HOUSE ENROLLED ACT No. 1059

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.2-3-7.5, AS AMENDED BY P.L.40-2017, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.5. (a) This subsection applies to members who die after March 31, 1990, and before January 1, 2007. A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

(1) the member has:
   (A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;
   (B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or
   (C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:
      (i) was at least sixty-five (65) years of age; and
      (ii) died in service in a position covered by the teachers' retirement fund; and

(2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (c) or (d) or (e).

(b) This subsection applies to members who die after December 31, 2006, and before July 1, 2018. A surviving dependent or surviving spouse of a member who dies is entitled to a survivor benefit if:
(1) the member has:
   (A) at least ten (10) years of creditable service, if the member
died in service as a member of the general assembly;
   (B) at least ten (10) years but not more than fourteen (14)years of creditable service if the member was at least sixty-five
(65) years of age and died in service in a position covered by
the fund (other than a position described in clause (A)); or
   (C) at least fifteen (15) years of creditable service, if the
member died in service in a position covered by the fund
(other than a position described in clause (A)); and
(2) the surviving dependent or surviving spouse qualifies for a
survivor benefit under subsection (e) or (d) or (e).

(c) This subsection applies to a member who dies after June 30,
2018, regardless of whether the member dies in service in a
position covered by the fund or the member dies out of service. A
surviving dependent or surviving spouse of a member who dies is
entitled to a survivor benefit if:
   (1) the member has at least ten (10) years of creditable
service; and
   (2) the surviving dependent or surviving spouse qualifies for
a survivor benefit under subsection (d) or (e).

(d) If a member described in subsection (a), or (b), or (c) dies
with a surviving spouse who was married to the member for at least
two (2) years, the surviving spouse is entitled to a survivor benefit
equal to the monthly pension benefit that would have been payable to
the spouse under the joint and survivor option of IC 5-10.2-4-7 upon
the member's death following retirement at:
   (1) fifty (50) years of age; or
   (2) the actual date of death;
whichever is later. However, benefits payable under this subsection are
subject to subsections (f) (g) and (h) (i).

(e) If a member described in subsection (a), or (b), or (c) dies
without a surviving spouse who was married to the member for at least
two (2) years, but with a surviving dependent, the surviving dependent
is entitled to a survivor benefit in a monthly amount equal to the
actuarial equivalent of the monthly pension benefit that would have
been payable to the spouse (assuming the spouse would have had the
same birth date as the member) under the joint and survivor option of
IC 5-10.2-4-7 upon the member's death following retirement at:
   (1) fifty (50) years of age; or
   (2) the actual date of death;
whichever is later. If there are two (2) or more surviving dependents,
the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly pension benefit to be paid to each dependent. Monthly pension benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly pension benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (f) (g) and (h) (i).

(e) (f) This subsection applies if a member did not designate a beneficiary or the designated beneficiary does not survive the member. Except as provided in subsections (f) (g) and (f) (i), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (e) or (d) or (e) or section 7.6 of this chapter may elect to receive one (1) or more lump sum payments that do not exceed in aggregate the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. If a surviving spouse or surviving dependent makes such an election, the lump sum payments made to the surviving spouse or surviving dependent under this subsection are excluded from the calculation of an annuity that is part of the survivor benefit under subsection (e) or (d) or (e) or section 7.6 of this chapter.

(f) (g) If a member is survived by a designated beneficiary, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive the amount credited to the member's annuity savings account, less any disability benefits paid to the member, in one (1) or more lump sum payments over a period of up to five (5) years.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive equal shares of the amount credited to the member's annuity savings account unless the member has allocated the shares among the designated beneficiaries in a manner authorized under IC 5-10.3-8-15 or IC 5-10.4-4-10, less any disability benefits paid to the member. Each beneficiary may elect to receive the beneficiary's share in one (1) or more lump sum payments over a
period of up to five (5) years.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (e) or (d) or (e) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

(4) (h) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (e) or (d) or (e) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (f); (g):

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(h) (i) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) (j) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (e) or (d) or (e) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

(k) (k) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(k) (l) A benefit specified in this section shall be forfeited and credited in the manner determined by the board if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 2. IC 5-10.2-3-7.6, AS AMENDED BY P.L.113-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.6. (a) This section applies to the surviving
spouse and the surviving dependent of a member who:

1. dies after June 30, 1996, and before July 1, 2018;
2. has at least thirty (30) years of creditable service; and
3. dies in service in a position covered by the fund.

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the board may determine that the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

1. fifty-five (55) years of age; or
2. the actual date of death;

whichever is later. However, benefits payable under this section are subject to section 7.5(f) 7.5(g) and 7.5(h) of this chapter.

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the board may determine that the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

1. fifty-five (55) years of age; or
2. the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) on the date the dependent becomes eighteen (18) years of age, the monthly benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this section are subject to section 7.5(f) 7.5(g) and 7.5(h) of this chapter.
(2) while not in service in a position covered by the retirement fund; and
(3) while eligible to receive retirement or disability benefits under IC 5-10.2-4-6, but before applying for those benefits;
the member's surviving spouse or surviving dependent is entitled to survivor benefits in the same amount and under the same conditions as provided in section 7.5 of this chapter.

(b) If a member dies:
   (1) after June 30, 2018; and
   (2) while eligible to receive retirement or disability benefits under IC 5-10.2-4-6, but before applying for those benefits; regardless of whether the member dies in service in a position covered by the retirement fund or out of service, the member's surviving spouse or surviving dependent is entitled to survivor benefits in the same amount and under the same conditions as provided in section 7.5 of this chapter.

(b) (c) Except as otherwise provided in section 7.5 of this chapter, if a member dies while not in service and while not eligible for retirement or disability retirement, the sum payable upon suspension of membership shall be paid to the member's surviving designated beneficiary or to the member's estate if no beneficiary is designated.

(c) (d) The sums specified in subsections (a), and (b), and (c) shall be forfeited and credited to the member's retirement fund if no beneficiary or other person entitled to the money under subsection (a), or (b), or (c) claims it within three (3) years after the member's death. However, the board may honor a claim made more than three (3) years after the member's death if the board finds, in the board's discretion, that:
   (1) the member died after August 31, 1992; and
   (2) either:
       (A) the delay in making the claim was reasonable; or
       (B) other extenuating circumstances justify the award of the benefit to the claimant.

(d) (e) Survivor benefits payable under this section shall be reduced by any disability benefits paid to the member under the same conditions as provided in section 7.5 of this chapter.
Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: ________________  Time: ________________

HEA 1059 — CC 1