

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

11 * * *

12 §3229. Exemption from seizure and attachment

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

23 * * *

24 §3321. Exemption from seizure and attachment

25 A. ~~No~~ **Except as provided in R.S. 11:292**, ~~no~~ portion of the Firemen's
 26 Pension and Relief Fund shall, before or after any order for distribution is issued by
 27 the said board of directors to the person or persons entitled thereto under the
 28 provisions of this Part, be held, seized, or levied upon, by virtue of any attachment,
 29 garnishment, execution, or order or decree, or any other process whatsoever issued

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.

* * *

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.

* * *

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.

* * *

29 §3408. Exemption from seizure and attachment

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

11 * * *

12 §3440. Exemption from seizure and attachment

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

23 * * *

24 §3470. Exemption from seizure and attachment

25 ~~That~~ **Except as provided in R.S. 11:292, no** portion of the said Firemen's
26 Pension and Relief Fund shall, before or after its order for distribution is issued by
27 the said board of trustees to the person or persons entitled thereto under the
28 provisions of this Part, be held, seized, taken, subjected to, detained, or levied upon,
29 by virtue of any attachment, garnishment, execution, injunction, writ, order, decree,

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

- (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. 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))