

Regular Session, 2012

HOUSE BILL NO. 985

BY REPRESENTATIVE THOMPSON

RETIREMENT/STATE SYSTEMS: Provides for a defined contribution retirement plan for new hires of all state retirement systems

1 AN ACT

2 To enact Subpart P of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana Revised
3 Statutes of 1950, to be comprised of R.S. 11:331 through 336, relative to the
4 establishment of a defined contribution plan within each state retirement system; to
5 provide for the creation of such plans; to provide relative to contributions and
6 benefits; to provide for an effective date; and to provide for related matters.

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Subpart P of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana
12 Revised Statutes of 1950, comprised of R.S. 11:331 through 336, is hereby enacted to read
13 as follows:

14 SUBPART P. MANDATORY DEFINED CONTRIBUTION PLAN;

15 STATE SYSTEMS

16 §331. Creation of defined contribution plans; state systems

17 A. Notwithstanding any provision of law to the contrary, there is hereby
18 created a defined contribution plan in each of the state retirement systems, in which
19 participation is mandatory for any person who is first employed or reemployed on
20 or after January 1, 2013, and who is otherwise eligible to become a member of a state

1 retirement system. For purposes of this Subpart, the term "state retirement systems"
2 or "systems", shall mean the following retirement systems, plans, or funds:

3 (1) Louisiana State Employees' Retirement System.

4 (2) Teachers' Retirement System of Louisiana.

5 (3) State Police Pension and Retirement System.

6 (4) Louisiana School Employees' Retirement System.

7 B. Those persons required by this Subpart to participate in the defined
8 contribution plan of their respective system shall not be considered eligible for any
9 benefits provided by the defined benefit plan of that system and shall not attain any
10 service credit in the defined benefit plan; however, any person who is reemployed
11 on or after January 1, 2013, and who has accrued any rights or benefits by virtue of
12 membership in any state retirement system or other public retirement system before
13 that date shall retain such rights and benefits, but shall participate exclusively in the
14 defined contribution plan established by this Subpart on and after January 1, 2013.

15 §332. Administration

16 Each state retirement system or its successor in interest shall provide for the
17 administration and maintenance of its respective defined contribution plan. The
18 board of trustees of each system may promulgate rules necessary for such
19 administration and maintenance and rules necessary for complying with applicable
20 provisions of the Internal Revenue Code.

21 §333. Selection of providers; criteria for placement of contracts

22 A. The board of trustees of each state retirement system shall select and
23 contract with no more than three providers with which participants may place their
24 contributions in products selected by the board. In selecting the providers, the board
25 shall consider among other things the following:

26 (1) The tax status of a product.

27 (2) The portability of a product offered by a provider.

28 (3) The types of products offered by a provider.

1 (4) The relation of the costs and benefits as relates to the amount of the
2 contributions to be made pursuant to the provisions of this Subpart.

3 (5) The ability of the designated provider or providers to provide the rights
4 and benefits under the products.

5 (6) The nature and extent of the rights and benefits to be provided by the
6 contracts for participating employees and their beneficiaries.

7 (7) The suitability of the rights and benefits relative to the needs and
8 interests of participants.

9 (8) The ability of the provider to provide educational services and materials
10 to participants.

11 (9) The methods available for participants to interact with the provider
12 company; the means by which participants may access account information, direct
13 investment of contributions, make changes to their accounts, transfer monies
14 between available investment vehicles, and transfer monies between provider
15 companies; and any fees that apply to such activities.

16 (10) An evaluation of specific investment products, taking into account each
17 product's experience in meeting its investment return objectives net of all related
18 fees, expenses, and charges, including but not limited to investment management
19 fees, distribution and marketing fees, custody fees, recordkeeping fees, education
20 fees, annuity expenses, and consulting fees.

21 (11) Organizational factors, including but not limited to the financial
22 solvency of the provider, its organizational depth, and its experience in providing
23 institutional and retail investment services.

24 B. The board shall ensure that each participant is provided a quarterly
25 statement that accounts for the contributions made on behalf of such participant; the
26 interest and investment earnings thereon; and any fees, penalties, or other deductions
27 that apply thereto. At a minimum, such statements shall:

28 (1) Indicate the participant's investment options.

1 (2) State the market value of the account at the close of the current quarter
2 and previous quarter.

3 (3) Show account gains and losses for the period and changes in account
4 accumulation unit values for the period.

5 (4) Itemize account contributions for the quarter.

6 (5) Indicate account changes due to adjustment of contribution levels,
7 reallocation of contributions, balance transfers, or withdrawals.

8 (6) Set forth any fees, charges, penalties, and deductions that apply to the
9 account.

10 (7) Indicate the amount of the account in which the participant is fully vested
11 and the amount of the account in which the participant is not vested.

12 (8) Indicate each investment product's performance relative to an appropriate
13 market benchmark.

14 §334. Contributions

15 A.(1) Each participant shall make a ten percent employee contribution
16 monthly. Each employer participating in a state retirement system shall contribute
17 on behalf of each participant five and one quarter percent of pay on a monthly basis.

18 (2) The entirety of such contributions, less any monthly fee established by
19 the board of trustees to cover the cost of administration and maintenance of the
20 defined contribution plan, shall be remitted by the system to the applicable
21 designated provider for crediting to the participant's account or accounts.

22 B. Notwithstanding the provisions of Subsection A of this Section, the
23 system shall not remit any funds or contributions to a provider from an employer
24 until the correct and total amount to be remitted to the system is received each month
25 from the employer.

26 §335. Vesting

27 A participant shall be vested upon attainment of five years of service with an
28 employer participating in a state retirement system. For purposes of this Subpart,
29 "vesting" means the acquisition of a property right to all employer contributions

1 credited to a participant's account together with all interest attributable thereto. Upon
2 commencement of participation in the defined contribution plan, a participant shall
3 acquire an immediate property right to all employee contributions credited to his
4 account together with interest attributable thereto.

5 §336. Benefits

6 A. The benefits payable to participants of a defined contribution plan
7 established under this Subpart are not the obligations of the state of Louisiana or any
8 state retirement system; rather, such benefits and other rights of the defined
9 contribution plan are the sole liability and responsibility of the designated provider
10 to which contributions have been made.

11 B.(1) Benefits shall be payable to defined contribution plan participants or
12 their beneficiaries by the designated provider and not by the respective state
13 retirement system in accordance with the contract types provided by the provider and
14 the contracts approved for use in the defined contribution plan by the board.

15 (2) Subject to the provisions of the contract, retirement benefits shall be paid
16 in the form of a lifetime income, unless the participant or beneficiary requests a
17 trustee-to-trustee single-sum cash rollover payment between qualified plans, or
18 payment made directly to a conduit individual retirement account, but death benefits
19 may be paid in the form of a single-sum cash payment paid directly to the
20 beneficiary or estate, whichever is applicable.

21 (3) The board of trustees may approve any of the following single-sum cash
22 payments:

23 (a) Direct transfers by and between companies.

24 (b) Death benefits.

25 (c) An initial benefit payable upon retirement, provided such benefit is
26 approved by the contracting company. The initial benefit shall not exceed an amount
27 equal to the participant's monthly benefit, payable as a single-life annuity times
28 thirty-six.

1 (4) Participants in the defined contribution plan shall not be entitled to any
 2 benefits to which members in the defined benefit plan are entitled, including but not
 3 limited to disability benefits, survivor benefits, participation in the Deferred
 4 Retirement Option Plan, or cost-of-living adjustments or permanent benefit increases
 5 granted to retirees of the defined benefit plan; however, the services or products
 6 offered by a provider may provide for disability or survivor benefits.

7 C. Participation in the defined contribution plan shall not preclude
 8 participation in the Office of Group Benefits if the defined contribution plan
 9 participant or retiree would otherwise be entitled to participate in the Office of Group
 10 Benefits in accordance with applicable laws and regulations.

11 D. Defined contribution plan participants and providers shall be responsible
 12 for complying with all applicable provisions of the Internal Revenue Code, and if
 13 any violation of that code occurs as a result of the participant's participation in the
 14 optional retirement plan, it shall be the responsibility and liability of the participant
 15 and the provider and not the state retirement system.

16 E. There shall be no liability on the part of and no cause of action of any
 17 nature shall arise against a state retirement system or its agents or employees for any
 18 action taken in the performance of the duties under this Subpart.

19 Section 2. This Act shall become effective on July 1, 2012; if vetoed by the governor
 20 and subsequently approved by the legislature, this Act shall become effective on July 1,
 21 2012, or on the day following such approval by the legislature, whichever is later.

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)]

Thompson

HB No. 985

Abstract: Relative to state retirement systems, establishes a defined contribution plan for members of such plans who are hired on or after Jan. 1, 2013.

Present law generally provides for a defined benefit plan for members of state retirement systems, whereby a certain determinable benefit is provided upon retirement; the benefit is typically calculated using the following method: [(years of service) x (accrual rate, typically 2.5% to 3%)] x final average compensation. The state retirement systems are:

- (1) La. State Employees' Retirement System (LASERS).
- (2) Teachers' Retirement System of La. (TRSL).
- (3) La. School Employees' Retirement System (LSERS).
- (4) State Police Pension and Retirement System (LSPRS).

Proposed law establishes a defined contribution (DC) plan within each state retirement system for any member first employed or reemployed on or after Jan. 1, 2013. Any person reemployed on or after Jan. 1, 2013, shall retain any accrued rights in another public retirement system that he attained prior to that date, but shall be enrolled in the DC plan on or after Jan. 1, 2013.

Proposed law provides that each state retirement system shall be responsible for the administration and maintenance of its respective DC plan, and the board of trustees of each system may promulgate any rules or regulations necessary for such purpose and for maintaining compliance with the U.S. Internal Revenue Code.

Proposed law requires the board of trustees of each state system to select and contract with no more than three DC plan providers; specifies criteria to be used in evaluating providers. Furthermore, the board shall ensure that certain information is provided to plan participants.

Proposed law provides that employee contributions to the DC plan shall be 10% and employer contributions shall be 5.25% of payroll.

Proposed law provides that a participant shall thereon acquire a property right in and to his employee contributions together with interest upon commencement of participation. Provides that the participant shall acquire a property right in and to all employer contributions plus interest thereon upon attainment of five years of participation in the DC plan.

Proposed law provides that DC plan benefits are not the obligation of the state. Furthermore, requires benefits to be payable in the form of a lifetime annuity, except under certain limited circumstances.

Proposed law provides that participation in the DC plan shall not preclude participation in the Office of Group Benefits if the DC plan participant would otherwise be entitled to such participation.

Proposed law provides that there will be no liability or cause of action against a state retirement system for actions taken in performance of proposed law.

Effective July 1, 2012.

(Adds R.S. 11:331-336)