

SENATE BILL NO. 13

BY SENATOR B. GAUTREAUX

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, or any costs of incarceration,
9 probation, or parole, ordered for certain felony convictions associated with service
10 as an elected official or public employee; to provide for an effective date; and to
11 provide for related matters.

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

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 11:292, 570, 930, 951.3, 952.3, 1378, 1905, 3014, 3051, 3111, 3140,
15 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470, 3513, 3608(A), 3691, 3770, 3800, and
16 3823 are hereby amended and reenacted to read as follows:

17 §292. Seizure for child support; **garnishment or seizure related to felony**
18 **convictions**

19 **A.** Notwithstanding any other provision of law to the contrary, any
20 retirement allowance, benefit, or refund of accumulated contributions paid to any
21 member, former member, or retiree under the provisions of any public retirement
22 system, or the portion of a retirement allowance, benefit, or refund of accumulated
23 contributions paid to a spouse or former spouse under the provisions of R.S. 11:291,
24 shall be subject to garnishment or court-ordered assignment to pay child support.

25 **B.(1) Notwithstanding any other provision of law to the contrary, any**
26 **pension, retirement allowance, or benefit, or any refund of accumulated**
27 **contributions payable to any member, former member, or retiree under the**

1 provisions of any public pension or retirement system, plan, or fund shall be
 2 subject to garnishment under a writ of fieri facias to pay any court-ordered
 3 restitution or fine, or any costs of incarceration, probation, or parole, imposed
 4 on such member, former member, or retiree as a result of a conviction of or a
 5 plea of guilty or nolo contendere to the commission of a felony for misconduct
 6 associated with such person's service as an elected official or public employee
 7 for which credit in the system, plan, or fund was earned or accrued, the
 8 commission of which felony occurred on or after July 1, 2010.

9 (2) Notwithstanding any other provision of law to the contrary, a
 10 garnishment authorized pursuant to this Subsection shall not impinge on the
 11 community property interest of a spouse or former spouse not subject to the
 12 garnishment.

13 (3) Notwithstanding any other provision of law to the contrary, a
 14 garnishment authorized pursuant to this Subsection may be continuing in
 15 nature as necessary to pay the court-ordered restitution or fine in full.

16 * * *

17 §570. Exemption from execution

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

23 * * *

24 §930. Exemption from execution

25 Annuity contracts issued under the optional retirement plan and all rights
 26 thereto of a participant in the optional retirement plan shall be exempt from any state
 27 or municipal tax, assessment for the insolvency of any life insurance company, any
 28 levy or sale, garnishment, attachment, or any process whatsoever, **except as**
 29 **provided in R.S. 11:292**, and shall be unassignable except as otherwise specifically
 30 provided in the annuity contract.

1 * * *

2 §951.3. Pensions, benefits, etc., exemption from seizure

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

10 * * *

11 §952.3. Exemption of pension and other rights from levy and other processes

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

19 * * *

20 §1378. Retirement pay or pension; exemption from taxes and execution

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

25 * * *

26 §1905. Exemption from execution

27 The following items are hereby exempt from any state or municipal tax and
28 from levy and sale, garnishment, attachment, or any other process whatsoever as
29 provided in this Chapter, except as provided in R.S. ~~42:720.21~~ **11:292**; the right of
30 a person to a pension, an annuity, or a retirement allowance, or to the return of

1 contributions, the pension, annuity, or retirement allowance itself, any optional
 2 benefit or any other right accrued or accruing to any person, and the moneys in
 3 various funds created by this Chapter. These enumerated items shall be
 4 unassignable, except as in this Chapter specifically otherwise provided. Benefits
 5 paid under this Chapter shall be exempt from state income tax. If the contributions
 6 of an employee are paid by an employer in order to secure credit for service, these
 7 funds may be assigned to the employer until such time as the employee has repaid
 8 contributions so paid or the employer has released the contributions so paid by
 9 written notice to the board.

10 * * *

11 §3014. Exemptions from execution

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

19 * * *

20 §3051. Assignment prohibited

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

29 * * *

30 §3111. Exemption from seizure and attachment

1 No **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, or levied upon, by virtue of any attachment,
5 garnishment, execution, or order or decree, or any other process whatsoever, issued
6 out of or by any court, for the payment or satisfaction, in whole or in part, of any
7 debt, damage, claim, judgment, or decree against any beneficiary of such Fund; but
8 shall be exempt therefrom. ~~That the said~~ **The** Fund shall be kept, held, and
9 distributed for no purposes other than those provided for in this Part.

* * *

§3140. Exemption from seizure and attachment

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

* * *

§3198. Exemption from seizure and attachment

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

1 judgment, or decree, against any beneficiary of such fund; but shall be exempt
2 therefrom. ~~That said~~ **The** fund shall be sacredly kept, held, and distributed for the
3 purposes named in this Part, and for no other purposes whatsoever.

4 * * *

5 §3229. Exemption from seizure and attachment

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

16 * * *

17 §3321. Exemption from seizure and attachment

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

27 * * *

28 §3345. Exemption from seizure

29 ~~No~~ **Except as provided in R.S. 11:292, no** portion of the pension fund shall,
30 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.

* * *

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 moneys in the various funds created by this Part are
 14 exempt from any state or municipal tax; and all state income tax, and exempt from
 15 levy and sale, garnishment, attachment, or any other process whatsoever, except as
 16 provided in R.S. 11:292, and shall be unassignable except as otherwise specifically
 17 provided in this Part. The fund shall be sacredly held, kept, and secured and
 18 distributed for the purpose of pensioning the persons named in this Part and for the
 19 payment of death benefits and for no other purpose whatsoever.

* * *

21 §3408. Exemption from seizure and attachment

22 ~~No~~ Except as provided in R.S. 11:292, no portion of the fireman's pension
 23 and relief fund, before or after its order for distribution is issued by the board of
 24 trustees to the person or persons entitled thereto under the provisions of this Part,
 25 shall be held, seized, taken, subjected to, detained, or levied upon, by virtue of any
 26 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
 29 decree against any beneficiary of such fund, but shall be exempt therefrom. The
 30 fund shall be kept, held, and distributed solely for the purposes named in this Part

1 and for no other purposes whatsoever.

2 * * *

3 §3440. Exemption from seizure and attachment

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

14 * * *

15 §3470. Exemption from seizure and attachment

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

26 * * *

27 §3513. Fund not subject to execution

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

1 process issued against the beneficiary.

2 * * *

3 §3608. Attachment of fund; exemption from state income tax

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

14 * * *

15 §3691. Exemption from execution

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

24 * * *

25 §3770. Exemption from seizure and attachment

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

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

* * *

8 §3800. Exemption from seizure and attachment

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

* * *

21 §3823. Exemption from execution

22 The right of a person to a pension, an annuity, or a retirement allowance or
 23 benefit, ~~or~~ to the return of contributions; the pension, annuity, or retirement
 24 allowance itself; ~~to~~ any optional benefit; or any other right accrued or accruing to any
 25 person under the provisions of this Part or to any person with such rights in the
 26 Employees' Retirement System of the city of New Orleans ~~are~~ is exempt from any
 27 state or municipal tax and, ~~are~~ except as provided in R.S. 11:292, exempt from levy
 28 and sale, garnishment, attachment, or any other process whatsoever.

* * *

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

1 §3881. General exemptions from seizure

2 * * *

3 D.(1) Except as provided in Paragraph (2) of this Subsection **and in R.S.**
4 **11:292**, the following shall be exempt from all liability for any debt except alimony
5 and child support: all pensions, all tax-deferred arrangements, annuity contracts, and
6 all proceeds of and payments under all tax-deferred arrangements and annuity
7 contracts, as defined in Paragraph (3) of this Subsection.

8 * * *

9 Section 3. This Act shall become effective on July 1, 2010; if vetoed by the governor
10 and subsequently approved by the legislature, this Act shall become effective on July 1,
11 2010, or on the day following such approval by the legislature, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____