

Regular Session, 2012

HOUSE BILL NO. 41

BY REPRESENTATIVE PEARSON

RETIREMENT/CLERKS COURT: Provides relative to the federal tax qualification status of the system

1 AN ACT

2 To amend and reenact R.S. 11:1532 and to enact R.S. 11:1518, 1521.2, 1524(C), and
3 1533(F), relative to the Clerks' of Court Retirement and Relief Fund; to provide
4 relative to federal tax qualification status; to authorize changes to be made using the
5 Administrative Procedure Act; and to provide for related matters.

6 Notice of intention to introduce this Act has been published
7 as provided by Article X, Section 29(C) of the Constitution
8 of Louisiana.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 11:1532 is hereby amended and reenacted and R.S. 11:1518, 1521.2,
11 1524(C), and 1533(F) are hereby enacted to read as follows:

12 §1518. Reemployment of a member after military service

13 A. The qualified military service of a member who has been reemployed in
14 accordance with 26 U.S.C. 414(u) shall be treated for vesting and benefit accrual
15 purposes as service completed under R.S. 11:1514 if the member remits to the fund
16 any employee contributions which would have been required but for the member's
17 leave of absence to perform qualified military service.

18 B. Effective January 1, 2007, if a member dies while on a leave of absence
19 to perform qualified military service as described in 26 U.S.C. 414(u), his
20 beneficiary is entitled to any benefits, except benefits that accrued during the period

1 of qualified military service, that would have been provided under the plan had the
2 member resumed and then terminated employment due to death, in accordance with
3 26 U.S.C. 401(a)(37).

4 * * *

5 §1521.2. Maximum compensation

6 A. For the purposes of calculating any benefit payable under this plan, any
7 compensation in excess of the limits set forth in 26 U.S.C. 401(a)(17) shall be
8 disregarded.

9 B. Subsection A of this Section shall not apply to members who enrolled in
10 the plan on or before January 1, 1996.

11 * * *

12 §1524. Optional benefit payments

13 * * *

14 C.(1) A retiree who has been married for one year or more shall elect Option
15 2, 3, 4, or 5 of Subsection A of this Section. If the retiree chooses Option 2 or 3, he
16 shall nominate his surviving spouse as the joint annuitant with the retiree. If the
17 retiree chooses Option 4, he shall select a benefit ensuring that, upon his death, no
18 less than fifty percent of the benefit shall be payable to his surviving spouse during
19 the spouse's lifetime.

20 (2) If a retiree's spouse has executed a qualified waiver of the joint and
21 survivor annuity requirements in accordance with 26 U.S.C. 417, Paragraph (1) of
22 this Subsection is not applicable to the retiree.

23 * * *

24 §1532. Direct rollover of eligible rollover distributions

25 A. Notwithstanding any provision of this pension plan to the contrary that
26 would otherwise limit a distributee's election under this Section, a distributee may
27 elect, at the time and in the manner prescribed by the board of trustees, to have any
28 portion of an eligible rollover distribution paid directly to an eligible retirement plan
29 specified by the distributee in a direct rollover. For this purpose, an eligible rollover

1 distribution is any distribution made on or after December 1, 1994, of all or any
2 portion of the balance to the credit of the distributee, except that an eligible rollover
3 distribution does not include: any equal periodic payments (not less frequently than
4 annually) made for the life (or life expectancy) of the distributee or the joint lives (or
5 joint life expectancies) of the distributee and the distributee's designated beneficiary
6 or for a specified period of ten years or more; any distribution to the extent such
7 distribution is required under Section 401(a)(9) of the Internal Revenue Code,
8 hereinafter referred to in this Section as "the Code"; and the portion of any
9 distribution that is not includable in gross income. An eligible retirement plan is an
10 individual retirement account described in Section ~~408(b)~~ 408(a) of the Code, an
11 individual retirement annuity described in Section ~~408(a)~~ 408(b) of the Code, or a
12 qualified trust described in Section 401(a) of the Code, that accepts the distributee's
13 eligible rollover distribution. In the case of an eligible rollover distribution to a
14 surviving spouse, however, an eligible retirement plan is only an individual
15 retirement account or individual retirement annuity. A distributee includes a
16 member or former member. In addition, the member's or former member's surviving
17 spouse and the member's or former member's spouse or former spouse who is an
18 alternate payee under a qualified domestic relations order, as defined in Section
19 414(p) of the Code, are distributees with regard to the interest of the spouse or
20 former spouse. A direct rollover is payment by the plan to the eligible retirement
21 plan specified by the distributee.

22 B.(1) The fund shall, within a reasonable period of time before making an
23 eligible rollover distribution as provided for in Subsection A of this Section, provide
24 a written explanation of the following to the recipient of such distribution:

25 (a) The provisions under which the recipient may have the distribution
26 directly transferred to an eligible retirement plan and that the automatic distribution
27 by direct transfer applies to certain distributions in accordance with 26 U.S.C.
28 401(a)(31)(B).

1 **(b) The provision which requires the withholding of tax on the distribution**
2 **if it is not directly transferred to an eligible retirement plan.**

3 **(c) The provisions under which the distribution will not be subject to tax if**
4 **transferred to an eligible retirement plan within sixty days after the date on which the**
5 **recipient received the distribution.**

6 **(d) The provisions under which distributions from the eligible retirement**
7 **plan receiving the distribution may be subject to restrictions and tax consequences**
8 **that are different from those applicable to distributions from the plan making such**
9 **distribution.**

10 **(2) For the purposes of this Subsection, the term "reasonable period of time"**
11 **shall have the meaning assigned to it by 26 U.S.C. 401(a)(31) and the regulations**
12 **thereunder.**

13 * * *

14 §1533. Internal Revenue Code qualification requirements

15 * * *

16 **F. Amendments to the fund required for the purpose of maintaining**
17 **continued compliance with the Internal Revenue Code and the regulations thereunder**
18 **may be promulgated as rules in accordance with the Administrative Prodecure Act.**

19 * * *

20 Section 2. This Act shall become effective upon signature by the governor or, if not
21 signed by the governor, upon expiration of the time for bills to become law without signature
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
24 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Pearson

HB No. 41

Abstract: Provides relative to maintaining the federal tax qualification status of the Clerks' of Court Retirement and Relief Fund (CCRS).

Present law creates the CCRS. Provisions within present law qualify the CCRS to be a "qualified plan" under the provisions of the federal tax code. Such status affords certain benefits to the plan and its members (for example, earnings within the plan are not taxed until distribution).

Proposed law retains present law and makes changes to present law in order to comply with federal tax regulations.

Proposed law provides that a member who is reemployed after military service shall receive service credit for the period of this military service if he remits employee contributions which would have been required but for military service.

Proposed law, effective Jan. 1, 2007, provides that if a member dies during leave for military service, his beneficiary is entitled to any benefit, except benefits that accrued during military service, that would have been provided had the member resumed employment and then died.

Proposed law provides relative to the maximum compensation that members may receive under the federal tax code.

Present law provides optional retirement selections for members relating to how the member would like his benefits to be paid. Proposed law retains present law and further requires payment of at least 50% of a member's benefits to his surviving spouse if he chooses an option with an annuity.

Present law authorizes a member to roll an eligible distribution over to another tax vehicle recognized by the federal tax code. Proposed law requires notice to the member on certain information on tax consequences relative to the transfer.

Proposed law authorizes any future amendments necessary to comply with the federal tax code to be promulgated by the governing board by rule, utilizing the Administrative Procedure Act.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 11:1532; Adds R.S. 11:1518, 1521.2, 1524(C), and 1533(F))