

Regular Session, 2010

SENATE BILL NO. 13

BY SENATOR B. GAUTREAUX

RETIREMENT BENEFITS. Allows garnishment of Louisiana public retirement or pension system, plan, or fund benefits of an elected official to pay fines or restitution imposed for a felony associated with his office. (7/1/10)

1 AN ACT

2 To amend and reenact R.S. 11:292, 570, 930, 951.3, 952.3, 1378, 1905, 3014, 3051, 3111,  
3 3140, 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470, 3513, 3608(A), 3691,  
4 3770, 3800, and 3823, and R.S. 13:3881(D)(1), relative to garnishment or seizure of  
5 pension or retirement benefits; to provide for garnishment or seizure of benefits from  
6 public retirement or pension systems, plans, or funds; to provide relative to the  
7 applicability of certain court orders to such benefits; to provide for garnishment or  
8 seizure of such benefits to pay any fine or restitution ordered for certain felony  
9 convictions associated with service as an elected official; to provide for an effective  
10 date; and to provide for related matters.

11 Notice of intention to introduce this Act has been published.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 11:292, 570, 930, 951.3, 952.3, 1378, 1905, 3014, 3051, 3111, 3140,  
14 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470, 3513, 3608(A), 3691, 3770, 3800, and  
15 3823 are hereby amended and reenacted to read as follows:

16 §292. Seizure for child support; **garnishment or seizure for payment of certain**  
17 **fin****es or restitution**



1 or municipal tax, assessment for the insolvency of any life insurance company, any  
2 levy or sale, garnishment, attachment, or any process whatsoever, **except as**  
3 **provided in R.S. 11:292**, and shall be unassignable except as otherwise specifically  
4 provided in the annuity contract.

5 \* \* \*

6 §951.3. Pensions, benefits, etc., exemption from seizure

7 The right of a person to a pension, an annuity, or a retirement allowance, to  
8 the return of contributions, the pension, annuity or retirement allowance itself, or any  
9 other right accrued or accruing to any person under the provisions of this Part and  
10 the money in the various accounts created by this Part shall not be subject to  
11 execution, garnishment, attachment or any other process whatsoever, **except as**  
12 **provided in R.S. 11:292**, and shall be unassignable except as specifically provided  
13 for in this Part.

14 \* \* \*

15 §952.3. Exemption of pension and other rights from levy and other processes

16 The right of a person to a retirement allowance, or to the return of  
17 contributions; the retirement allowance itself; any optional benefit or any other right  
18 accrued or accruing to any person under the provisions of this Part; and the moneys  
19 in the funds created by this Part are exempt from any state or municipal tax, and  
20 exempt from levy and sale, garnishment, attachment, or any other process  
21 whatsoever, **except as provided in R.S. 11:292**, and shall be unassignable except  
22 as otherwise specifically provided in this Part.

23 \* \* \*

24 §1378. Retirement pay or pension; exemption from taxes and execution

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

29 \* \* \*

## 1 §1905. Exemption from execution

2 The following items are hereby exempt from any state or municipal tax and  
 3 from levy and sale, garnishment, attachment, or any other process whatsoever as  
 4 provided in this Chapter, except as provided in R.S. ~~42:720.21~~ **11:292**: the right of  
 5 a person to a pension, an annuity, or a retirement allowance, or to the return of  
 6 contributions, the pension, annuity, or retirement allowance itself, any optional  
 7 benefit or any other right accrued or accruing to any person, and the moneys in  
 8 various funds created by this Chapter. These enumerated items shall be  
 9 unassignable, except as in this Chapter specifically otherwise provided. Benefits  
 10 paid under this Chapter shall be exempt from state income tax. If the contributions  
 11 of an employee are paid by an employer in order to secure credit for service, these  
 12 funds may be assigned to the employer until such time as the employee has repaid  
 13 contributions so paid or the employer has released the contributions so paid by  
 14 written notice to the board.

15 \* \* \*

## 16 §3014. Exemptions from execution

17 The right of a person to an annuity, a retirement allowance, or benefit, or to  
 18 the return of contributions, or to any optional benefit or any other right accrued or  
 19 accruing to any person under the provisions of this Part, and the monies in the system  
 20 created by this Part, ~~is~~ **are** hereby exempt from any state or municipal tax, and  
 21 exempt from levy and sale, garnishment, attachment, or any other process  
 22 whatsoever, **except as provided in R.S. 11:292**, and shall be unassignable except  
 23 as in this Part specifically otherwise provided.

24 \* \* \*

## 25 §3051. Assignment prohibited

26 The right of a person to an annuity, a pension or any other benefit or refund,  
 27 or any right accrued or accruing to any member or beneficiary under the provisions  
 28 of this system, and the monies belonging to the system, shall be unassignable and  
 29 shall not be subject to execution, garnishment, attachment, the operation of

1 bankruptcy, or the insolvency law or any other process of law except as specifically  
2 provided by the provisions of this system **and in R.S. 11:292**, and except that the  
3 City shall have the right to set off funds for any claim arising from embezzlement by  
4 or fraud of a member.

5 \* \* \*

6 §3111. Exemption from seizure and attachment

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

16 \* \* \*

17 §3140. Exemption from seizure and attachment

18 ~~No~~ **Except as provided in R.S. 11:292, no** portion of the Firemen's Pension  
19 and Relief Fund shall, before or after its order for distribution is issued by the board  
20 of trustees to the person or persons entitled thereto under the provisions of this Part,  
21 be held, seized, taken, subjected to, detained or levied upon, by virtue of any  
22 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 kept, held, and distributed solely for the purposes named in this Part  
27 and for no other purposes whatsoever.

28 \* \* \*

29 §3198. Exemption from seizure and attachment



1 out of; or by any court, for the payment or satisfaction, in whole or in part, of any  
2 debt, damage, claim, judgment, or decree against any beneficiary of said fund; but  
3 shall be exempt therefrom. ~~That the said~~ **The** fund shall be kept, held, and  
4 distributed for no purpose other than those provided for in this Part.

5 \* \* \*

6 §3345. Exemption from seizure

7 ~~No~~ **Except as provided in R.S. 11:292, no** portion of the pension fund shall,  
8 before or after its order for distribution is issued by the board of trustees to the  
9 person or persons entitled thereto under the provisions of this Part, be held, seized,  
10 taken, subjected to, detained, or levied upon by virtue of any attachment,  
11 garnishment, execution, writ, order, injunction, decree, or any other process  
12 whatsoever, issued out of or by any court of the state of Louisiana, for the payment;  
13 **or** satisfaction, in whole or in part, of any debt, claim, damage, demand, judgment,  
14 or any other decree against any beneficiary of this fund, but shall be exempt  
15 therefrom.

16 \* \* \*

17 §3389. Exemption of pension and other rights from levy and other process

18 The right of a person to a pension, an annuity, a retirement allowance, or to  
19 the return of contributions; the pension, annuity, or retirement allowance itself; any  
20 optional benefit or any other right accrued or accruing to any person under the  
21 provisions of this Part; and the moneys in the various funds created by this Part are  
22 exempt from any state or municipal tax; **and** all state income tax, and exempt from  
23 levy and sale, garnishment, attachment, or any other process whatsoever, **except as**  
24 **provided in R.S. 11:292,** and shall be unassignable except as otherwise specifically  
25 provided in this Part. The fund shall be sacredly held, kept, and secured and  
26 distributed for the purpose of pensioning the persons named in this Part and for the  
27 payment of death benefits and for no other purpose whatsoever.

28 \* \* \*

29 §3408. Exemption from seizure and attachment





1 or any other process whatsoever, issued out of or by any court of this state, for the  
 2 payment or satisfaction, in whole or in part, of any debt, damage, demand, claim,  
 3 judgment, or decree against any beneficiary of such fund; but shall be exempt  
 4 therefrom. ~~That said~~ **The** fund shall be sacredly kept, held, and distributed for the  
 5 purposes named in this Part, and for no other purposes whatsoever.

6 \* \* \*

7 §3513. Fund not subject to execution

8 **The Except as provided in R.S. 11:292, the** fund, or any portion thereof,  
 9 before or after an order for its distribution is issued, shall be exempt from assignment  
 10 or pledge by a beneficiary of the fund or from seizure by virtue of any judicial  
 11 process issued against the beneficiary.

12 \* \* \*

13 §3608. Attachment of fund; exemption from state income tax

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

24 \* \* \*

25 §3691. Exemption from execution

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, any  
 28 optional benefit or any other right accrued or accruing to any person under the  
 29 provisions of this Subpart, and the moneys in the various funds created by this

1 Subpart, are hereby exempt from any state or municipal tax, and exempt from levy  
2 and sale, garnishment, attachment, or any other process whatsoever, **except as**  
3 **provided in R.S. 11:292**, and shall be unassignable except as in this Subpart  
4 specifically otherwise provided.

5 \* \* \*

6 §3770. Exemption from seizure and attachment

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

18 \* \* \*

19 §3800. Exemption from seizure and attachment

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



- (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. Provides that the pension or retirement benefit of an elected official may be garnished or seized to pay any fine or restitution imposed as a penalty for conviction of a felony associated with his office.

Present law (R.S. 11:291) provides for protection of a spouse's community property interest in the public retirement or pension benefit of a member or retiree of a state or statewide retirement system.

The state public retirement systems are:

- (1) The Louisiana State Employees' Retirement System (LASERS);
- (2) The Teachers' Retirement System of Louisiana (Teachers');
- (3) The Louisiana School Employees' Retirement System (LSERS); and
- (4) The State Police Pension and Retirement System (SPPRS).

The statewide public retirement systems are:

- (1) The Assessors' Retirement Fund (LARF);
- (2) The Clerks of Court Retirement and Relief Fund (Clerks);
- (3) The District Attorneys' Retirement System (DARS);
- (4) The Firefighters' Retirement System (FRS);
- (5) The Municipal Employees' Retirement System of Louisiana (MERS);
- (6) The Municipal Police Employees' Retirement System (MPERS);
- (7) The Parochial Employees' Retirement System of Louisiana (PERS);
- (8) The Registrars of Voters Employees' Retirement System (ROVERS); and
- (9) The Sheriffs' Pension and Relief Fund (Sheriffs').

Proposed law retains present law.

Present law (R.S. 11:292) provides that notwithstanding any other provision of present law to the contrary, any retirement allowance, benefit, or refund of accumulated contributions paid to any member, former member, or retiree under the provisions of any public retirement system, or the portion of a retirement allowance, benefit, or refund of accumulated contributions paid to a spouse or former spouse under the provisions of present law (R.S. 11:291) shall be subject to garnishment or court-ordered assignment to pay child support.

Proposed law retains present law.

Various provisions of present law specific to particular public retirement or pension systems, plans, or funds provide that any annuity, retirement allowance or benefit, or refund of

contributions, or any optional benefit or any other benefit paid or payable to any person under the provisions of present law is exempt from any state or municipal tax and is exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and is unassignable.

Proposed law retains present law.

Some provisions of present law regarding such exemptions specify that garnishment or assignment pursuant to present law (R.S. 11:292) is an exception to the provisions exempting retirement or pension benefits from execution. Provide that benefits may be garnished or assigned pursuant to present law.

Proposed law retains present law. These provisions apply to LASERS, Teachers', LSERS, SPPRS, LARF, Clerks, DARS, MERS, the Employees' Retirement System of the city of Baton Rouge and the parish of East Baton Rouge, the Employees' Retirement System of the city of Shreveport, ROVERS, Sheriffs', MPERS, FRS, the Firemen's Pension and Relief Fund for the City of Bossier City, and the Policemen's Pension and Relief Fund for the city of Bossier City.

Other provisions of present law exempting retirement or pension benefits from garnishment or execution do not contain a specific reference to the exception for seizure for child support in present law (R.S. 11:292), although such exception applies to the benefits. These provisions apply to judges and court officers; members of the Teachers' Optional Retirement Plan; Orleans Parish school employees; LSU Retirement System members; employees of the city of Alexandria and of the city of Bogalusa; firefighters in the city of Alexandria, the consolidated fire districts of Bastrop, the city of Bossier City, the city of Houma, the city of Lake Charles, the city of Monroe, the city of New Orleans, Fire Protection District Number One for the parish of Ouachita, the city of Shreveport, and the city of West Monroe; police officers in any municipality having a population between 7,500 and 250,000 and in the city of Lafayette; and employees of the New Orleans Sewerage and Water Board.

Proposed law retains present law and adds specific reference to the applicable exception for child support contained in present law.

Proposed law provides that the pension or retirement benefit of an elected official or former elected official payable from any public retirement or pension system, plan, or fund may be subject to seizure or garnishment for payment of any restitution or fine imposed upon conviction of or a plea of guilty or nolo contendere to a felony associated with the elected official's service for which such retirement benefit was earned or accrued.

Proposed law specifies that, notwithstanding any provision of law to the contrary, a garnishment authorized pursuant to proposed law may be continuing in nature as necessary to pay the court-ordered restitution or fine in full.

Effective July 1, 2010.

(Amends R.S. 11: 292, 570, 930, 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))