

Regular Session, 2012

HOUSE BILL NO. 43

BY REPRESENTATIVE CHAMPAGNE

RETIREMENT BENEFITS: Provides relative to the forfeiture of pension benefits by public officials upon felony conviction for certain offenses

1 AN ACT

2 To amend and reenact the heading of Subpart L of Part II of Chapter 4 of Subtitle I of Title  
3 11 of the Louisiana Revised Statutes of 1950 and R.S. 11:570, 951.3, 952.3, 1378,  
4 1905, 3014, 3051, 3111, 3140, 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470,  
5 3513, 3608(A), 3691, 3770, 3800, and 3823, and R.S. 13:3881(D)(1) and to enact  
6 R.S. 11:293, relative to retirement benefits; to provide relative to elected officials  
7 and public employees who are members, former members, or retirees of public  
8 retirement systems; to require the forfeiture of retirement benefits for such persons  
9 who are convicted of certain felonies related to their offices; to provide relative to  
10 the employer and employee contributions on behalf of such persons; to provide for  
11 repayment of benefits already received by such persons; to provide for confiscation  
12 of employee contributions to satisfy criminal fines and restitution; to require  
13 notification to the retirement systems regarding office-related felonies; and to  
14 provide for related matters.

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

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. The heading of Subpart L of Part II of Chapter 4 of Subtitle I of Title 11  
20 of the Louisiana Revised Statutes of 1950 and R.S. 11:570, 951.3, 952.3, 1378, 1905, 3014,

1 3051, 3111, 3140, 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470, 3513, 3608(A),  
2 3691, 3770, 3800, and 3823 are hereby amended and reenacted and R.S. 11:293 is hereby  
3 enacted to read as follows:

4 SUBPART L. APPLICABILITY OF CERTAIN ~~COURT ORDERS~~

5 LEGAL DETERMINATIONS

6 \* \* \*

7 §293. Forfeiture of retirement benefits; public corruption crimes

8 A. As used in this Section, the following words or phrases shall have the  
9 following meanings unless context clearly indicates otherwise:

10 (1) "Conviction" or "convicted" means a criminal conviction, guilty plea, or  
11 plea of nolo contendere that is final, and all appellate review of the original trial  
12 court proceedings is exhausted.

13 (2) "Public corruption crime" means a state or federal felony offense for any  
14 of the following crimes, or conspiracy to commit any of the following crimes for  
15 which conspiracy is not an element, or attempt to commit the following crimes  
16 associated with a person's public service:

17 (a) The theft of public money or thing entrusted to such individual as part of  
18 his official duties.

19 (b) Extortion (R.S.14:66).

20 (c) Perjury (R.S. 14:123 and 124).

21 (d) Obstruction of justice (R.S. 14:130.1).

22 (e) Malfeasance in office (R.S. 14:134, 134.1, and 134.2).

23 (f) Public bribery (R.S. 14:118).

24 (g) Corrupt influencing (R.S. 14:120).

25 (h) Abuse of office (R.S. 14:134.3).

26 (i) Public salary extortion (R.S. 14:136).

27 (j) Public payroll fraud (R.S. 14:138).

28 (k) Public contract fraud (R.S. 14:140).

29 (l) Political payroll padding (R.S. 14:139).

- 1            (m) Bribery of public officials and witnesses (18 U.S.C. 201).
- 2            (n) Offer to procure appointive public office (18 U.S.C. 210).
- 3            (o) Acceptance or solicitation to obtain appointive public office (18 U.S.C.
- 4            211).
- 5            (p) Conspiracy to defraud the government with respect to claims (18 U.S.C.
- 6            286).
- 7            (q) False, fictitious, or fraudulent claims (18 U.S.C. 287).
- 8            (r) Conspiracy to commit offense or to defraud the United States (18 U.S.C.
- 9            371).
- 10           (s) Expenditures to influence voting (18 U.S.C. 597).
- 11           (t) Promise of appointment by candidate (18 U.S.C. 599).
- 12           (u) Solicitation of political contributions (18 U.S.C. 602).
- 13           (v) Intimidation to secure political contributions (18 U.S.C. 606).
- 14           (w) Place of solicitation (18 U.S.C. 607).
- 15           (x) Theft of public money, property, or records (18 U.S.C. 641).
- 16           (y) Embezzlement or theft by court officers (18 U.S.C. 645).
- 17           (z) Theft or bribery concerning programs receiving federal funds (18 U.S.C.
- 18           666).
- 19           (aa) Extortion by officers or employees of the United States (18 U.S.C. 872).
- 20           (bb) Kickbacks from public works employees (18 U.S.C. 874).
- 21           (cc) Fraudulent or false statements or entries (18 U.S.C. 1001).
- 22           (dd) Frauds and swindles (18 U.S.C. 1341).
- 23           (ee) Fraud by wire, radio, or television (18 U.S.C. 1343).
- 24           (ff) Influencing or injuring officer or juror (18 U.S.C. 1503).
- 25           (gg) Interference with commerce by threats or violence (18 U.S.C. 1951).
- 26           (hh) Interstate and foreign travel or transportation in aid of racketeering
- 27           enterprises (18 U.S.C. 1952).
- 28           (ii) Prohibited activities (18 U.S.C. 1962).

1           (3) "Public retirement system" means any state, statewide, or any local  
2           public retirement system, plan, or fund.

3           (4) "Public servant" means a public employee or an elected official as  
4           defined in R.S. 42:1102 or an appointed official, whether a member, former member,  
5           deferred retirement option plan participant, or retiree under the provisions of any  
6           public retirement system.

7           B. Any public servant who is convicted of a public corruption crime and  
8           whose retirement benefits have not vested on the effective date of this Section shall  
9           forfeit all rights and benefits under and membership in any public retirement system  
10          in which he is a member. Any such individual shall have his employee contributions  
11          refunded except as provided in Subsection H of this Section.

12          C. Any public servant who has vested on the effective date of this Section  
13          and who is convicted of a public corruption crime committed after such date shall  
14          forfeit all service credit that accrued after the effective date of this Section.  
15          Furthermore, the final average compensation used to calculate the benefit of any  
16          such individual shall exclude any earned compensation for the period after the  
17          effective date of this Section. The employee contributions accruing after the  
18          effective date of this Section shall be refunded to such individual except as provided  
19          in Subsection H of this Section.

20          D. Any public servant who is convicted of a public corruption crime but who  
21          is receiving public retirement benefits shall not be entitled to any cost-of-living  
22          adjustments payable after the effective date of this Section or any interest on a  
23          Deferred Retirement Option Plan account accruing after the effective date of this  
24          Section.

25          E. Any person subject to forfeiture of retirement benefits under this Section  
26          who has received retirement benefits other than the benefits permitted in Subsection  
27          C of this Section shall repay the retirement system the amount of the excess benefits  
28          plus interest. If such person fails to pay back such amount, the system may bring an

1 action in civil court to recover such amount plus court costs and legal interest from  
2 the date of forfeiture.

3 F. The provisions of this Section shall not apply to any defined contribution  
4 plan.

5 G. Each public retirement system shall provide every member with an  
6 attestation form containing the provisions of this Section. Such member shall be  
7 required to sign such form indicating that he has read such form and understands  
8 the contents thereof.

9 H.(1) Upon conviction of a public servant of a public corruption crime, if the  
10 court orders restitution as part of the sentence imposed pursuant to Code of Criminal  
11 Procedure Article 883.2 or any specific criminal statute, all employee contributions  
12 otherwise refundable under this Section shall be available to satisfy the order of  
13 restitution. The system, upon being served with a copy of the court's order after  
14 conviction, shall pay the amount necessary to satisfy the court order, to the extent  
15 possible, from such employee contributions.

16 (2) Upon conviction of a public servant of a public corruption crime, if the  
17 court orders payment of a fine as part of the sentence imposed, all employee  
18 contributions otherwise refundable under this Section shall be available to satisfy the  
19 court-ordered fine. The system, upon being served with a copy of the court's order,  
20 shall make available to the sheriff or executive officer of the court of conviction such  
21 employee contributions to the extent necessary to satisfy the court order. After  
22 collection by the sheriff or court officer, the monies will be disposed of as otherwise  
23 provided in R.S. 15:571.11.

24 (3) The provisions of this Section shall supersede any provision of law  
25 exempting public retirement benefits from garnishment, attachment, seizure, or other  
26 process.

27 (4) Any employee contributions remaining after satisfaction of an order for  
28 restitution or fine shall be refunded to the public servant without interest.

1           (5) If employee contributions are not sufficient to satisfy both an order for  
2           restitution and a fine, the employee contributions refundable under this Section shall  
3           be equally divided for the satisfaction of both the restitution and the fine.

4           I.(1) A parish prosecutor shall inform the secretary of the Department of  
5           Public Safety and Corrections in writing whenever a conviction for a public  
6           corruption crime is entered against a person who the prosecutor knows, or who has  
7           reason to believe, is a member of a public retirement system and who is subject to  
8           the provisions of this Section. The secretary shall compile such information and  
9           transmit it to the appropriate public retirement system.

10           (2) The secretary of state, upon being notified by a United States attorney of  
11           a felony conviction for a federal public corruption crime, whether or not such  
12           conviction qualifies as a conviction as defined by this Section, shall promptly  
13           transmit to each public retirement system information pertaining to such conviction.  
14           Each public retirement system shall determine if the provisions of this Section apply  
15           to the person convicted of such felony and shall determine if such conviction  
16           qualifies as a conviction as that term is defined by this Section.

17   \*           \*           \*

18           §570. Exemption from execution

19           Any annuity, retirement allowance or benefit, or refund of contributions, or  
20           any optional benefit or any other benefit paid or payable to any person under the  
21           provisions of this Subpart is exempt from state or municipal tax, and is exempt from  
22           levy and sale, garnishment, attachment or any other process whatsoever, except as  
23           provided in R.S. 11:292 and 293, and is unassignable.

24   \*           \*           \*

25           §951.3. Pensions, benefits, etc., exemption from seizure

26           The right of a person to a pension, an annuity, or a retirement allowance, to  
27           the return of contributions, the pension, annuity or retirement allowance itself, or any  
28           other right accrued or accruing to any person under the provisions of this Part and  
29           the money in the various accounts created by this Part shall not be subject to

1 execution, garnishment, attachment or any other process whatsoever, except as  
2 provided in R.S. 11:292 and 293, and shall be unassignable except as specifically  
3 provided for in this Part.

4 \* \* \*

5 §952.3. Exemption of pension and other rights from levy and other processes

6 The right of a person to a retirement allowance, or to the return of  
7 contributions; the retirement allowance itself; any optional benefit or any other right  
8 accrued or accruing to any person under the provisions of this Part; and the ~~moneys~~  
9 monies in the funds created by this Part are exempt from any state or municipal tax,  
10 and exempt from levy and sale, garnishment, attachment, or any other process  
11 whatsoever, except as provided in R.S. 11:292 and 293, and shall be unassignable  
12 except as otherwise specifically provided in this Part.

13 \* \* \*

14 §1378. Retirement pay or pension; exemption from taxes and execution

15 Any retirement pay or pension paid to any judge or the surviving spouse of  
16 any judge under the unfunded judicial retirement plan is exempt from any state or  
17 municipal income tax, and is exempt from levy and sale, garnishment, attachment,  
18 or any other process whatsoever, except as provided in R.S. 11:292 and 293.

19 \* \* \*

20 §1905. Exemption from execution

21 The following items are hereby exempt from any state or municipal tax and  
22 from levy and sale, garnishment, attachment, or any other process whatsoever as  
23 provided in this Chapter, except as provided in R.S. 11:292 and 293: the right of a  
24 person to a pension, an annuity, or a retirement allowance, or to the return of  
25 contributions, the pension, annuity, or retirement allowance itself, any optional  
26 benefit or any other right accrued or accruing to any person, and the ~~moneys~~ monies  
27 in various funds created by this Chapter. These enumerated items shall be  
28 unassignable, except as in this Chapter specifically otherwise provided. Benefits  
29 paid under this Chapter shall be exempt from state income tax. If the contributions

1 of an employee are paid by an employer in order to secure credit for service, these  
2 funds may be assigned to the employer until such time as the employee has repaid  
3 contributions so paid or the employer has released the contributions so paid by  
4 written notice to the board.

5 \* \* \*

6 §3014. Exemptions from execution

7 The right of a person to an annuity, a retirement allowance, or benefit, or to  
8 the return of contributions, or to any optional benefit or any other right accrued or  
9 accruing to any person under the provisions of this Part, and the monies in the system  
10 created by this Part, are hereby exempt from any state or municipal tax, and exempt  
11 from levy and sale, garnishment, attachment, or any other process whatsoever,  
12 except as provided in R.S. 11:292 and 293, and shall be unassignable except as in  
13 this Part specifically otherwise provided.

14 \* \* \*

15 §3051. Assignment prohibited

16 The right of a person to an annuity, a pension, or any other benefit or refund,  
17 or any right accrued or accruing to any member or beneficiary under the provisions  
18 of this system, and the monies belonging to the system, shall be unassignable and  
19 shall not be subject to execution, garnishment, attachment, the operation of  
20 bankruptcy, or the insolvency law or any other process of law except as specifically  
21 provided by the provisions of this system and in R.S. 11:292 and 293, and except that  
22 the city shall have the right to set off funds for any claim arising from embezzlement  
23 by or fraud of a member.

24 \* \* \*

25 §3111. Exemption from seizure and attachment

26 Except as provided in R.S. 11:292 and 293, no portion of the Firemen's  
27 Pension and Relief Fund shall, before or after its order for distribution is issued by  
28 the Board of Trustees to the person or persons entitled thereto under the provisions



1 of this Part, be held, seized, or levied upon, by virtue of any attachment,  
2 garnishment, execution, or order or decree, or any other process whatsoever, issued  
3 out of or by any court, for the payment or satisfaction, in whole or in part, of any  
4 debt, damage, claim, judgment, or decree against any beneficiary of such fund; but  
5 shall be exempt therefrom. The fund shall be kept, held, and distributed for no  
6 purposes other than those provided for in this Part.

7 \* \* \*

8 §3140. Exemption from seizure and attachment

9 Except as provided in R.S. 11:292 and 293, no portion of the Firemen's  
10 Pension and Relief Fund shall, before or after its order for distribution is issued by  
11 the board of trustees to the person or persons entitled thereto under the provisions of  
12 this Part, be held, seized, taken, subjected to, detained or levied upon, by virtue of  
13 any attachment, garnishment, execution, injunction, writ, order, decree, or any other  
14 process whatsoever, issued out of or by any court of this state, for the payment or  
15 satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment, or  
16 decree against any beneficiary of such fund; but shall be exempt therefrom. The  
17 fund shall be kept, held, and distributed solely for the purposes named in this Part  
18 and for no other purposes whatsoever.

19 \* \* \*

20 §3198. Exemption from seizure and attachment

21 Except as provided in R.S. 11:292 and 293, no portion of the said Firemen's  
22 Pension and Relief Fund shall, before or after its order for distribution is issued by  
23 the said board of trustees to the person or persons entitled thereto under the  
24 provisions of this Part, be held, seized, taken, subjected to, detained, or levied upon,  
25 by virtue of any attachment, garnishment, execution, injunction, writ, order, decree,  
26 or any other process whatsoever, issued out of or by any court of this state, for the  
27 payment or satisfaction, in whole or in part, for any debt, damage, demand, claim,  
28 judgment, or decree, against any beneficiary of such fund; but shall be exempt

1           therefrom. The fund shall be sacredly kept, held, and distributed for the purposes  
2           named in this Part, and for no other purposes whatsoever.

3                                 \*       \*       \*

4           §3229. Exemption from seizure and attachment

5                         Except as provided in R.S. 11:292 and 293, no portion of the Firemen's  
6           Pension and Relief Fund shall, before or after its order for distribution is issued by  
7           the board of trustees to the person or persons entitled thereto under the provisions of  
8           this Part, be held, seized, taken, subjected to, detained, or levied upon, by virtue of  
9           any attachment, garnishment, execution, injunction, writ, order, decree, or any other  
10          process whatsoever, issued out of or by any court of this state, for the payment or  
11          satisfaction, in whole or in part, of any debts, damage, demand, claim, judgment, or  
12          decree against any beneficiary of such fund, but shall be exempt therefrom. The  
13          fund shall be kept, held, and distributed solely for the purposes named in this Part  
14          and for no other purposes whatsoever.

15                                 \*       \*       \*

16          §3321. Exemption from seizure and attachment

17                         A. Except as provided in R.S. 11:292 and 293, no portion of the Firemen's  
18          Pension and Relief Fund shall, before or after any order for distribution is issued by  
19          the said board of directors to the person or persons entitled thereto under the  
20          provisions of this Part, be held, seized, or levied upon, by virtue of any attachment,  
21          garnishment, execution, or order or decree, or any other process whatsoever issued  
22          out of or by any court, for the payment or satisfaction, in whole or in part, of any  
23          debt, damage, claim, judgment, or decree against any beneficiary of said fund, but  
24          shall be exempt therefrom. The fund shall be kept, held, and distributed for no  
25          purpose other than those provided for in this Part.

26                                 \*       \*       \*

27          §3345. Exemption from seizure

28                         Except as provided in R.S. 11:292 and 293, no portion of the pension fund  
29          shall, before or after its order for distribution is issued by the board of trustees to the

1 person or persons entitled thereto under the provisions of this Part, be held, seized,  
2 taken, subjected to, detained, or levied upon by virtue of any attachment,  
3 garnishment, execution, writ, order, injunction, decree, or any other process  
4 whatsoever, issued out of or by any court of the state of Louisiana, for the payment  
5 or satisfaction, in whole or in part, of any debt, claim, damage, demand, judgment,  
6 or any other decree against any beneficiary of this fund, but shall be exempt  
7 therefrom.

8 \* \* \*

9 §3389. Exemption of pension and other rights from levy and other process

10 The right of a person to a pension, an annuity, a retirement allowance, or to  
11 the return of contributions; the pension, annuity, or retirement allowance itself; any  
12 optional benefit or any other right accrued or accruing to any person under the  
13 provisions of this Part; and the ~~monies~~ monies in the various funds created by this  
14 Part are exempt from any state or municipal tax and all state income tax, and exempt  
15 from levy and sale, garnishment, attachment, or any other process whatsoever,  
16 except as provided in R.S. 11:292 and 293, and shall be unassignable except as  
17 otherwise specifically provided in this Part. The fund shall be sacredly held, kept,  
18 and secured and distributed for the purpose of pensioning the persons named in this  
19 Part and for the payment of death benefits and for no other purpose whatsoever.

20 \* \* \*

21 §3408. Exemption from seizure and attachment

22 Except as provided in R.S. 11:292 and 293, no portion of the fireman's  
23 pension and relief fund, before or after its order for distribution is issued by the  
24 board of trustees to the person or persons entitled thereto under the provisions of this  
25 Part, shall be held, seized, taken, subjected to, detained, or levied upon, by virtue of  
26 any attachment, garnishment, execution, injunction, writ, order, decree, or any other  
27 process whatsoever, issued out of or by any court of this state, for the payment or  
28 satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment, or

1 decree against any beneficiary of such fund, but shall be exempt therefrom. The  
2 fund shall be kept, held, and distributed solely for the purposes named in this Part  
3 and for no other purposes whatsoever.

4 \* \* \*

5 §3440. Exemption from seizure and attachment

6 Except as provided in R.S. 11:292 and 293, no portion of the Firemen's  
7 Pension and Relief Fund shall, before or after its order for distribution is issued by  
8 the Board of Trustees to the person or persons entitled thereto under the provisions  
9 of this Part, be held, seized, taken, subjected to, detained, or levied upon, by virtue  
10 of any attachment, garnishment, execution, injunction, writ, order, decree, or any  
11 other process whatsoever, issued out of or by any court of this state, for the payment  
12 or satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment,  
13 or decree, against any beneficiary of such fund, but shall be exempt therefrom. The  
14 fund shall be sacredly kept, held, and distributed for the purposes named in this Part,  
15 and for no other purposes whatsoever.

16 \* \* \*

17 §3470. Exemption from seizure and attachment

18 Except as provided in R.S. 11:292 and 293, no portion of the Firemen's  
19 Pension and Relief Fund shall, before or after its order for distribution is issued by  
20 the board of trustees to the person or persons entitled thereto under the provisions of  
21 this Part, be held, seized, taken, subjected to, detained, or levied upon, by virtue of  
22 any attachment, garnishment, execution, injunction, writ, order, decree, or any other  
23 process whatsoever, issued out of or by any court of this state, for the payment or  
24 satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment, or  
25 decree against any beneficiary of such fund, but shall be exempt therefrom. The  
26 fund shall be sacredly kept, held, and distributed for the purposes named in this Part,  
27 and for no other purposes whatsoever.

28 \* \* \*

1 §3513. Fund not subject to execution

2 Except as provided in R.S. 11:292 and 293, the fund, or any portion thereof,  
3 before or after an order for its distribution is issued, shall be exempt from assignment  
4 or pledge by a beneficiary of the fund or from seizure by virtue of any judicial  
5 process issued against the beneficiary.

6 \* \* \*

7 §3608. Attachment of fund; exemption from state income tax

8 A. Except as provided in R.S. 11:292 and 293, no portion of the fund shall  
9 before or after the order for distribution is issued by the board of directors to the  
10 person or persons entitled thereto under the provisions of this Subpart, be held,  
11 seized, or levied upon, by virtue of any attachment, garnishment, execution, or order  
12 or decree, or any other process whatsoever, issued out of or by any court, for the  
13 payment or satisfaction, in whole or in part, of any debt, damage, claim, judgment,  
14 or decree against any beneficiary of such fund, but shall be exempt therefrom. The  
15 fund shall be kept, held, and distributed for no purpose other than those provided for  
16 in this Subpart. No present or future revision or amendments to the fund shall have  
17 the effect of reducing any benefit now in existence.

18 \* \* \*

19 §3691. Exemption from execution

20 The right of a person to a pension, an annuity, or a retirement allowance, to  
21 the return of contributions, the pension, annuity, or retirement allowance itself, any  
22 optional benefit or any other right accrued or accruing to any person under the  
23 provisions of this Subpart, and the ~~moneys~~ monies in the various funds created by  
24 this Subpart, are hereby exempt from any state or municipal tax, and exempt from  
25 levy and sale, garnishment, attachment, or any other process whatsoever, except as  
26 provided in R.S. 11:292 and 293, and shall be unassignable except as in this Subpart  
27 specifically otherwise provided.

28 \* \* \*

1 §3770. Exemption from seizure and attachment

2 Except as provided in R.S. 11:292 and 293, no portion of the Bus Drivers'  
3 Pension and Relief Fund shall, before or after its order for distribution is issued by  
4 the Board of Trustees to the person or persons entitled thereto under the provisions  
5 of this Part, be held, seized, taken, subjected to, detained, or levied upon by virtue  
6 of any attachment, garnishment, execution, injunction, writ, order, decree, or any  
7 other process whatsoever, issued out of or by any court of this state for the payment  
8 or satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment,  
9 or decree, against any beneficiary of such fund, but shall be exempt therefrom. The  
10 fund shall be sacredly kept, held, and distributed for the purposes named in this Part,  
11 and for no other purposes whatsoever.

12 \* \* \*

13 §3800. Exemption from seizure and attachment

14 Except as provided in R.S. 11:292 and 293, no portion of the Electrical  
15 Workers' Pension and Relief Fund shall, before or after its order for distribution is  
16 issued by the Board of Trustees to the person or persons entitled thereto under the  
17 provisions of this Part, be held, seized, taken, subjected to, detained, or levied upon  
18 by virtue of any attachment, garnishment, execution, injunction, writ, order, decree,  
19 or any other process whatsoever, issued out of, or by, any court of this state for the  
20 payment or satisfaction, in whole or in part, of any debt, damage, demand, claim,  
21 judgment, or decree, against any beneficiary of such fund, but shall be exempt  
22 therefrom. The fund shall be sacredly kept, held, and distributed for the purposes  
23 named in this Part, and for no other purposes whatsoever.

24 \* \* \*

25 §3823. Exemption from execution

26 The right of a person to a pension, an annuity, or a retirement allowance or  
27 benefit, or to the return of contributions; the pension, annuity, or retirement  
28 allowance itself; any optional benefit; or any other right accrued or accruing to any  
29 person under the provisions of this Part or to any person with such rights in the

1 Employees' Retirement System of the city of New Orleans is exempt from any state  
2 or municipal tax and, except as provided in R.S. 11:292 and 293, exempt from levy  
3 and sale, garnishment, attachment, or any other process whatsoever.

4 Section 2. R.S. 13:3881(D)(1) is hereby amended and reenacted to read as follows:

5 §3881. General exemptions from seizure

6 \* \* \*

7 D.(1) Except as provided in Paragraph (2) of this Subsection and in R.S.  
8 11:292 and 293, the following shall be exempt from all liability for any debt except  
9 alimony and child support: all pensions, all tax-deferred arrangements, annuity  
10 contracts, and all proceeds of and payments under all tax-deferred arrangements and  
11 annuity contracts, as defined in Paragraph (3) of this Subsection.

12 \* \* \*

13 Section 3. This Act shall take effect and become operative if and when the proposed  
14 amendment of Article X of the Constitution of Louisiana contained in the Act which  
15 originated as House Bill No. \_\_\_\_\_ of this 2012 Regular Session of the Legislature is  
16 adopted at a statewide election and becomes effective.

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DIGEST

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Champagne HB No. 43

**Abstract:** Provides for the forfeiture of public retirement benefits for any public servant convicted of a state or federal felony related to his office.

Proposed law provides for the forfeiture of retirement benefits by any public employee, elected official, or appointed official convicted of certain crimes related to the holding of office (public corruption crimes). Specifies the state and federal crimes conviction which results in such forfeiture. Provides that conviction occurs when all appellate review is exhausted. Provides that a person appointed to fill a vacancy in an elective office is subject to proposed law.

Proposed law requires the forfeiture of all rights, benefits, and membership for any public employee, elected official, or appointed official who is a member of a public retirement system, whose retirement benefits have not vested on the effective date of proposed law, and who is convicted of a public corruption crime as defined in proposed law. All employee contributions shall be refunded to such individual, except as provided by proposed law.

Proposed law provides that any such individual so convicted, whose benefits have vested on the effective date of proposed law, shall forfeit the service credit he earned from the effective date of proposed law. The final average compensation used to calculate such individual's retirement benefit shall not include any earned compensation after the effective date of proposed law. The employee contributions accruing after the effective date of proposed law shall be refunded, except as provided by proposed law.

Proposed law provides that any public servant who has been convicted of a public corruption crime, but is receiving public retirement benefits, shall not be entitled to any cost-of-living adjustments (COLAs) payable after the effective date of proposed law or any interest on a Deferred Retirement Option Plan (DROP) account accruing after the effective date of proposed law.

Proposed law provides that if any individual subject to forfeiture under proposed law has already received retirement benefits prior to forfeiting his benefits pursuant to proposed law, he shall repay to the system any amount exceeding that which he would have received pursuant to proposed law. Provides that if such individual fails to repay the retirement system, the system may seek civil redress and collect court costs and legal interest from the date of conviction.

Proposed law provides that the provisions of proposed law shall not apply to any defined contribution plan.

Proposed law requires every public retirement system to submit an attestation form to every member which details the provisions of proposed law. Such member shall sign such form, indicating that he understands the provisions of proposed law.

Proposed law provides that the employee contributions otherwise refundable pursuant to proposed law shall be available for the satisfaction of any court-ordered restitution or criminal fine. In the case of restitution, the retirement system shall pay the amount necessary to satisfy the order to the extent possible. In the case of a fine, the retirement system shall make such employee contributions available for collection by the sheriff or executive officer of the court that ordered the fine. Provides that any employee contributions remaining shall be refunded to the public servant. Provides that if the employee contributions are insufficient to satisfy both the restitution and the fine, the employee contributions shall be apportioned equally for the satisfaction of both.

Proposed law provides that a parish prosecutor shall inform the secretary of the Dept. of Public Safety and Corrections in writing when a conviction has been obtained against a person to whom proposed law may apply. The secretary shall then report this information to the appropriate retirement system. Relative to convictions of federal felonies, requires the secretary of state to report information to the retirement system on any federal convictions upon which he receives notice from the U.S. attorney. The retirement system shall determine if any of its members or retirees are the subject of such convictions and whether such convictions are final for purposes of proposed law.

Present law (R.S. 13:3881(A) and R.S. 20:33) provides for a general exemption from seizure under any writ, mandate, or process whatsoever for certain income or property of a debtor. Specifies that, except as provided in present law, the following shall be exempt from all liability for any debt except alimony and child support:

- (1) All pensions.
- (2) All tax-deferred arrangements.
- (3) Annuity contracts.



- (4) All proceeds of and payments under all tax-deferred arrangements and annuity contracts.

Proposed law retains present law but provides that the pension or retirement benefit of a public employee, elected official, or appointed official may be subject to an order of restitution or fines under proposed law.

(Amends the heading of Subpart L of Part II of Chapter 4 of Subtitle I of Title 11 of the La. Revised Statutes of 1950 and R.S. 11:570, 951.3, 952.3, 1378, 1905, 3014, 3051, 3111, 3140, 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470, 3513, 3608(A), 3691, 3770, 3800, and 3823, and R.S. 13:3881(D)(1); Adds R.S. 11:293)