sup> Iowa Code §97A.6(5).

<sup>303</sup> Iowa Code §97A.6(5)(b).

<sup>304</sup> Iowa Code §97A.6(6)(c).

<sup>305</sup> Iowa Code §97A.6(8).



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.<sup>306</sup>

**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.<sup>307</sup> 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.<sup>308</sup> 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 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 the line of duty.<sup>309</sup> 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.

<sup>306</sup> Iowa Code §97A.6(8)(a).

<sup>307</sup> Iowa Code §97A.6(8)(b).

<sup>308</sup> Iowa Code §97A.6(8)(c).

<sup>309</sup> Iowa Code §97A.6(9).



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**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.<sup>310</sup>

## 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.<sup>311</sup> 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 for the support of that child.<sup>312</sup>

## 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.<sup>313</sup> 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).<sup>314</sup>

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.<sup>315</sup> 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:

- 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.<sup>316</sup>
- 40 percent for members receiving an accidental disability benefit.<sup>317</sup>
- 24 percent for members with less than five years of service who are receiving ordinary disability benefits and for beneficiaries receiving ordinary death benefits.<sup>318</sup>

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<sup>310</sup> Iowa Code §97A.6(16).

<sup>311</sup> Iowa Code §97A.6(12)(a).

<sup>312</sup> Iowa Code §97A.6(12)(b).

<sup>313</sup> Iowa Code §97A.6(14)(a).

<sup>314</sup> Iowa Code §97A.6(14)(a).

<sup>315</sup> Iowa Code §97A.6(14)(a)(1).

<sup>316</sup> Iowa Code §97A.6(14)(a)(1)(a)(i), (ii).

<sup>317</sup> Iowa Code §97A.6(14)(a)(1)(a)(iv).



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.<sup>319</sup>

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 20 years or more.<sup>320</sup>

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.<sup>321</sup>

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.<sup>322</sup> 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.<sup>323</sup>

## 8. Benefit Options

Iowa 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. Allowable beneficiaries are the member's spouse, child, or dependent parent. 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 with the written acknowledgment of the member's spouse, if married. These options are in lieu of providing the spouse, or children if no surviving spouse, with the death benefit provided in Iowa Code section 97A.6, subsection 12. Benefits options authorized by the board of trustees under PORS that may be selected include the following:<sup>324</sup>

- 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 beneficiary would continue to receive

<sup>318</sup> Iowa Code §97A.6(14)(a)(1)(a)(iii).

<sup>319</sup> Iowa Code §97A.6(14)(a)(1)(b).

<sup>320</sup> Iowa Code §97A.6(14)(a)(2)(a); 2010 Iowa Acts, ch. 1167, §17 (Legislative intent to limit the additional amount to the stated dollar amount for each year the particular dollar amount applies.).

<sup>321</sup> Iowa Code §97A.6(14)(a)(2)(b).

<sup>322</sup> Iowa Code §97A.6(14)(a).

<sup>323</sup> Iowa Code §97A.6(14)(d).

<sup>324</sup> Iowa Admin. Code 661-402.207, 661-402.210.



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benefits for the remainder of the five or 10 years, as applicable. No benefits would be payable to the beneficiary if the member has already received five or 10 years of benefits.

**c.** Joint and 50 percent survivor annuity. Upon the death of the member, the optional beneficiary would receive survivor benefits for the remainder of the optional beneficiary's life.

**d.** Joint and 75 percent survivor annuity. Upon the death of the member, the beneficiary, if living, would receive 75 percent of the member's monthly benefit for the remainder of the beneficiary's life.

**e.** Joint and 100 percent survivor annuity. Upon the death of the member, the beneficiary, 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 beneficiary 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.

Iowa 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. Surviving spouses of eligible retired state employees may elect to continue participation in the state's group health insurance plan, at their expense, until they reach age 65.<sup>325</sup> 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 Iowa Code section 70A.23 from moneys credited to the Sick Leave Benefits Fund for this purpose.<sup>326</sup>

### **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 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.

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<sup>325</sup> Iowa Code §509A.13A.

<sup>326</sup> Iowa Code §80.42.



## 1. Transfer to PORS

**a. PORS Buy-Back.**<sup>327</sup> 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) Service.**

- **Transfers.** Iowa 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.<sup>328</sup> Essentially, a transfer of funds between the two retirement systems occurs to effectuate the transfer of service credit.<sup>329</sup> The member is not required to contribute any additional funds to PORS to receive the additional credit.
- **Service Purchase.** From July 1, 2010, through June 30, 2011, a member of PORS was authorized to purchase service credit for certain employment as a member of a city fire or police retirement system under Iowa Code chapter 411 prior to January 1, 1992, and have it credited for purposes of calculating a retirement under PORS.<sup>330</sup>

### **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.<sup>331</sup> 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.
- **Prior Military Service.** An active member of the system with at least five years of service may purchase up to five years of service credit under the system for prior military service.<sup>332</sup> The member is required to pay the full actuarial cost of the service purchase and must make written application with the retirement system for the purchase of service.

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<sup>327</sup> Iowa Code §97A.16(2).

<sup>328</sup> See also Iowa Code §411.31 for transfers from MFPRSI to PORS.

<sup>329</sup> Iowa Code §97A.17(4).

<sup>330</sup> Iowa Code §97A.10.

<sup>331</sup> Iowa Code §97A.9.

<sup>332</sup> Iowa Code §97A.10A.



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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.<sup>333</sup> PORS also permits the member to directly roll over all or a portion of a member's account into an eligible retirement plan.<sup>334</sup>

## V. Judicial Retirement System — Iowa Code Chapter 602, Article 9

### A. Overview

The Judicial Retirement System is established in Iowa Code chapter 602, article 9.<sup>335</sup> 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 adequate retirement compensation.”

### B. Governance

The Judicial Retirement System is administered by the state court administrator, who is appointed by the Supreme Court.<sup>336</sup> 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.<sup>337</sup>

### C. Membership

Judges of the Supreme Court and Court of Appeals, district 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.<sup>338</sup> 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.<sup>339</sup> 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.<sup>340</sup>

### 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 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

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<sup>333</sup> Iowa Code §97A.16(1).

<sup>334</sup> Iowa Code §97A.6B.

<sup>335</sup> See Iowa Code §§602.9101 through 602.9209.

<sup>336</sup> Iowa Code §§602.1208, 602.1209(5), 602.9102.

<sup>337</sup> Iowa Code §602.9111.

<sup>338</sup> Iowa Code §602.1611(1), (3).

<sup>339</sup> Iowa Code §§602.11115 (district associate judges), 602.11116 (associate juvenile and associate probate judges).

<sup>340</sup> Iowa Code §§602.1611(2), 602.1613.



from the judge's salary, the judge's contribution is provided pretax treatment for both state and federal income tax purposes.<sup>341</sup>

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 General Fund of the State 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.<sup>342</sup> As a result, the state contribution was set at a maximum of 23.7 percent<sup>343</sup> while the effective employee contribution rate was set at 4 percent, eventually increasing to a maximum of 6 percent for the fiscal year beginning July 1, 2007.<sup>344</sup> Beginning July 1, 2008, the state contribution was increased to 30.6 percent, while the employee contribution rate was set at 7.7 percent, increasing to 8.7 percent for the fiscal year beginning July 1, 2009, and 9.35 percent for fiscal years beginning on and after July 1, 2010.<sup>345</sup>

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's actuary determines is necessary for the system to discharge its liabilities.<sup>346</sup> Once the total required contribution rate for a particular fiscal year is determined, 60 percent of the total contribution rate needed is charged to the employer<sup>347</sup> and 40 percent is charged to the employee.<sup>348</sup> "Fully funded status" means that the most recent actuarial valuation of the system reflects that the funded status of the system is at least 100 percent based upon the benefits provided judges as of July 1, 2006.<sup>349</sup> As of the fiscal year ending June 30, 2015, 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 Iowa Code section 97B.7A for investment of moneys in IPERS.<sup>350</sup> Consistent with this authority, the treasurer is generally exempt from most statutory restrictions otherwise applicable to the investment of public funds when

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<sup>341</sup> Iowa Code §602.9104(2).

<sup>342</sup> Iowa Code §602.9104A(4).

<sup>343</sup> 2007 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.

<sup>344</sup> The employee contribution rate from July 1, 2000, to June 30, 2006, was 5 percent; for the fiscal year beginning July 1, 2006, 2.32 percent; and for the fiscal year beginning July 1, 2007, 5.7 percent. See 2000 Iowa Acts, ch. 1077, §112; 2006 Iowa Acts, ch. 1091, §12.

<sup>345</sup> Iowa Code §602.9104(4)(c), (e).

<sup>346</sup> Iowa Code §602.9104(4)(d).

<sup>347</sup> Iowa Code §602.9104(4)(e)(2).

<sup>348</sup> Iowa Code §602.9104(4)(c)(4).

<sup>349</sup> Iowa Code §602.9104(4)(b).

<sup>350</sup> Iowa Code §602.9111.



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investing for purposes of the Judicial Retirement System.<sup>351</sup> Iowa law does restrict the ability of the Treasurer of State to invest in Sudan- and Iran-related investments.<sup>352</sup>

## 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.<sup>353</sup>

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.<sup>354</sup> 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.<sup>355</sup> For judges retiring on or after July 1, 2006, the maximum percentage is 65 percent.<sup>356</sup> 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 salary<sup>357</sup> 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.<sup>358</sup>

Upon retirement, a judge who meets the requirements for service as a senior judge may elect to serve as a senior judge.<sup>359</sup> Service as a senior judge obligates the judge to work a minimum of 13 weeks out of each successive 12-month period.<sup>360</sup> 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 senior judge retirement age.<sup>361</sup> "Senior judge retirement age" is defined as 78 years of age, or up to 80 years of age if

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<sup>351</sup> Iowa Code §§12B.10(6)(g), 12B.10A(6)(g), 12B.10B(3)(g), 12B.10C(4)(f).

<sup>352</sup> Iowa Code ch. 12F (Sudan), 12H (Iran).

<sup>353</sup> Iowa Code §602.9106.

<sup>354</sup> Iowa Code §602.9107(1)(a).

<sup>355</sup> Iowa Code §602.9107(1)(b).

<sup>356</sup> Iowa Code §602.9107(1)(b)(5).

<sup>357</sup> Iowa Code §602.9206. However, since July 1, 1995, each senior judge has been paid a salary as determined by the General Assembly. Iowa Code §602.9204(1)(a). See, e.g., 2013 Iowa Acts, ch. 140, §40(2)(k).

<sup>358</sup> Iowa Code §602.9206.

<sup>359</sup> Iowa Code §602.9203.

<sup>360</sup> Iowa Code §§602.9203(2), 602.9206.

<sup>361</sup> Iowa Code §602.9207(1).



the senior judge is reappointed for up to two additional one-year terms upon attaining 78 years of age.<sup>362</sup>

**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 retired<sup>363</sup> by the basic senior judge salary.<sup>364</sup> 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.<sup>365</sup> 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.<sup>366</sup>

**c. Relinquishing Senior Judge Status.** If a member relinquishes a senior judgeship pursuant to Iowa Code section 602.9208, by requesting removal from the senior judge roster before reaching senior judge retirement age, the member's annuity is calculated differently than for those senior judges who remain a senior judge for as long as they are eligible. Iowa 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 based upon the judge's 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 senior judge retirement age.<sup>367</sup>

### 3. Disability Benefit

Iowa 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.

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<sup>362</sup> Iowa Code §602.9202(4).

<sup>363</sup> Iowa Code §602.9107.

<sup>364</sup> Iowa Code §602.9204(1).

<sup>365</sup> Iowa Code §602.9204(2)(c), (e).

<sup>366</sup> Iowa Code §602.9204(2)(d).

<sup>367</sup> Iowa Code §602.9204(1)(d). This coverage is not paid from the retirement fund.



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## **4. Basic Surviving Spouse Benefit**

Iowa 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 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 Iowa Code section 602.9115.

Iowa 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 Iowa 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 Iowa Code section 602.9115 to receive an annuity.

## **5. Optional Annuity**

Iowa 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**

Iowa 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**

Iowa 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, surviving spouses of eligible retired state employees, such as judges, may elect to continue participation in the state's group health insurance plan, at their expense, until they reach age 65.<sup>368</sup> 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 senior judge retirement age.

## 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 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 associate 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.<sup>369</sup> 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.<sup>370</sup>

### 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.<sup>371</sup> 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.<sup>372</sup>

## 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, Iowa Code section 97B.42 provides that under certain circumstances, certain employees of the community

<sup>368</sup> Iowa Code §509A.13A.

<sup>369</sup> 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.

<sup>370</sup> Iowa Code §602.9107C.

<sup>371</sup> Iowa Code §602.9108.

<sup>372</sup> Iowa Code §602.9105.



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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.<sup>373</sup>

## 2. TIAA-CREF Overview<sup>374</sup>

TIAA-CREF is very different from the other public retirement systems discussed in this Legislative 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, medical, governmental, cultural, 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 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.<sup>375</sup> 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.<sup>376</sup>

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.<sup>377</sup> Few of these plans have been established in this state.

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<sup>373</sup> Iowa Code §260C.14(17).

<sup>374</sup> Information on TIAA-CREF discussed in this section can be found at [www.tiaa-cref.org](http://www.tiaa-cref.org).

<sup>375</sup> Iowa Code §97B.42(7).

<sup>376</sup> TIAA-CREF contribution rates for eligible employees at the University of Iowa, Iowa State University, and the University of Northern Iowa were accessed on September 15, 2015, from the human resources Internet site for each institution, <http://hr.uiowa.edu/retirement/university-plans>; <http://www.hrs.iastate.edu/hrs/benefits>; <http://www.vpaf.uni.edu/hrs/benefits/index.shtml>

<sup>377</sup> Iowa Code §294.8.



Statutory provisions governing a pension system established with this authority are found in Iowa 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.<sup>378</sup> 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.<sup>379</sup> However, authority exists to merge a pension system created pursuant to Iowa Code chapter 412 with IPERS.<sup>380</sup>

The funding for the municipal pension system can come from the assessments on the wages and salaries of covered employees,<sup>381</sup> interest on any fund, and moneys derived from the operation of the waterworks or public utility. Moneys deposited in a fund for the 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 Iowa Code section 97B.7A.<sup>382</sup> 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.<sup>383</sup>

## VII. Supplemental Public Retirement Plans

### A. Overview

Generally, participation in one public retirement plan precludes participation in another public retirement plan for the same period of service. For example, employers and covered employees in IPERS are specifically prohibited from sponsoring and participating in another defined benefit plan in addition to IPERS.<sup>384</sup> However, IPERS employers may sponsor, and IPERS members may participate in, supplemental retirement plans, such as a supplemental defined contribution plan qualified under Internal Revenue Code section 401(a), a tax-deferred annuity qualified under Internal Revenue Code section 403(b), or an eligible deferred compensation plan qualified under Internal Revenue Code section 457.

### B. Deferred Compensation Programs

Iowa Code Section 509A.12 allows the Executive Council of the state, a school board, a superintendent in charge of a public institution, a county board of supervisors, or any other public entity, to the extent allowed by law, to establish a deferred compensation program for its employees. A deferred compensation program established pursuant to this authority is required to provide that contributions made on behalf of an employee who

<sup>378</sup> Iowa Code §412.1.

<sup>379</sup> Iowa Code §97B.42A(5).

<sup>380</sup> Iowa Code §97B.42C.

<sup>381</sup> The amount and manner of assessing the wages of employees is subject to collective bargaining. Iowa Code §412.2(1).

<sup>382</sup> Iowa Code §412.4.

<sup>383</sup> Iowa Code §§12B.10(6)(k), 12B.10B(3)(j), 12B.10C(4)(i). However, Iowa Code §412.4 provides that permissible investments shall be limited to those investments authorized in Iowa Code §12B.10(5) and certain investment funds, and investments are not exempt from the requirements of Iowa Code §12B.10A.

<sup>384</sup> Iowa Code §97B.42.



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chooses to participate in the program shall be invested at the direction of the employee in a life insurance contract, annuity contract, mutual fund, security, or any other deferred payment contract offered as an investment option under the program. While creation of a deferred compensation program pursuant to this Code section is discretionary, Iowa law does require the Department of Administrative Services (DAS) to make available to eligible state employees, and may make available to other government employees of an eligible public entity, a deferred compensation program utilizing mutual funds.<sup>385</sup>

### C. Deferred Compensation Programs — Educational Employees

Section 403(b) of the Internal Revenue Code authorizes deferred compensation programs for eligible public educational employees. Iowa law has authorized the establishment of these deferred compensation plans for eligible employees of community colleges,<sup>386</sup> area education agency boards,<sup>387</sup> and school districts.<sup>388</sup> Eligible employees are allowed to select one or more investment contracts in a deferred compensation plan that is selected pursuant to a competitive bidding process conducted by the employer in coordination with employees or by participation in a Tax-Sheltered Investment Program established by DAS. The determination of whether to select investment contracts by competitive bid or by participation in the DAS plan is made by agreement between the employer and employee organizations representing employees. To facilitate selection of investment contracts, DAS was required to establish a Tax-Sheltered Investment Program that may be offered to eligible public employers in the state.<sup>389</sup>

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<sup>385</sup> Iowa Code §8A.433. Information on the state's deferred compensation program, the "Retirement Investor's Club," can be found through the Department of Administrative Services Internet site, <http://ric.iowa.gov/> (last visited September 15, 2015).

<sup>386</sup> Iowa Code §260C.14(9).

<sup>387</sup> Iowa Code §273.3(14).

<sup>388</sup> Iowa Code §294.16.

<sup>389</sup> 2008 Iowa Acts, ch. 1171, §§66, 67; Iowa Code §8A.438.