

Regular Session, 2012

SENATE BILL NO. 26

BY SENATOR PEACOCK

RETIREMENT BENEFITS. Provides for a defined contribution plan for persons employed by state agencies and institutions after December 31, 2012, in nonhazardous postions. (7/1/12)

1 AN ACT

2 To enact Subpart P of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana Revised

3 Statutes of 1950, to be comprised of R.S. 11:331 through 336, relative to the

4 Louisiana State Employees' Retirement System and the Teachers' Retirement System

5 of Louisiana; to create a defined contribution plan within such systems; to provide

6 relative to contributions and benefits; to provide for an effective date; and to provide

7 for related matters.

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Subpart P of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana

11 Revised Statutes of 1950, comprised of R.S. 11:331 through 336, is hereby enacted to read

12 as follows:

13 **SUBPART P. MANDATORY DEFINED CONTRIBUTION PLAN:**

14 **STATE SYSTEMS**

15 **§331. Creation of mandatory defined contribution plans; state systems**

16 **A.(1) Notwithstanding any provision of law to the contrary, there is**

17 **hereby created a defined contribution plan in certain retirement systems, in**

1 which participation shall be mandatory for the following persons first employed
2 or reemployed on or after January 1, 2013, who would otherwise be eligible to
3 become members of such state retirement systems:

4 (a) Employees covered by the Louisiana State Employees' Retirement
5 System who are not members of the Hazardous Duty Service Plan pursuant to
6 R.S. 11:612.

7 (b) Employees covered by the Teachers' Retirement System of Louisiana
8 who are employed by an institution of post-secondary education.

9 (2) For purposes of this Subpart, the term "state retirement systems" or
10 "systems", shall mean the following retirement systems, plans, or funds:

11 (a) Louisiana State Employees' Retirement System.

12 (b) Teachers' Retirement System of Louisiana.

13 B. Those persons required by this Subpart to participate in the defined
14 contribution plans of their respective systems shall not be considered eligible for
15 any benefits provided by the defined benefit plan of each respective system and
16 shall not earn any service credit in the defined benefit plan; however, any
17 person who is reemployed on or after January 1, 2013, who has accrued any
18 rights or benefits by virtue of membership in any state retirement system or
19 other public retirement system before such date shall retain such rights and
20 benefits that have accrued in such system, but shall participate exclusively in
21 the defined contribution plan established by this Subpart on or after January
22 1, 2013.

23 §332. Administration

24 Each state retirement system or its successor in interest shall provide for
25 the administration and maintenance of its respective defined contribution plan
26 established pursuant to this Subpart. The board of trustees of each system may
27 promulgate any rules necessary for such administration and maintenance and
28 any rules necessary for compliance with applicable provisions of the Internal
29 Revenue Code.

1 **§333. Selection of providers; criteria for placement of contracts**

2 **A. The board of trustees of each state retirement system shall select and**
3 **contract with no more than three providers with which participants shall be**
4 **authorized to place their contributions in products selected by the board. In**
5 **selecting the providers, the board shall consider, among other things, the**
6 **following:**

7 **(1) The tax status of the product.**

8 **(2) The portability of the products offered by the providers.**

9 **(3) The type of products offered by the providers.**

10 **(4) The relation of the costs and benefits as relates to the amount of the**
11 **contributions to be made pursuant to the provisions of this Subpart.**

12 **(5) The ability of the designated provider or providers to provide the**
13 **rights and benefits under the products.**

14 **(6) The nature and extent of the rights and benefits to be provided by the**
15 **contracts for participating employees and their beneficiaries.**

16 **(7) The suitability of the rights and benefits relative to the needs and**
17 **interests of participants.**

18 **(8) The ability of the provider to provide educational services and**
19 **materials to participants.**

20 **(9) The methods available for participants to interact with the provider**
21 **company; the means by which participants may access account information,**
22 **direct investment of contributions, make changes to their accounts, transfer**
23 **monies between available investment vehicles, and transfer monies between**
24 **provider companies; and any fees that apply to such activities.**

25 **(10) An evaluation of specific investment products, taking into account**
26 **each product's experience in meeting its investment return objectives net of all**
27 **related fees, expenses, and charges, including but not limited to investment**
28 **management fees, distribution and marketing fees, custody fees, record keeping**
29 **fees, education fees, annuity expenses, and consulting fees.**

1 **(1) Organizational factors, including but not limited to the financial**
2 **solvency of the provider, its organizational depth, and its experience in**
3 **providing institutional and retail investment services.**

4 **B. The board shall ensure that each participant is provided a quarterly**
5 **statement that accounts for the contributions made on behalf of such**
6 **participant; the interest and investment earnings thereon; and any fees,**
7 **penalties, or other deductions that apply thereto. At a minimum, such**
8 **statements shall:**

9 **(1) Indicate the participant's investment options.**

10 **(2) State the market value of the account at the close of the current**
11 **quarter and previous quarter.**

12 **(3) Show account gains and losses for the period and changes in account**
13 **accumulation unit values for the period.**

14 **(4) Itemize account contributions for the quarter.**

15 **(5) Indicate any account changes due to adjustment of contribution**
16 **levels, reallocation of contributions, balance transfers, or withdrawals.**

17 **(6) Set forth any fees, charges, penalties, and deductions that apply to the**
18 **account.**

19 **(7) Indicate the amount of the account in which the participant is fully**
20 **vested and the amount of the account in which the participant is not vested.**

21 **(8) Indicate each investment product's performance relative to an**
22 **appropriate market benchmark.**

23 **§334. Contributions**

24 **A.(1) Each participant shall make a ten percent employee contribution**
25 **monthly. Each employer participating in a state retirement system shall**
26 **contribute on behalf of each participant five and one-quarter percent of pay on**
27 **a monthly basis.**

28 **(2) The entirety of such contributions, less any monthly fee established**
29 **by the board of trustees to cover the cost of administration and maintenance of**

1 the defined contribution plan, shall be remitted by the system to the applicable
2 designated provider or providers for crediting to the participant's account or
3 accounts.

4 B. Notwithstanding the provisions of Subsection A of this Section, the
5 system shall not remit any funds or contributions to any provider or providers
6 from an employer until the correct and total amount to be remitted to the
7 system is received each month from the employer.

8 **§335. Vesting**

9 A participant shall be vested upon attainment of five years of service
10 with an employer participating in a state retirement system. For purposes of
11 this Subpart, "vesting" shall mean the acquisition of a property right to all
12 employer contributions credited to a participant's account together with all
13 interest attributable thereto. Upon commencement of participation in the
14 defined contribution plan, a participant shall acquire an immediate property
15 right to all employee contributions credited to his account together with interest
16 attributable thereto.

17 **§336. Benefits**

18 A. The benefits payable to participants of a defined contribution plan
19 established pursuant to this Subpart are not the obligations of the state of
20 Louisiana or any state retirement system; rather, such benefits and other rights
21 of the defined contribution plan are the sole liability and responsibility of the
22 designated provider or providers to which contributions have been made.

23 B.(1) Benefits shall be payable to defined contribution plan participants
24 or their beneficiaries by the designated provider or providers and not by the
25 respective state retirement system in accordance with the contract types
26 provided by the providers selected and the contracts approved for use in the
27 defined contribution plan by the board.

28 (2) Subject to the provisions of the contract, retirement benefits shall be
29 paid in the form of a lifetime income, unless the participant or beneficiary

1 requests a trustee-to-trustee single-sum cash rollover payment between
2 qualified plans, or payment made directly to a conduit individual retirement
3 account, but death benefits may be paid in the form of a single-sum cash
4 payment paid directly to the beneficiary or estate, whichever is applicable.

5 (3) The board of trustees may approve any of the following single-sum
6 cash payments:

7 (a) Direct transfers by and between companies.

8 (b) Death benefits.

9 (c) An initial benefit payable upon retirement, provided such benefit is
10 approved by the contracting company. The initial benefit shall not exceed an
11 amount equal to the participant's monthly benefit, payable as a single-life
12 annuity times thirty-six.

13 (4) Participants in the defined contribution plan shall not be entitled to
14 any benefits to which members in the defined benefit plan are entitled,
15 including, but not limited to, disability benefits, survivor benefits, participation
16 in the Deferred Retirement Option Plan, and any cost-of-living adjustments or
17 permanent benefit increases granted to retirees of the defined benefit plan;
18 however, the services or products offered by a provider may provide for
19 disability or survivor benefits.

20 C. Participation in the defined contribution plan shall not preclude
21 participation in the office of group benefits if the defined contribution plan
22 participant or retiree would otherwise be entitled to participate in the office of
23 group benefits in accordance with applicable laws and regulations.

24 D. Defined contribution plan participants and providers shall be
25 responsible for complying with all applicable provisions of the Internal Revenue
26 Code, and if any violation of that code occurs as a result of the participant's
27 participation in the defined contribution plan, it shall be the responsibility and
28 liability of the participant and the provider and not the state retirement system.

29 E. There shall be no liability on the part of and no cause of action of any

1 **nature shall arise against a state retirement system, or its agents or employees,**
2 **for any action taken in the performance of the duties under this Subpart.**

3 Section2. This Act shall become effective on July 1, 2012; if vetoed by the governor
4 and subsequently approved by the legislature, this Act shall become effective on July 1,
5 2012, 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 Laura Gail Sullivan.

DIGEST

Proposed law establishes a defined contribution plan in the Louisiana State Employees' Retirement System (LASERS) and the Teachers' Retirement System of Louisiana (TRSL). Proposed law provides for participation in the defined contribution plan of the system rather than the defined benefit plan for certain persons hired on or after January 1, 2013.

Proposed law provides for defined contribution plan participation for:

- (1) Employees covered by the Louisiana State Employees' Retirement System who are not members of the Hazardous Duty Services Plan pursuant to R.S. 11:612.
- (2) Employees covered by the Teachers' Retirement System of Louisiana who are employed by an institution of post-secondary education.

Effective July 1, 2012.

(Adds R.S. 11:331-336)