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the delegation in writing by the Commissioner on file in the offices of the division. That is, there must be a delegation before there can be any representation and any representation must be limited to the scope of the delegation.

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### OFFICIAL OPINION NO. 20

March 31, 1952.

Honorable Ross Teckemeyer, Executive Secretary,  
Public Employes' Retirement Fund,  
707 Board of Trade Building,  
Indianapolis 4, Indiana.

Dear Sir:

Your letter of March 13, 1952, has been received and reads as follows:

"Chapter No. 259 of the Acts of 1951 enact to declare certain public employees eligible for public service now denied them, etc. This Act made provisions under certain conditions for former members of the Indiana State Teachers' Retirement Fund to transfer their creditable service to the Public Employes' Retirement Fund.

"Dorothy Marie Taylor accepted employment with Indiana University February 7, 1950 and in July of 1951 became a member of the Public Employes' Retirement Fund. July 20, 1951 she filed with this office an application to transfer one year of creditable service as a school teacher from the Indiana State Teachers' Retirement Fund to this Fund. This was in accordance with Section No. 1 of Chapter No. 259 of the Acts of 1951.

"The Indiana State Teachers' Retirement Fund certified that Miss Taylor had on deposit contributions for one year of service amounting to \$127.80. This item was handled as many others and a claim was filed with the Teachers' Retirement Fund for the above money. Due to the fact that considerable time elapsed before final settlement was made with the Teachers' Retirement Fund.

ment Fund this money was not received until on or about February 11, 1952.

“On November 14, 1951 Dorothy Marie Taylor filed with this office a claim for refund of contributions since she was no longer an employee of Indiana University and severed her employment on September 30, 1951. Therefore, on December 1st, 1951 her contributions through payroll deductions at Indiana University in the amount of \$22.50 were refunded.

“On February 13, 1952 Miss Taylor requested a refund of the \$127.80 which we had received from the Teachers' Retirement Fund. This matter was referred to the Board of Trustees of the Public Employes' Retirement Fund at their February meeting and upon their instructions I am requesting your official opinion, should contributions received from the Teachers' Retirement Fund be refunded to members in the same manner as payroll deductions are refunded, as provided in Section 12 of Chapter 340 of the Acts of 1945 as amended by Chapter No. 64 of the Acts of 1951?

“A second question has arisen in regard to the death of a member who has not reached retirement age, shall the money received from the Teachers' Retirement Fund as provided in Section No. 1 and No. 2 of Chapter No. 259 of the Acts of 1951 be refunded as provided for refunding of contributions in Section 11 of Chapter 340 of the Acts of 1945, as amended by Chapter 64 of the Acts of 1951?”

The above referred to provisions regarding prior members of the Indiana State Teachers' Retirement Fund becoming members of the Public Employes' Retirement Fund are Sections 1 and 2 of Chapter 259 of the Acts of 1951, same being Sections 60-1635 and 60-1636, Burns' 1951 Replacement. The first section of said statute provides as follows:

“Any present or future member of the Public Employes' Retirement Fund who previous to his or her present employment earned creditable service under the Indiana State Teachers Retirement Fund and has not withdrawn his contribution, may elect to receive

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credit for such service provided that such member shall authorize his or her contribution transferred from Indiana State Teachers Retirement Fund to the Public Employes' Retirement Fund. *Such contributions shall be credited to the member's account in the same manner as regular monthly contributions.*" (Our emphasis.)

The second section of said act provides as follows:

"Any present or future member of the Public Employes' Retirement Fund who previous to his present employment earned creditable service under the Indiana State Teachers Retirement Fund may elect to receive credit for such service, if he has withdrawn his contributions from the Indiana State Teachers Retirement Fund, upon payment to the Public Employes' Retirement Fund of the amount withdrawn and the transfer from the Teachers Fund of an amount equal to the amount withheld, if any, pursuant to the provisions of the Indiana State Teachers Retirement Fund Act."

Section 60-1612, Burns' 1951 Replacement, regarding payment of contributions by the Public Employes' Retirement Fund to persons withdrawing from service, provides in part as follows:

"Upon withdrawal from service, any member, who shall not be entitled to a retirement benefit under the provisions hereof, shall be paid a refund equal to the total of his contributions to the fund without interest. \* \* \*"

The last referred to section of the statute is not specifically amended by Chapter 64 of the Acts of 1951 and I do not find the latter act controlling on this question.

I am therefore of the opinion, in answer to the first question, that although this teacher, if she had withdrawn from the Indiana State Teachers' Retirement Fund without transferring her membership and contributions into the Public Employes' Retirement Fund would unquestionably have been limited to a percentage of the amount contributed as contained in the provisions of the Indiana State Teachers' Retirement statutes for withdrawal, each of said teachers' retirement funds having its own specific provisions in this respect.

However, the foregoing provisions of Chapter 259 of the Acts of 1951 authorize a transfer to your fund from the Indiana State Teachers' Retirement Fund of the full amount contributed by the teacher. Said statute provides: "Such contributions shall be credited to the member's account in the same manner as regular monthly contributions." From this it is clear the character of the contributions has been changed from what it was under the Teachers' Retirement Fund to a classification as monthly contributions made to the Public Employes' Retirement Fund and on severance of service would be paid out as though it had been received as regular monthly contributions to your fund.

Therefore, in answer to your first question, I am of the opinion that under the provisions of Section 60-1612, upon withdrawal of this person from state service and membership in the Public Employes' Retirement Fund, she was entitled to be paid a refund equal to the total of her contributions to the fund without interest.

In answer to your second question, Section 11 of Chapter 340 of the Acts of 1945, same being Sec. 60-1611, Burns' 1951 Replacement, provides in part as follows:

"Upon death of a member while in service from any cause, there shall be paid to his estate, or to such person as he shall have nominated by written direction duly acknowledged and filed with the board a refund of the accumulated contributions of the member as of the date of death. \* \* \*"

Therefore, upon the basis of the reasons given in answer to your question number 1, as applied to the above quoted provisions of Section 11 of the Public Employes' Retirement Fund Act, there should be paid to the member's estate or his duly nominated beneficiary a refund of the accumulated contributions of the member as of the date of death. Chapter 64 of the Acts of 1945 does not specifically amend the last referred to section of the statute but amends a number of sections of the Public Employes' Retirement Fund Act. If any of the peculiar factual situations involved would cause this member's status to be affected by Chapter 64 of the Acts of 1951, the amount paid in to the fund would fall in the same classification of regular monthly contributions to the Public Employes' Retirement Fund.