

SENATE BILL NO. 191

BY SENATOR B. GAUTREAUX

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AN ACT

To amend and reenact R.S. 11:701(introductory paragraph), 728(A)(4), 783(A)(3)(a), 792(C)(1) and (D), 1002(introductory paragraph), 1153(C)(1) and (D), 1326 and 1337(B), to enact 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), and to repeal R.S. 11:701(12)(d), 792(B)(3), (C)(2), and (F), 1153(B)(3), (C)(2), and (F), and 1337(A)(3), relative to the Teachers' Retirement System of Louisiana, Louisiana School Employees' Retirement System, and State Police Pension and Retirement System; to provide relative to compliance with applicable federal tax qualification requirements; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:701(introductory paragraph), 728(A)(4), 783(A)(3)(a), 792(C)(1) and (D), 1002(introductory paragraph), 1153(C)(1) and (D), 1326 and 1337(B) are hereby amended and reenacted and 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) are hereby enacted to read as follows:

§701. Definitions

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

\* \* \*

(5)(a) \* \* \*

**(e) Notwithstanding any other provision of law to the contrary, "average compensation" shall not include any amount in excess of the limitation provided**

1 in R.S. 11:785.1.

2 \* \* \*

3 §728. Prior service credit

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

12 (1) \* \* \*

13 (4) Payments to be made under the provisions of this Section shall be made  
14 in a lump sum. Effective January 1, 2002, payment for service credit under this  
15 Section shall be allowed by a trustee-to-trustee transfer of funds from a Code Section  
16 403(b) annuity or a Code Section 457 plan to the system; ~~provided that no purchase~~  
17 ~~of service credit under this Section shall be allowed by a trustee-to-trustee transfer~~  
18 ~~of funds from a Code Section 403(b) annuity or a Code Section 457 plan to the~~  
19 ~~pension after December 31, 2010.~~

20 \* \* \*

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

22 A.(1) \* \* \*

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

1 annual leave.

2 \* \* \*

3 §784.1. Maximum benefits

4 \* \* \*

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

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

11 \* \* \*

12 §792. Direct rollover

13 \* \* \*

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

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

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

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

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

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

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

30 \* \* \*

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

2 (1) A member or former member.

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

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

10 \* \* \*

11 §1002. Definitions

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

15 \* \* \*

16 (6)(a) \* \* \*

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

20 \* \* \*

21 **§1140. Purchase of service credit; trustee-to-trustee transfer**

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

25 \* \* \*

26 §1141.2. Computation of retirement benefits

27 \* \* \*

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

30 **D. 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 to  
3 reflect cost-of-living adjustments authorized by the Internal Revenue Service.

4 \* \* \*

5 §1153. Direct rollover

6 \* \* \*

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

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

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

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

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

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

21 (f) An annuity contract described in Section 403(b) of the Internal  
22 Revenue Code.

23 \* \* \*

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

25 (1) A member or former member.

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

30 (3) The member's or former member's non-spouse beneficiary, provided

1 the specified distribution is to an eligible retirement plan as defined in  
2 Subparagraphs (C)(1)(a) and (C)(1)(b) of this Section.

3 \* \* \*

4 §1326. Credit for previous service upon reentry into service

5 A. Any employee who has left the service and has withdrawn his  
6 accumulated contributions from the state police retirement fund may have his prior  
7 service credit reinstated provided he repays to the fund the full amount previously  
8 withdrawn from the fund, plus interest at the board approved actuarial valuation rate,  
9 compounded annually from date of withdrawal to date of repayment.

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

13 \* \* \*

14 §1336. Maximum benefits

15 \* \* \*

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

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

22 §1337. Direct rollover of eligible rollover distributions

23 \* \* \*

24 B. An eligible retirement plan is an individual retirement ~~account~~ annuity  
25 described in Section 408(b) of the Internal Revenue Code, a Section 403(b) annuity  
26 of the Internal Revenue Code, a Section 457 plan of the Internal Revenue Code, an  
27 individual retirement ~~annuity~~ account described in Section 408(a) of the Internal  
28 Revenue Code, an annuity plan described in Section 403(a) of the Internal  
29 Revenue Code, or a qualified trust described in Section 401(a) of the Internal  
30 Revenue Code, that accepts the distributee's eligible rollover distribution. The

1 member's or former member's surviving spouse and the member's or former  
 2 member's spouse or former spouse who is an alternate payee under a qualified  
 3 domestic relations order, as defined in Section 414(p) of the Internal Revenue Code,  
 4 are distributees with regard to the interest of the spouse or former spouse. **The**  
 5 **member's or former member's non-spouse beneficiary is a distributee provided**  
 6 **the specified distribution is to an individual retirement account or individual**  
 7 **retirement annuity.** A direct rollover is a payment by this system's pension plan to  
 8 the eligible retirement plan specified by the distributee.

9 §1338. Internal Revenue Code qualification requirements

10 \* \* \*

11 **F.(1) Unless otherwise provided in this Chapter, the accrued benefit of**  
 12 **each "Section 401(a)(17) employee" as that term is defined in Paragraph (2) of**  
 13 **this Subsection, shall be the greater of the following:**

14 **(a) The employee's accrued benefit determined with respect to the**  
 15 **benefit formula applicable for the plan year beginning on or after January 1,**  
 16 **1996, as applied to the employee's total years of service taken into account for**  
 17 **purposes of benefit accruals.**

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

19 **(i) The employee's accrued benefit as of the last day of the last plan year**  
 20 **beginning before January 1, 1996, frozen in accordance with the provisions of**  
 21 **26 CFR 1.401(a)-4 through 1.401(a)-13; and**

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

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

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

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

7                   Section 3. This Act shall become effective on July 1, 2010; if vetoed by the governor  
 8                   and subsequently approved by the legislature, this Act shall become effective on July 1,  
 9                   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: \_\_\_\_\_