

CHAPTER 1167**PUBLIC RETIREMENT SYSTEMS CHANGES***H.F. 2518*

AN ACT concerning public retirement systems, including the public safety peace officers' retirement, accident, and disability system, the Iowa public employees' retirement system, and the statewide fire and police retirement system, making appropriations, and including effective date and retroactive applicability provisions.

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

DIVISION I**PUBLIC SAFETY PEACE OFFICERS' RETIREMENT,
ACCIDENT, AND DISABILITY SYSTEM**

Section 1. Section 80.8, Code 2009, is amended by adding the following new subsection: NEW SUBSECTION. 4. Should a peace officer become incapacitated for duty as a natural and proximate result of an injury, disease, or exposure incurred or aggravated while in the actual performance of duty at some definite time or place, the peace officer shall, upon being found to be temporarily incapacitated following an examination by a workers' compensation physician or other approved physician be entitled to receive the peace officer's fixed pay and allowances, without using the peace officer's sick leave, until reexamined by a workers' compensation physician or other approved physician or examined by the medical board provided for in section 97A.5, and found to be fully recovered or permanently disabled. In addition, a peace officer found to be temporarily incapacitated under this subsection shall be credited with any sick leave used prior to the determination that the peace officer was temporarily incapacitated under this subsection for the period of time sick leave was used. For purposes of this subsection, disease shall mean as described in section 97A.6, subsection 5.

Sec. 2. Section 97A.1, subsection 6, Code 2009, is amended to read as follows:

6. "Child" means only the surviving issue of a deceased active or retired member, or a child legally adopted by a deceased member prior to the member's retirement. "Child" includes only an individual who is under the age of eighteen years, an individual who is under the age of twenty-two and is a full-time student, or an individual who is disabled under the definitions used in section ~~402~~ 202 of the Social Security Act as amended if the disability occurred to the individual during the time the individual was under the age of eighteen years and the parent of the individual was an active member of the system.

Sec. 3. Section 97A.6, subsection 2, paragraph e, subparagraph (6), Code 2009, is amended to read as follows:

(6) For a member who terminates service, other than by death ~~or disability~~, on or after July 1, 2000, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added two and three-fourths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than ten additional years of service.

Sec. 4. Section 97A.6, subsection 5, paragraph b, Code 2009, is amended by striking the paragraph.

Sec. 5. Section 97A.6, subsection 7, paragraph a, subparagraph (2), Code 2009, is amended to read as follows:

(2) A beneficiary retired under the provisions of this paragraph in order to be eligible for continued receipt of retirement benefits shall no later than May 15 of each year submit to the board of trustees a copy of the beneficiary's state federal individual income tax return for the preceding year. The beneficiary shall also submit, within sixty days, any documentation requested by the system that is determined to be necessary by the system to determine the beneficiary's gross wages.

Sec. 6. Section 97A.6, subsection 7, paragraph b, Code 2009, is amended to read as follows:

b. Should a disability beneficiary under age fifty-five be restored to active service at a compensation not less than the disability beneficiary's average final compensation, the disability beneficiary's retirement allowance shall cease, the disability beneficiary shall again become a member and shall contribute thereafter at the same rate payable by other members of comparable rank, seniority, and age, and former service on the basis of which the disability beneficiary's service was computed at the time of retirement shall be restored to full force and effect. Upon subsequent retirement the disability beneficiary shall be credited with all service as a member, and also with no more than two years of the period of disability retirement.

Sec. 7. Section 97A.8, subsection 1, paragraph b, subparagraph (2), subparagraph division (e), Code 2009, is amended by striking the subparagraph division and inserting in lieu thereof the following:

- (e) For the fiscal year beginning July 1, 2012, twenty-seven percent.
- (f) For the fiscal year beginning July 1, 2013, twenty-nine percent.
- (g) For the fiscal year beginning July 1, 2014, thirty-one percent.
- (h) For the fiscal year beginning July 1, 2015, thirty-three percent.
- (i) For the fiscal year beginning July 1, 2016, thirty-five percent.
- (j) For each fiscal year beginning on or after July 1, 2017, the lesser of thirty-seven percent or the normal contribution rate as calculated pursuant to subparagraph (1).

Sec. 8. Section 97A.8, subsection 1, paragraph e, subparagraph (8), Code 2009, is amended to read as follows:

(8) (a) For purposes of this subparagraph, the "applicable employee percentage" shall be as follows:

(i) For the fiscal period beginning July 1, 2006, and ending June 30, 2011, nine and thirty-five hundredths percent.

(ii) For the fiscal year beginning July 1, 2011, nine and eighty-five hundredths percent.

(iii) For the fiscal year beginning July 1, 2012, ten and thirty-five hundredths percent.

(iv) For the fiscal year beginning July 1, 2013, ten and eighty-five hundredths percent.

(v) For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, eleven and thirty-five hundredths percent.

(b) Notwithstanding any other provision of this chapter, beginning July 1, 1996, and each fiscal year thereafter, an amount equal to the member's contribution rate times each member's compensation shall be paid to the retirement fund from the earnable compensation of the member. For the purposes of this subparagraph, the member's contribution rate shall be ~~nine and thirty-five hundredths percent~~ the applicable employee percentage. However, the system shall increase the member's contribution rate as necessary to cover any increase in cost to the system resulting from statutory changes which are enacted by any session of the general assembly meeting after January 1, 1995, if the increase cannot be absorbed within the contribution rates otherwise established pursuant to this paragraph, but subject to a maximum employee contribution rate of eleven and three-tenths percent. After the employee contribution reaches eleven and three-tenths percent, sixty percent of the additional cost of such statutory changes shall be paid by the employer under paragraph "e" and forty percent of the additional cost shall be paid by employees under this subparagraph (8).

Sec. 9. Section 97A.8, subsection 1, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Notwithstanding any provision of this subsection to the contrary, if any statutory changes are enacted by any session of the general assembly meeting after January 1, 2011, which increases the cost to the system, the system shall, if the increased cost cannot be absorbed within the contribution rates otherwise established pursuant to this subsection at the time the statutory changes are enacted, increase the normal contribution rate and the member's contribution rate as necessary to cover any increase in cost by

providing that sixty percent of the additional cost of such statutory changes shall be paid by the employer under paragraph "c" and forty percent of the additional cost shall be paid by employees under paragraph "e", subparagraph (8).

Sec. 10. Section 97A.10, subsection 1, paragraph a, subparagraph (1), Code 2009, is amended to read as follows:

(1) "Eligible qualified service" means as follows:

~~(a) Service with the department prior to July 1, 1994, in a position as a gaming enforcement officer, fire prevention inspector peace officer, or as an employee of the division of capitol police except clerical workers.~~

~~(b) Service as a member of a city fire retirement system or police retirement system operating under chapter 411 prior to January 1, 1992, for which service was not eligible to be transferred to this system pursuant to section 97A.17.~~

Sec. 11. Section 97A.10, subsections 2 and 3, Code 2009, are amended to read as follows:

2. An active member of the system may make contributions to the system to purchase up to the maximum amount of permissive service credit for eligible qualified service as determined by the system, pursuant to Internal Revenue Code section 415(n) and the requirements of this section. A member seeking to purchase permissive service credit pursuant to this section shall file a written application along with appropriate documentation with the department by July 1, ~~2007~~ 2011.

3. A member making contributions for a purchase of permissive service credit for eligible qualified service under this section shall make contributions in an amount equal to the actuarial cost of the permissive service credit purchase, less an amount equal to the member's contributions under chapter 411 for the period of eligible qualified service together with interest at a rate determined by the board of trustees. For purposes of this subsection, the actuarial cost of the permissive service credit purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of permissive service credit.

Sec. 12. Section 97A.11, Code 2009, is amended to read as follows:

97A.11 Contributions by the state.

On or before the first day of ~~November~~ January in each year, the board of trustees shall certify to the director of the department of administrative services the amounts which will become due and payable during the fiscal year next following to the retirement fund. The amounts so certified shall be paid by the director of the department of administrative services out of the funds appropriated for the Iowa department of public safety, to the treasurer of state, the same to be credited to the system for the ensuing fiscal year.

Sec. 13. NEW SECTION. 97A.11A Supplemental state appropriation.

1. Beginning with the fiscal year commencing July 1, 2012, and ending June 30 of the fiscal year during which the board determines that the system's funded ratio of assets to liabilities is at least eighty-five percent, there is appropriated from the general fund of the state for each fiscal year to the retirement fund described in section 97A.8, an amount equal to five million dollars.

2. Moneys appropriated by the state pursuant to this section shall not be used to reduce the normal rate of contribution by the state below seventeen percent.

Sec. 14. Section 97A.14, Code 2009, is amended to read as follows:

97A.14 Hospitalization and medical attention.

1. The board of trustees shall provide hospital, nursing, and medical attention for the members in service when injured while in the performance of their duties and shall continue to provide hospital, nursing, long-term care, and medical attention for injuries or diseases incurred while in the performance of their duties for the members but only while the members are still receiving a retirement allowance under section 97A.6, subsection 6. The cost of hospital, nursing, and medical attention shall be paid out of the retirement fund. However, any amounts received by the injured person under the workers' compensation law

of the state, or from any other source for such specific purposes, shall be deducted from the amount paid by the board of trustees ~~provisions of~~ under this section.

2. For purposes of this section, medical attention shall include but not be limited to services provided by licensed medical personnel to include office, hospital, nursing home care, long-term care, and prescriptions for medicine or equipment. Within twelve months of receiving treatment or incurring a cost with direct correlation to the disabling condition, the beneficiary of an accidental disability benefit shall submit a written request for reimbursement to the board. A denial of reimbursement by the board shall be subject to judicial review in the same manner as any other action by the board in accordance with section 97A.6, subsection 13.

Sec. 15. PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM — ADDITIONAL APPROPRIATION FOR PURCHASE OF SERVICE. If section 97A.10 is amended by this Act to provide for the purchase of eligible service credit on and after July 1, 2010, there shall be appropriated from the general fund of the state to the retirement fund described in section 97A.8 an amount equal to that portion of the actuarial cost of the permissive service credit purchase for eligible service credit pursuant to section 97A.10 that is not required to be contributed by a member making contributions to the system for that purchase.

Sec. 16. PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM — EMPLOYERS CONTRIBUTION RATE CALCULATION STUDY.

1. The board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system, as defined in section 97A.2, shall, in consultation with the system's actuary, conduct a study concerning the calculation of the employers contribution rate beginning on and after July 1, 2017, with the goal of establishing a mechanism for ensuring that the system's funded ratio of assets to liabilities is at least eighty-five percent.

2. On or before October 15, 2015, the board of trustees shall file a report with the legislative services agency, for distribution to the public retirement systems committee, which contains the results of the study and any recommendations for statutory changes to implement the recommendations of the study.

Sec. 17. PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM — ADJUSTMENT OF PENSIONS PAYABLE. It is the intent of the general assembly that the applicable amount for each adjustment occurring on July 1 as provided in section 97A.6, subsection 14, paragraph "a", subparagraph (2), subparagraph division (a), shall be the exact dollar amount listed in each subparagraph subdivision of subparagraph division (a) for each July 1 in which that particular subparagraph subdivision applies and shall not be increased above the amount listed in that subparagraph subdivision for each year that the subparagraph subdivision applies. However, the applicable amount for each adjustment occurring on or after July 1, 2010, as provided by this section, shall not be less than the applicable amount for the adjustment for the previous July 1.

Sec. 18. PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM — BOARD REPORT.

1. The board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system, as defined in section 97A.2, shall conduct a comprehensive examination of the plan design of the Iowa department of public safety peace officers' retirement, accident, and disability system, pursuant to the principles established in chapter 97D, with the goal of making recommendations for benefit and other statutory changes to the system that will maintain an adequate retirement for members at a reasonable cost to members and employers.

2. On or before October 15, 2011, the board of trustees shall file a report with the legislative services agency, for distribution to the public retirement systems committee, which contains the results of the comprehensive examination and any recommendations for benefit or other statutory changes to the system.

DIVISION II
IOWA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM

Sec. 19. Section 97B.1A, Code Supplement 2009, is amended by adding the following new subsection:

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

a. (1) The member's covered wages averaged for the highest five years of the member's regular service, except as otherwise provided in this paragraph. The highest five years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the system may determine the wages for the fifth year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the four highest years and using the computed average quarter for each quarter in the fifth year in which no wages have been reported in combination with the final quarter or quarters of the member's service to create a full calendar year. However, the system shall not use the member's final quarter of wages if using that quarter would reduce the member's final average covered wage. If the five-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the five-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Notwithstanding any other provision of this subparagraph to the contrary, a member's wages for the fifth year as computed under this subparagraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages.

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

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

Sec. 20. Section 97B.1A, subsection 24, paragraph c, Code Supplement 2009, is amended to read as follows:

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

Sec. 21. Section 97B.1A, subsection 25, paragraph a, subparagraphs (1) through (5), Code Supplement 2009, are amended by striking the subparagraphs and inserting in lieu thereof the following:

- (1) Is vested by service.
- (2) Prior to July 1, 2005, has attained the age of fifty-five.
- (3) Between July 1, 2005, and June 30, 2012, has attained the age of fifty-five or greater while in covered employment.
- (4) On and after July 1, 2012, meets one of the following requirements:
 - (a) For a member in special service, has attained the age of fifty-five or greater while in covered employment.
 - (b) For a member in regular service, has attained the age of sixty-five or greater while in covered employment.

Sec. 22. Section 97B.1A, subsection 25, Code Supplement 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* “Vested by service” means a member who meets one of the following requirements:

- (1) Prior to July 1, 1965, had attained the age of forty-eight and completed at least eight years of service.
- (2) Between July 1, 1965, and June 30, 1973, had completed at least eight years of service.
- (3) Between July 1, 1973, and June 30, 2012, had completed at least four years of service.
- (4) On and after July 1, 2012, meets one of the following requirements:
 - (a) For a member in special service, has completed at least four years of special service.
 - (b) For a member in regular service, has completed at least seven years of service.
- (5) On or after July 1, 1988, an inactive member who had accumulated, as of the date of the member’s last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this paragraph “d” for qualifying as vested by service on that date of termination.

Sec. 23. Section 97B.4, subsection 2, paragraph c, Code 2009, is amended to read as follows:

~~c. In administering this chapter, the system may enter into a biennial agreement with the department of administrative services concerning the sharing of resources between the system and department which are of benefit to each and which are consistent with the mission of the system and the department.~~ The budget program for the system shall be established by the chief executive officer in consultation with the board and other staff of the system and shall be compiled and submitted by the system pursuant to section 8.23.

Sec. 24. Section 97B.4, subsection 4, paragraph a, Code 2009, is amended to read as follows:

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

Sec. 25. Section 97B.11, subsection 3, paragraph d, Code 2009, is amended to read as follows:

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

Sec. 26. Section 97B.49A, subsection 3, Code 2009, is amended to read as follows:

3. *Calculation of monthly allowance.* For each active or inactive vested member retiring on or after July 1, 1994, with four or more complete years of service, a monthly benefit shall be computed which is equal to one-twelfth of an amount equal to the applicable percentage of the ~~three-year final~~ average covered wage multiplied by a fraction of years of service. However, if benefits under this section commence on an early retirement date, the amount of the benefit shall be reduced in accordance with section 97B.50.

Sec. 27. Section 97B.49A, subsection 4, paragraph c, Code 2009, is amended to read as follows:

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

Sec. 28. Section 97B.49D, subsection 1, unnumbered paragraph 1, Code 2009, is amended to read as follows:

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

Sec. 29. Section 97B.49D, subsection 1, paragraph a, Code 2009, is amended to read as follows:

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

Sec. 30. Section 97B.50, subsection 1, paragraphs a and b, Code 2009, are amended to read as follows:

a. For a member who is ~~less than sixty-two years of age~~ not vested on June 30, 2012, by ~~twenty-five hundredths~~ one-half of one percent per month for each month that the early retirement date precedes the ~~normal retirement date~~ the member attains age sixty-five.

~~b. For a member who is at least sixty-two years of age and who has not completed twenty years of membership service and prior service vested on June 30, 2012, the member's retirement allowance shall be reduced as follows:~~

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

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

Sec. 31. Section 97B.50A, subsection 2, paragraph c, Code 2009, is amended to read as follows:

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

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

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

Sec. 32. Section 97B.52, subsection 1, unnumbered paragraph 1, Code 2009, is amended to read as follows:

If an inactive member, ~~with at least sixteen calendar quarters of service credit who is vested by service, or any active member dies prior to the member's first month of entitlement, the member's beneficiary shall be entitled to receive a death benefit equal to the greater of the amount provided in paragraph "a" or "b". If an inactive member with less than sixteen calendar quarters of service credit who is not vested by service dies prior to the member's first month of entitlement, the member's beneficiary shall only be entitled to receive a death benefit, as a lump sum, equal to the amount provided in paragraph "a".~~

Sec. 33. Section 97B.52A, subsection 1, paragraph c, Code 2009, is amended to read as follows:

c. (1) For a member whose first month of entitlement is July 2000 or later, the member does not return to any employment with a covered employer until the member has qualified for at least one calendar month of retirement benefits, and the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits.

(2) For purposes of determining a bona fide retirement under this paragraph "c", effective the following provisions apply:

(a) Effective July 1, 2000, any employment with a covered employer does not include employment as an elective official or member of the general assembly if the member is not covered under this chapter for that employment.

~~(b) For purposes of determining a bona fide retirement under this paragraph and for a member whose first month of entitlement is July 2004 or later, but before July 2010 2012, covered employment does not include employment as a licensed health care professional by a public hospital as defined in section 249J.3, with the exception of public hospitals governed pursuant to chapter 226.~~

(c) Effective May 25, 2008, any employment with a covered employer does not include noncovered employment as a member of the national guard called to state active duty as defined in section 29A.1.

Sec. 34. Section 97B.58, Code 2009, is amended to read as follows:

97B.58 Information furnished by employer.

To enable the system to administer this chapter and perform its functions, the employer shall, upon the request of and in the manner provided by the system, supply full provide accurate, complete, and timely information to the system of all matters relating to the pay of all members, date of birth, their retirement, death, or other cause for termination of employment, and other pertinent facts the system may require in the manner provided by the system. The system shall not be liable to any member, retiree, or beneficiary for any monetary or other relief due to the failure of the employer to comply with this section.

Sec. 35. 2008 Iowa Acts, chapter 1171, section 47, is amended to read as follows:

SEC. 47. TRANSITION PROVISION — REQUIRED CONTRIBUTION RATE FOR FISCAL YEAR 2010-2011. For purposes of establishing the required contribution rate for the fiscal year beginning July 1, 2011, as provided in section 97B.11, as amended in this Act, the required contribution rate for the fiscal year beginning July 1, 2010, shall be, for ~~members in regular service~~, members described in section 97B.49B, and members described in section 97B.49C, the total contribution percentage rate paid by members and employers of that membership group for the fiscal year beginning July 1, 2010.

Sec. 36. 2009 Iowa Acts, chapter 170, section 51, subsections 1 and 3, are amended to read as follows:

1. a. Notwithstanding any provision of chapter 97B to the contrary, a member of the Iowa public employees' retirement system who has an employer-mandated reduction in hours or an employee-exercised reduction in pay but remains on the employer's payroll, and who would receive a reduction in the member's three-year average covered wage as a result of the reduction in hours, may have the member's retirement allowance calculated based on the three-year average covered wage the member would have received, based on reasonable assumptions, if the member had not been subject to the employer-mandated reduction in hours or employee-exercised reduction in pay, upon payment by the member of the applicable contribution amount.

b. For purposes of this section, ~~the applicable contribution amount unless the context otherwise requires:~~

(1) "Applicable contribution amount" is an amount equal to the employee and employer contributions that would have been paid to the system based on the wages that the member would have received but for the employer-mandated reduction in hours or employee-exercised reduction in pay and would have been included in the member's three-year average covered wage.

(2) "Employee-exercised reduction in pay" means a reduction in pay of a member who has exercised bumping rights by accepting a lower-paid position in order to avoid being laid off by the employer.

3. This section shall apply to employer-mandated reductions in hours or employee-exercised reductions in pay during the period of time beginning on or after January 1, 2009, and ending no later than June 30, ~~2010~~ 2011. The system is authorized to adopt such rules, including emergency rules, as it deems necessary or prudent to implement this section.

Sec. 37. IPERS REGULAR MEMBERS — FINAL AVERAGE COVERED WAGE — JULY 1, 2010 THROUGH JUNE 30, 2012. Notwithstanding any provision of section 97B.1A, subsection 10A, as enacted by this division of this Act, to the contrary, for the period beginning July 1, 2010, and ending June 30, 2012, "final average covered wage" means the member's three-year average covered wage.

Sec. 38. IPERS REGULAR MEMBERS — REQUIRED CONTRIBUTION RATE FOR FISCAL YEAR 2011-2012. Notwithstanding any provision of section 97B.11 to the contrary, for members in regular service as defined in section 97B.1A, the required contribution rate for the fiscal year beginning July 1, 2011, as provided in section 97B.11, shall be thirteen and forty-five hundredths percent.

Sec. 39. EFFECTIVE DATE. The section of this division of this Act amending section 97B.50 takes effect June 30, 2012.

Sec. 40. EFFECTIVE UPON ENACTMENT AND RETROACTIVE APPLICABILITY. The section of this division of this Act enacting section 97B.52A, subsection 1, paragraph “c”, subparagraph (2), subparagraph division (c), being deemed of immediate importance, takes effect upon enactment and applies retroactively to May 25, 2008.

Sec. 41. EFFECTIVE UPON ENACTMENT AND RETROACTIVE APPLICABILITY. The section of this division of this Act amending 2009 Iowa Acts, chapter 170, section 51, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2009.

DIVISION III
STATEWIDE FIRE AND POLICE
RETIREMENT SYSTEM

Sec. 42. Section 8.59, Code 2009, is amended to read as follows:

8.59 Appropriations freeze.

Notwithstanding contrary provisions of the Code, the amounts appropriated under the applicable sections of the Code for fiscal years commencing on or after July 1, 1993, are limited to those amounts expended under those sections for the fiscal year commencing July 1, 1992. If an applicable section appropriates moneys to be distributed to different recipients and the operation of this section reduces the total amount to be distributed under the applicable section, the moneys shall be prorated among the recipients. As used in this section, “*applicable sections*” means sections 53.50, 229.35, 230.8, 230.11, 411.20, and 663.44.

Sec. 43. Section 411.1, subsection 22, Code Supplement 2009, is amended to read as follows:

22. “*Surviving spouse*” shall mean the surviving spouse of a deceased member ~~from active service~~. Surviving spouse shall include a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section 598.17 grants the former spouse rights of a spouse under this chapter.

Sec. 44. Section 411.5, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 16. *Benefits and financing review.* At least every two years, the board shall review the benefits and finances provided under this chapter. The board shall make recommendations to the general assembly concerning this review, which shall include recommendations concerning the long-term financing and benefits policy of the system.

Sec. 45. Section 411.6, subsection 3, Code Supplement 2009, is amended to read as follows:

3. *Ordinary disability retirement benefit.* Upon application to the system, of a member in good standing or of the chief of the police or fire departments, respectively, any member in good standing shall be retired by the system, not less than thirty and not more than ninety days next following the date of filing the application, on an ordinary disability retirement allowance, if the medical board after a medical examination of the member certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person’s membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A medical condition shall be deemed to have been known to exist on the date that membership commenced if the medical condition is reflected in any record or document completed or obtained in accordance with the system’s medical protocols pursuant to section 400.8, or in any other record or document obtained pursuant to an application for disability benefits from the system, if such record or document existed prior to the date membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits. The member-in-good-standing requirement of

this subsection may be waived for good cause as determined by the board. The burden of establishing good cause is on the member.

Sec. 46. Section 411.6, subsection 8, paragraph c, subparagraph (1), Code Supplement 2009, is amended to read as follows:

(1) The spouse, regardless of whether the spouse was designated by the member to the system as the member's beneficiary.

Sec. 47. Section 411.6, subsection 8, paragraph d, subparagraph (1), Code Supplement 2009, is amended to read as follows:

(1) To the member's surviving spouse, unless the surviving spouse selected the pension under paragraph "b".

Sec. 48. Section 411.6B, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3. *a.* For distributions after December 31, 2009, a nonspouse beneficiary who is a designated beneficiary may roll over all or any portion of the beneficiary's distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution by means of a direct rollover. In order to qualify for a rollover under this subsection, the distribution must otherwise satisfy the definition of an eligible rollover distribution. If a nonspouse beneficiary receives a distribution from the system, the distribution is not eligible for a sixty-day rollover.

b. If the member's named beneficiary is a trust, the system may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Internal Revenue Code section 401(a)(9)(E).

c. A nonspouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable United States treasury regulations and other federal Internal Revenue Service guidance. If the participant dies before the participant's required beginning date and the nonspouse beneficiary rolls over to an individual retirement account the maximum amount eligible for rollover, the beneficiary may elect to use either the five-year rule or the life expectancy rule, pursuant to applicable United States treasury regulations as provided in 26 C.F.R. § 1.401(a)(9)-3, in determining the required minimum distributions from the individual retirement account that receives the nonspouse beneficiary's distribution.

Sec. 49. Section 411.8, subsection 1, paragraph b, subparagraph (1), Code Supplement 2009, is amended to read as follows:

(1) On the basis of the actuarial methods and assumptions, rate of interest, and of the mortality, interest and other tables adopted by the system, the actuary engaged by the system to make each valuation required by this chapter pursuant to the requirements of section 411.5, shall immediately after making such valuation, determine the normal contribution rate. Except as otherwise provided in this lettered paragraph, the "*normal contribution rate*" shall be the rate percent of the earnable compensation of all members equal to the rate required by the system to discharge its liabilities, stated as a percentage of the earnable compensation of all members, and reduced by the employee contribution rate provided in paragraph "*f*" of this subsection and the contribution rate representing the any state appropriation made as provided in section 411.20. However, the normal contribution rate shall not be less than seventeen percent.

Sec. 50. Section 411.9, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. In the case of a member's death occurring on or after January 1, 2007, if the member dies while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the survivors of the member are entitled to any additional benefits, other than benefit accruals relating to the period of qualified military service, provided by the system as if the member had resumed membership service and had died as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place.

Sec. 51. Section 411.9, Code 2009, is amended by adding the following new subsection:
NEW SUBSECTION. 1B. For years beginning after December 31, 2008, if a member who is absent while serving in the armed services of the United States is receiving a differential wage payment, as defined in section 3401(h)(2) of the Internal Revenue Code, from a participating city, all of the following shall apply:

- a. The member is treated as an employee of the employer making the payment and as an active member of the system.
- b. The differential wage payment is treated as earnable compensation of the member.
- c. The system is not treated as failing to meet the requirements of any provision described in section 414(u)(1)(C) of the Internal Revenue Code by reason of any contribution or benefit which is based on the differential wage payment.

Sec. 52. Section 411.37, subsections 2 and 3, Code 2009, are amended to read as follows:

2. The board shall include in the transition plan or other transition documents, provisions to facilitate continuity under sections ~~411.20~~, 411.21, and 411.30, and any appropriations to the system from the state.

3. For each of the fiscal years beginning July 1, 1990, and July 1, 1991, ten percent of the amount appropriated by the state for distribution to cities ~~as provided in section 411.20~~ shall be made available to the board of trustees for the statewide system to cover the administrative costs of the transition. The amount distributed to each city shall be reduced accordingly. The moneys remaining unencumbered or unexpended at the end of the fiscal year beginning July 1, 1990, and the moneys remaining unencumbered or unexpended on January 1, 1992, shall be credited to the cities in the same proportion as the reduction.

Sec. 53. REPEAL. Section 411.20, Code 2009, is repealed.

Sec. 54. STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM FUND — APPROPRIATIONS.

1. There is appropriated from the general fund of the state for deposit in the statewide fire and police retirement fund created in section 411.8, for the designated fiscal years, the following amounts:

FY 2010-2011	\$	1,500,000
FY 2011-2012	\$	750,000

2. Moneys appropriated by the state pursuant to this section shall not be used to reduce the normal rate of contribution of any city below 17 percent.

Sec. 55. STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM — BOARD REPORT.

1. The board of trustees of the statewide fire and police retirement system created in chapter 411, as enacted by this division of this Act, shall conduct a comprehensive examination of the benefits and finances provided under chapter 411, including an examination of the long-term financing and benefits policy of the system, with the goal of making recommendations for benefit and other statutory changes to the system that will maintain an adequate retirement for members at a reasonable cost to members and employers.

2. On or before January 10, 2011, the board shall file a report with the general assembly which contains the results of the comprehensive examination and any recommendations for benefit or other statutory changes to the system.

Sec. 56. EFFECTIVE UPON ENACTMENT AND RETROACTIVE APPLICABILITY. The section of this division of this Act enacting section 411.9, subsection 1A, being deemed of immediate importance, take effect upon enactment and applies retroactively to deaths occurring on or after January 1, 2007.

Sec. 57. EFFECTIVE UPON ENACTMENT AND RETROACTIVE APPLICABILITY. The section of this division of this Act enacting section 411.9, subsection 1B, being deemed of immediate importance, takes effect upon enactment and applies retroactively to years beginning after December 31, 2008.

Approved April 23, 2010

CHAPTER 1168

CHILDREN OF MILITARY SERVICE MEMBERS ON ACTIVE DUTY — CUSTODY, CARE, AND VISITATION

S.F. 2226

AN ACT relating to custody, physical care, and visitation provisions relating to a child of a parent who is serving active duty in the military service of the United States and including effective date provisions.

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

Section 1. Section 598.41C, subsection 1, Code 2009, is amended to read as follows:

1. a. If an application for modification of a decree or a petition for modification of an order regarding child custody or physical care is filed prior to or during the time a parent is serving active duty in the military service of the United States, the court may only enter an order or decree temporarily modifying the existing child custody or physical care order or decree if there is clear and convincing evidence that the modification is in the best interest of the child.

b. If the active duty of a parent affects the parent's ability or anticipated ability to appear at a regularly scheduled hearing, the court shall provide for an expedited hearing in matters instituted under this section.

c. If the active duty or anticipated active duty of a parent prevents the parent from appearing in person at a hearing, the court shall provide, upon reasonable advance notice, for the parent to present testimony and evidence by electronic means in matters instituted under this section. For the purposes of this paragraph, "electronic means" includes communication by telephone, video teleconference, or the internet.

d. Upon the parent's completion of active duty, the court shall reinstate the custody or physical care order or decree that was in effect immediately preceding the period of active duty. If an application for modification of a decree or a petition for modification of an order is filed after a parent completes active duty, the parent's absence due to active duty does not constitute a substantial change in circumstances, and the court shall not consider a parent's absence due to that active duty in making a determination regarding the best interest of the child.

Sec. 2. **NEW SECTION. 598.41D Assignment of visitation — parent serving active duty — family member.**

1. Notwithstanding any provision to the contrary, a parent who has been granted court-ordered visitation with the parent's minor child may file an application for modification of a decree or a petition for modification of an order regarding child visitation, prior to or during the time the parent is serving active duty in the military service of the United States, to temporarily assign that parent's visitation rights to a family member of the minor child, as specified by the parent. The application or petition shall be accompanied by an affidavit from the family member indicating the family member's knowledge of the application or petition and willingness to exercise the parent's visitation rights during the parent's absence. The application or petition shall also request any change in the visitation schedule necessitated by the assignment.