

Regular Session, 2010

SENATE BILL NO. 191

BY SENATOR B. GAUTREAUX

RETIREMENT SYSTEMS. Provides relative to compliance with applicable federal tax qualification requirements for Teachers' Retirement System of Louisiana, Louisiana School Employees' Retirement System, and State Police Pension and Retirement System. (7/1/10)

1 AN ACT
2 To amend and reenact R.S. 11:701(introductory paragraph), 728(A)(4), 783(A)(3)(a),
3 792(C)(1) and (D), 1002(introductory paragraph), 1153(C)(1) and (D), 1326 and
4 1337(B), to enact R.S. 11:701(5)(e), 784.1(F) and (G), 1002(6)(c), 1140, 1141.2(C)
5 and (D), 1336(F) and (G), and 1338(F), and to repeal R.S. 11:701(12)(d), 792(B)(3),
6 (C)(2), and (F), 1153(B)(3), (C)(2), and (F), and 1337(A)(3), relative to the Teachers'
7 Retirement System of Louisiana, Louisiana School Employees' Retirement System,
8 and State Police Pension and Retirement System; to provide relative to compliance
9 with applicable federal tax qualification requirements; 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. 11:701(introductory paragraph), 728(A)(4), 783(A)(3)(a), 792(C)(1)
14 and (D), 1002(introductory paragraph), 1153(C)(1) and (D), 1326 and 1337(B) are hereby
15 amended and reenacted and R.S. 11:701(5)(e), 784.1(F) and (G), 1002(6)(c), 1140,
16 1141.2(C) and (D), 1336(F) and (G), and 1338(F) are hereby enacted to read as follows:

17 §701. Definitions

1 As used in this Chapter, the following words and phrases have the meanings
2 ascribed to them in this Section unless a different meaning is plainly required by the
3 context:

4 * * *

5 (5)(a) * * *

6 **(e) Notwithstanding any other provision of law to the contrary, "average**
7 **compensation" shall not include any amount in excess of the limitation provided**
8 **in R.S. 11:785.1.**

9 * * *

10 §728. Prior service credit

11 A. Any member of the Teachers' Retirement System of Louisiana may
12 receive credit for service as a teacher, as the term "teacher" is defined in R.S. 11:701,
13 and/or for service in any agency in Louisiana, provided he meets the requirements
14 set forth below, and provided the application for such purchase is received by the
15 Teachers' Retirement System of Louisiana prior to the date of retirement or the
16 beginning date of the Deferred Retirement Option Plan participation and the
17 purchase is finalized before the retirement or Deferred Retirement Option Plan
18 participation date:

19 (1) * * *

20 (4) Payments to be made under the provisions of this Section shall be made
21 in a lump sum. Effective January 1, 2002, payment for service credit under this
22 Section shall be allowed by a trustee-to-trustee transfer of funds from a Code Section
23 403(b) annuity or a Code Section 457 plan to the system; ~~provided that no purchase~~
24 ~~of service credit under this Section shall be allowed by a trustee-to-trustee transfer~~
25 ~~of funds from a Code Section 403(b) annuity or a Code Section 457 plan to the~~
26 ~~pension after December 31, 2010.~~

27 * * *

28 §783. Selection of option for method of payment ~~after death of member~~

29 A.(1) * * *

1 (3) Initial Lump-Sum Benefit. (a) If a member has not participated in the
 2 Deferred Retirement Option Plan provided by the provisions of this Chapter and has
 3 thirty years of creditable service, or is age fifty-five and has twenty-five years of
 4 creditable service, or is age sixty and has ten years of creditable service, and if the
 5 maximum benefit, Option 2, 2A, 3, 3A, 4, or 4A above is chosen, then **the member**
 6 **may further elect to receive** a reduced retirement allowance plus an initial benefit
 7 ~~shall be paid to the member.~~ The accredited* **creditable** service referenced in this
 8 Paragraph shall not include unused accumulated sick leave and unused accumulated
 9 annual leave.

10 * * *

11 §784.1. Maximum benefits

12 * * *

13 **F. The board of trustees shall make no actuarial adjustment under this**
 14 **Section by reason of the member's retirement after normal retirement age.**

15 **G. The board of trustees shall adopt rules for the administration of the**
 16 **limits provided in this Section and the limitations under Section 415 of the**
 17 **Internal Revenue Code, including adjustments in the annual dollar limitation**
 18 **to reflect cost-of-living adjustments authorized by the Internal Revenue Service.**

19 * * *

20 §792. Direct rollover

21 * * *

- 22 C.(1) An "eligible retirement plan" shall mean any of the following:
- 23 (a) An individual retirement account described in Section 408(a) of the
 24 ~~United States~~ Internal Revenue Code.
 - 25 (b) An individual retirement annuity described in Section 408(b) of the
 26 ~~United States~~ Internal Revenue Code.
 - 27 (c) An annuity plan described in Section 403(a) of the ~~United States~~ Internal
 28 Revenue Code.
 - 29 (d) A qualified trust as described in Section 401(a) of the ~~United States~~

1 Internal Revenue Code, provided that such trust accepts the member's eligible
2 rollover distribution.

3 **(e) An eligible deferred compensation plan described in Section 457(b)**
4 **of the Internal Revenue Code that is maintained by an eligible governmental**
5 **employer, provided the plan contains provisions to account separately for**
6 **amounts transferred into such plan.**

7 **(f) An annuity contract described in Section 403(b) of the Internal**
8 **Revenue Code.**

9 * * *

10 D. A "distributee" as provided for in this Section shall include:

11 (1) A member or former member.

12 (2) The member's or former member's surviving spouse, or the member's
13 ~~spouse~~ or former member's **former** spouse with whom a benefit or a return of
14 employee contributions is to be divided pursuant to R.S. 11:291(B), ~~are distributees~~
15 with reference to an interest of the member or former spouse.

16 **(3) The member's or former member's non-spouse beneficiary, provided**
17 **the specified distribution is to an eligible retirement plan as defined in**
18 **Subparagraphs (C)(1)(a) and (C)(1)(b) of this Section.**

19 * * *

20 §1002. Definitions

21 As used in this Chapter, the following words and phrases shall have the
22 meanings ascribed to them in this Section unless a different meaning is plainly
23 required by the context:

24 * * *

25 (6)(a) * * *

26 **(c) Notwithstanding any other provision of law to the contrary, "average**
27 **compensation" shall not include any amount in excess of the limitation provided**
28 **in R.S. 11:1141.3.**

29 * * *

1 **§1140. Purchase of service credit; trustee-to-trustee transfer**

2 **Payment for service credit under this Part shall be allowed by a trustee-**
3 **to-trustee transfer of funds from an annuity under Section 403(b) or a plan**
4 **under Section 457 of the Internal Revenue Code to the system.**

5 * * *

6 §1141.2. Computation of retirement benefits

7 * * *

8 **C. The board of trustees shall make no actuarial adjustment under this**
9 **Section by reason of the member's retirement after normal retirement age.**

10 **D. The board of trustees shall adopt rules for the administration of the**
11 **limits provided in this Section and the limitations under Section 415 of the**
12 **Internal Revenue Code including adjustments in the annual dollar limitation to**
13 **reflect cost-of-living adjustments authorized by the Internal Revenue Service.**

14 * * *

15 §1153. Direct rollover

16 * * *

17 C.(1) An "eligible retirement plan" shall mean any of the following:

18 (a) An individual retirement account described in Section 408(a) of the
19 ~~United States~~ Internal Revenue Code.

20 (b) An individual retirement annuity described in Section 408(b) of the
21 ~~United States~~ Internal Revenue Code.

22 (c) An annuity plan described in Section 403(a) of the ~~United States~~ Internal
23 Revenue Code.

24 (d) A qualified trust as described in Section 401(a) of the ~~United States~~
25 Internal Revenue Code, provided that such trust accepts the member's eligible
26 rollover distribution.

27 **(e) An eligible deferred compensation plan described in Section 457(b)**
28 **of the Internal Revenue Code that is maintained by an eligible governmental**
29 **employer, provided the plan contains provisions to account separately for**

1 **amounts transferred into such plan.**

2 **(f) An annuity contract described in Section 403(b) of the Internal**
3 **Revenue Code.**

4 * * *

5 D. A "distributee" as provided for in this Section shall include:

6 (1) A member or former member.

7 (2) The member's or former member's surviving spouse, or the member's
8 ~~spouse~~ or former member's **former** spouse with whom a benefit or a return of
9 employee contributions is to be divided pursuant to R.S. 11:291(B), ~~are distributees~~
10 with reference to an interest of the member or former spouse.

11 **(3) The member's or former member's non-spouse beneficiary, provided**
12 **the specified distribution is to an eligible retirement plan as defined in**
13 **Subparagraphs (C)(1)(a) and (C)(1)(b) of this Section.**

14 * * *

15 §1326. Credit for previous service upon reentry into service

16 **(A)** Any employee who has left the service and has withdrawn his
17 accumulated contributions from the state police retirement fund may have his prior
18 service credit reinstated provided he repays to the fund the full amount previously
19 withdrawn from the fund, plus interest at the board approved actuarial valuation rate,
20 compounded annually from date of withdrawal to date of repayment.

21 **(B) Payment for service credit under this Section shall be allowed by a**
22 **trustee-to-trustee transfer of funds from an annuity under Section 403(b) or a**
23 **plan under Section 457 of the Internal Revenue Code to the system.**

24 * * *

25 §1336. Maximum benefits

26 * * *

27 **F. The board of trustees shall make no actuarial adjustment under this**
28 **Section by reason of the member's retirement after normal retirement age.**

29 **G. The board of trustees shall adopt rules for the administration of the**

1 **limits provided in this Section and the limitations under Section 415 of the**
 2 **Internal Revenue Code, including adjustments in the annual dollar limitation**
 3 **to reflect cost-of-living adjustments authorized by the Internal Revenue Service.**

4 §1337. Direct rollover of eligible rollover distributions

5 * * *

6 B. An eligible retirement plan is an individual retirement ~~account~~ **annuity**
 7 described in Section 408(b) of the Internal Revenue Code, a Section 403(b) annuity
 8 of the Internal Revenue Code, a Section 457 plan of the Internal Revenue Code, an
 9 individual retirement ~~annuity~~ **account** described in Section 408(a) of the Internal
 10 Revenue Code, **an annuity plan described in Section 403(a) of the Internal**
 11 **Revenue Code**, or a qualified trust described in Section 401(a) of the Internal
 12 Revenue Code, that accepts the distributee's eligible rollover distribution. The
 13 member's or former member's surviving spouse and the member's or former
 14 member's spouse or former spouse who is an alternate payee under a qualified
 15 domestic relations order, as defined in Section 414(p) of the Internal Revenue Code,
 16 are distributees with regard to the interest of the spouse or former spouse. **The**
 17 **member's or former member's non-spouse beneficiary is a distributee provided**
 18 **the specified distribution is to an individual retirement account or individual**
 19 **retirement annuity.** A direct rollover is a payment by this system's pension plan to
 20 the eligible retirement plan specified by the distributee.

21 §1338. Internal Revenue Code qualification requirements

22 * * *

23 **F.(1) Unless otherwise provided in this Chapter, the accrued benefit of**
 24 **each "Section 401(a)(17) employee" as that term is defined below shall be the**
 25 **greater of the following:**

26 **(a) The employee's accrued benefit determined with respect to the**
 27 **benefit formula applicable for the plan year beginning on or after January 1,**
 28 **1996, as applied to the employee's total years of service taken into account for**
 29 **purposes of benefit accruals.**

1 **(b) The sum of:**

2 **(i) The employee's accrued benefit as of the last day of the last plan year**
3 **beginning before January 1, 1996, frozen in accordance with the provisions of**
4 **26 CFR 1.401(a)-4 through 1.401(a)-13; and**

5 **(ii) The employee's accrued benefit determined under the benefit**
6 **formula applicable for the plan year beginning on or after January 1, 1996, as**
7 **applied to the employee's years of service credited to the employee for plan**
8 **years beginning on or after January 1, 1996, for purposes of benefit accruals.**

9 **(2) A "Section 401(a)(17) employee" shall mean any employee whose**
10 **current accrued benefit, as of a date on or after the first day of the first plan**
11 **year beginning on or after January 1, 1996, is based on compensation for a year**
12 **beginning prior to the first day of the first plan year beginning on or after**
13 **January 1, 1996, that exceeded one hundred fifty thousand dollars.**

14 **(3) If an employee is not a "Section 401(a)(17) employee," his accrued**
15 **benefit in this system shall not be based upon compensation in excess of the**
16 **annual limit of Section 401(a)(17) of the Internal Revenue Code as amended and**
17 **revised.**

18 Section 2. R.S. 11:701(12)(d), 792(B)(3), (C)(2), and (F), 1153 (B)(3), (C)(2), and
19 (F), and 1337(A)(3) are hereby repealed.

20 Section 3. This Act shall become effective on July 1, 2010; if vetoed by the governor
21 and subsequently approved by the legislature, this Act shall become effective on July 1,
22 2010, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Lauren B. Bailey.

DIGEST

Present law provides for compliance by the Teachers' Retirement System of Louisiana, Louisiana School Employees' Retirement System, and State Police Pension and Retirement System with applicable federal tax qualification requirements of the Internal Revenue Code.

Proposed law retains present law and continues compliance with applicable federal tax qualification requirements of the Internal Revenue Code by the three systems incorporating changes in federal law and regulations as required.

Effective July 1, 2010.

(Amends R.S. 11:701(intro. para.), 728(A)(4), 783(A)(3)(a), 792(C)(1) and (D), 1002(intro. para.), 1153(C)(1) and (D), 1326 and 1337(B); adds R.S. 11:701(5)(e), 784.1(F) and (G), 1002(6)(c), 1140, 1141.2(C) and (D), 1336(F) and (G), and 1338(F); repeals R.S. 11:701(12)(d), 792(B)(3), (C)(2), and (F), 1153(B)(3), (C)(2), and (F), and 1337(A)(3))