

Regular Session, 2012

SENATE BILL NO. 47

BY SENATOR GUILLORY

RETIREMENT SYSTEMS. Provides relative to final average compensation. (6/30/12)

1 AN ACT

2 To amend and reenact R.S. 11:102(B)(1) and (3)(a) and (d)(i), (iv), (v), and (vii) and (C)(2),
3 (3), and (4)(a), 403(5)(a)(i) and (b)(i) and (ii), 502(B)(1), and 701(5)(a)(introductory
4 paragraph) and to enact R.S. 11:102(D) and 701(5)(f) and to repeal R.S.
5 11:403(5)(b)(iii), relative to certain members of the Louisiana State Employees'
6 Retirement System and certain postsecondary education members of the Teachers'
7 Retirement System of Louisiana; to provide with respect to benefit calculation; to
8 provide an effective date; and to provide for related matters.

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 11:102(B)(1) and (3)(a) and (d)(i), (iv), (v), and (vii) and (C)(2), (3),
12 and (4)(a), 403(5)(a)(i) and (b)(i) and (ii), and 701(5)(a)(introductory paragraph) are hereby
13 amended and reenacted and R.S. 11:102(D) and 701(5)(f) are hereby enacted to read as
14 follows:

15 §102. Employer contributions; determination; state systems

16 * * *

17 B.(1) Except as provided in Subsections C **and D** of this Section ~~for the~~

1 ~~Louisiana State Employees' Retirement System~~ and except as provided in R.S.
2 11:102.1 and 102.2 and in Paragraph (5) of this Subsection, for each fiscal year,
3 commencing with Fiscal Year 1989-1990, for each of the public retirement systems
4 referenced in Subsection A of this Section, the legislature shall set the required
5 employer contribution rate equal to the actuarially required employer contribution,
6 as determined under Paragraph (3) of this Subsection, divided by the total projected
7 payroll of all active members of each particular system for the fiscal year. Each
8 entity funding a portion of a member's salary shall also fund the employer's
9 contribution on that portion of the member's salary at the employer contribution rate
10 specified in this Subsection.

11 * * *

12 (3) With respect to each state public retirement system, the actuarially
13 required employer contribution for each fiscal year, commencing with Fiscal Year
14 1989-1990, shall be that dollar amount equal to the sum of:

15 (a) ~~The~~ **Except as provided in Subsection D of this Section, the** employer's
16 normal cost for that fiscal year, computed as of the first of the fiscal year using the
17 system's actuarial funding method as specified in R.S. 11:22 and taking into account
18 the value of future accumulated employee contributions and interest thereon, such
19 employer's normal cost rate multiplied by the total projected payroll for all active
20 members to the middle of that fiscal year. For the Louisiana State Employees'
21 Retirement System, effective for the June 30, 2010, system valuation and beginning
22 with Fiscal Year 2011-2012, the normal cost shall be determined in accordance with
23 Subsection C of this Section.

24 * * *

25 (d) That fiscal year's payment, computed as of the first of that fiscal year and
26 projected to the middle of that fiscal year at the actuarially assumed interest rate,
27 necessary to amortize changes in actuarial liability due to:

28 (i) Except as provided in Items (v), (vi), (vii), and (viii) of this Subparagraph
29 **and in Subsection D of this Section**, actuarial gains and losses, if appropriate for

1 the funding method used by the system as specified in R.S. 11:22, for each fiscal
 2 year beginning after June 30, 1988, such payments to be computed as an amount
 3 forming an annuity increasing at four and one-half percent annually over the later of
 4 a period of fifteen years from the year of occurrence or by the year 2029, such gains
 5 and losses to include any increases in actuarial liability due to governing authority
 6 granted cost-of-living increases.

7 * * *

8 (iv) Except as provided in Items (v), (vi), (vii), and (viii) of this Subparagraph
 9 **and in Subsection D of this Section**, changes in actuarial accrued liability,
 10 computed using the actuarial funding method as specified in R.S. 11:22, due to
 11 legislation changing plan provisions, such payments to be computed in the manner
 12 and over the time period specified in the legislation creating the change or, if not
 13 specified in such legislation, as an amount forming an annuity increasing at four and
 14 one-half percent annually over the later of a period of fifteen years from the year of
 15 occurrence of the change or by the year 2029.

16 (v) ~~Effective~~ **Except as provided in Subsection D of this Section, effective**
 17 July 1, 2004, and beginning with Fiscal Year 1998-1999, the amortization period for
 18 the changes, gains, or losses of the Louisiana State Employees' Retirement System
 19 provided in Items (i) through (iv) of this Subparagraph shall be thirty years, or in
 20 accordance with standards promulgated by the Governmental Accounting Standards
 21 Board, from the year in which the change, gain, or loss occurred. The outstanding
 22 balances of amortization bases established pursuant to Items (i) through (iv) of this
 23 Subparagraph before Fiscal Year 1998-1999, shall be amortized as a level dollar
 24 amount from July 1, 2004, through June 30, 2029. Beginning with Fiscal Year 2003-
 25 2004, and for each fiscal year thereafter, the outstanding balances of amortization
 26 bases established pursuant to Items (i) through (iv) of this Subparagraph shall be
 27 amortized as a level dollar amount. For the Louisiana State Employees' Retirement
 28 System, effective for the June 30, 2010, system valuation and beginning with Fiscal
 29 Year 2011-2012, amortization payments for changes in actuarial liability shall be

1 determined in accordance with Subsection C of this Section.

2 * * *

3 (vii) ~~Effective~~ **Except as provided in Subsection D of this Section,**
4 **effective** July 1, 2004, and beginning with Fiscal Year 2000-2001, the amortization
5 period for the changes, gains, or losses of the Teachers' Retirement System of
6 Louisiana provided in Items (i) through (iv) of this Subparagraph shall be thirty
7 years, or in accordance with standards promulgated by the Governmental Accounting
8 Standards Board, from the year in which the change, gain, or loss occurred. The
9 outstanding balances of amortization bases established pursuant to Items (i) through
10 (iv) of this Subparagraph before Fiscal Year 2000-2001, shall be amortized as a level
11 dollar amount from July 1, 2004, through June 30, 2029. Beginning with Fiscal Year
12 2003-2004, and for each fiscal year thereafter, the outstanding balances of
13 amortization bases established pursuant to Items (i) through (iv) of this Subparagraph
14 shall be amortized as a level dollar amount.

15 * * *

16 C. * * *

17 (2) For the Louisiana State Employees' Retirement System, effective for the
18 June 30, 2010, system valuation and beginning with Fiscal Year 2011-2012, the
19 normal cost calculated pursuant to Subparagraph (B)(3)(a) of this Section, shall be
20 calculated separately for each particular plan within the system. An employer shall
21 pay employer contributions for each employee at the rate applicable to the plan of
22 which that employee is a member. **Beginning with the June 30, 2012, system**
23 **valuation, the normal cost for each plan shall be subject to the provisions of**
24 **Subsection D of this Section.**

25 (3) For the Louisiana State Employees' Retirement System, effective for the
26 June 30, 2010, system valuation and beginning with Fiscal Year 2011-2012, changes
27 in actuarial liability due to legislation, changes in governmental organization, or
28 reclassification of employees or positions shall be calculated individually for each
29 particular plan within the system based on each plan's actuarial experience as further

1 provided in Subparagraph (4)(c) of this Subsection. **Beginning with the June 30,**
 2 **2012, system valuation, this calculation for each plan shall be subject to the**
 3 **provisions of Subsection D of this Section.**

4 (4) For each plan referenced in Paragraph (1) of this Subsection, the
 5 legislature shall set the required employer contribution rate equal to the sum of the
 6 following:

7 (a) The particularized normal cost rate. The normal cost rate for each fiscal
 8 year shall be the employer's normal cost for the plan computed by applying the
 9 method specified in R.S. 11:102(B)(1) and (3)(a) to the plan. **Beginning with the**
 10 **June 30, 2012, system valuation, the normal cost for each plan shall be subject**
 11 **to the provisions of Subsection D of this Section.**

12 * * *

13 **D. (1) The employer contribution rate for the Louisiana State Employees'**
 14 **Retirement System and the Teachers' Retirement System of Louisiana, for any**
 15 **valuation prepared following enactment of the Act that originated as Senate Bill**
 16 **No. 47 of the 2012 Regular Session, shall be the rate determined pursuant to**
 17 **Subsections B and C of this Section, plus the sum of the absolute value of the**
 18 **rate attributable to the amortization of any gain plus the initial incremental**
 19 **normal cost rate, each as produced by the Act which originated as Senate Bill**
 20 **No. 47 of the 2012 Regular Session. The initial incremental normal cost rate**
 21 **shall be determined without regard to the phase-in pursuant to the provisions**
 22 **of the Act which originated as Senate Bill No. 47 of the 2012 Regular Session.**

23 **(2) The payment attributable to the absolute value of the amortization**
 24 **of any gain and the incremental normal cost rate shall be applied as follows for**
 25 **each year beginning with Fiscal Year 2013-14:**

26 **(a) To the outstanding balance of the original amortization base without**
 27 **reamortization of such base and until such base is fully liquidated.**

28 **(b) After the liquidation of the original amortization base, to the**
 29 **outstanding balance of the experience account amortization base without**

1 **reamortization of such base and until such base is fully liquidated.**

2 **(c) After the liquidation of the experience account amortization base, to**
3 **the balance of the oldest outstanding positive amortization base without**
4 **reamortization of such base and until all such bases are fully liquidated.**

5 * * *

6 §403. Definitions

7 The following words and phrases used in this Chapter shall have the
8 following meanings, unless a different meaning is clearly required by the context:

9 * * *

10 (5)(a)(i) "Average compensation", for a member **to whom R.S. 11:441(D),**
11 **(E), or (F) applies, and for a member** whose first employment making him eligible
12 for membership in the system began on or before June 30, 2006, **who retires or**
13 **enters the Deferred Retirement Option Plan on or before June 30, 2013,** and for
14 any person who receives an additional benefit pursuant to R.S. 11:444(A)(2)(b) or
15 (c), 557, 582, or 602 ~~or R.S. 24:36~~ whose first employment making him eligible for
16 membership in one of the state systems occurred on or before December 31, 2010,
17 means the average annual earned compensation ~~of a state employee~~ for the thirty-six
18 highest months of successive employment, or for the highest thirty-six successive
19 joined months of employment where interruption of service occurred; however,
20 average compensation for part-time employees who do not use thirty-six months of
21 full-time employment for average compensation purposes shall be based on the base
22 pay the part-time employee would have received had he been employed on a
23 full-time basis.

24 * * *

25 (b)(i) "Average compensation", for a member ~~whose first employment~~
26 ~~making him eligible for membership in the system began on or after July 1, 2006,~~
27 ~~and subject to the limitations provided in this Subparagraph,~~ **who is not covered by**
28 **Subparagraph (a) of this Paragraph** means the average annual earned
29 compensation ~~of a state employee~~ for the sixty highest months of successive

1 employment or for the highest sixty successive joined months of employment where
2 interruption of service occurred; however, average compensation for part-time
3 employees who do not use sixty months of full-time employment for average
4 compensation purposes shall be based on the base pay the part-time employee would
5 have received had he been employed on a full-time basis. This Item shall ~~also~~ be
6 applicable to any ~~judge, court officer,~~ governor, lieutenant governor, **member of the**
7 **legislature,** clerk or sergeant-at-arms of the House of Representatives, secretary or
8 sergeant-at-arms of the Senate, or state treasurer. **This Item shall also be applicable**
9 **to any judge or court officer** whose first employment making him eligible for
10 membership in one of the state systems occurred on or after January 1, 2011.

11 (ii) The earnings to be considered for persons to whom Item (i) of this
12 Subparagraph applies for the thirteenth through the twenty-fourth month shall not
13 exceed one hundred fifteen percent of the earnings of the first through the twelfth
14 month. The earnings to be considered for the twenty-fifth through the thirty-sixth
15 month shall not exceed one hundred fifteen percent of the earnings of the thirteenth
16 through the twenty-fourth month. The earnings to be considered for the
17 thirty-seventh through the forty-eighth month shall not exceed one hundred fifteen
18 percent of the earnings of the twenty-fifth through the thirty-sixth month. The
19 earnings for the final twelve months shall not exceed one hundred fifteen percent of
20 the earnings of the thirty-seventh through the forty-eighth month. The limitations
21 on the computation of average compensation contained in this Item shall not apply
22 to any twelve-month period during which compensation increased by more than
23 fifteen percent over the previous twelve-month period solely because of an increase
24 in compensation by a uniform systemwide increase adopted by the state Department
25 of Civil Service and approved by the governor or because of a pay adjustment
26 enacted by the legislature. ~~This Item shall also be applicable to any judge, court~~
27 ~~officer, member of the Louisiana Legislature, governor, lieutenant governor, clerk~~
28 ~~or sergeant-at-arms of the House of Representatives, secretary or sergeant-at-arms~~
29 ~~of the Senate, or state treasurer whose first employment making him eligible for~~

1 membership in one of the state systems occurred on or after January 1, 2011.

2 * * *

3 §502. Creation of optional retirement plan

4 * * *

5 B.(1) Notwithstanding Subsection A of this Section, anyone who elected to
6 participate in the optional retirement plan in lieu of the defined benefit plan before
7 ~~July 31, 2002~~ **December 31, 2007**, may regain membership in the defined benefit
8 plan by complying with the provisions of this Subsection.

9 * * *

10 §701. Definitions

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

14 * * *

15 (5)(a) "Average compensation" subject to the other provisions of this
16 Paragraph, for any teacher **not listed in Subparagraph (f) of this Paragraph** whose
17 first employment making him eligible for membership in one of the state systems
18 occurred on or before December 31, 2010, means the average earnable compensation
19 of a teacher for the three highest successive years of employment, or the highest
20 three successive joined years of employment where interruption of service occurred.
21 For any teacher whose first employment making him eligible for membership in one
22 of the state systems occurred on or after January 1, 2011, **and for any teacher listed**
23 **in Subparagraph (f) of this Paragraph** "average compensation" means his average
24 earnable compensation for the five highest successive years of employment, or the
25 highest five successive joined years where interruption of service occurred. The
26 computation of such average compensation shall be in accordance with the following
27 guidelines:

28 * * *

29 **(f) Regardless of the first date of employment making the teacher eligible**

1 for membership in a state retirement system and except for a member who is
 2 employed by an institution of postsecondary education or a postsecondary
 3 education management board for the sole purpose of providing instruction or
 4 administrative services at the primary or secondary level, including at any lab
 5 school and the Louisiana School for Math, Science, and the Arts, "average
 6 compensation" for any member who is employed by an institution of
 7 postsecondary education, the Board of Regents, or a postsecondary education
 8 management board, means his average earnable compensation for the sixty
 9 highest months of successive employment or for the highest sixty successive
 10 joined months of employment where interruption of service occurred. The
 11 computation of such average compensation shall be in accordance with the
 12 guidelines in Items (a)(i) through (a)(v) of this Paragraph.

13 * * *

14 Section 2. R.S. 11:403(5)(b)(iii) is hereby repealed.

15 Section 3. The provisions of this Act shall not cause the average compensation
 16 expressed in dollars of any member retiring or entering the Deferred Retirement Option Plan
 17 on or after July 1, 2013, to be less than such member's average compensation expressed in
 18 dollars as it existed on June 30, 2013.

19 Section 4. The provisions of this Act shall not apply to any person whose date of
 20 retirement or entry into the Deferred Retirement Option Plan occurs on or before June 30,
 21 2013.

22 Section 5. This Act shall be implemented according to the provisions of this Section.

23 (A) For transitional purposes, the provisions of R.S. 11:403(5) and 701(5) as
 24 amended by this Act shall be phased in as follows:

25 (1) For members retiring before July 1, 2013, the provisions of R.S. 11:403(5) and
 26 701(5) shall apply as they existed before the effective date of this Act.

27 (2) For those members retiring on or after July 1, 2013, and on or before June 30,
 28 2015, the period used to calculate monthly average final compensation shall be thirty-six
 29 months plus the number of whole months since July 1, 2013.

1 (B) For transitional purposes, the provisions of this Act as applied to R.S. 11:450(D)
2 and 789(D) shall be phased in as follows:

3 (1) For members entering the Deferred Retirement Option Plan before July 1, 2015,
4 the period of additional service required and utilized to calculate a revised average
5 compensation for the supplemental benefit after Deferred Retirement Option Plan
6 participation shall be equal to thirty-six months plus the number of whole months from July
7 1, 2013, to the date of Deferred Retirement Option Plan entry.

8 (2) For members entering the plan on or after July 1, 2015, the provisions of this Act
9 shall apply.

10 Section 6. The Public Retirement Systems' Actuarial Committee may adopt an
11 actuarial valuation to be utilized in the fiscal year which begins on July 1, 2013, calculated
12 in accordance with R.S. 11:102, which has been prepared on behalf of the division of
13 administration by a member of the American Academy of Actuaries who meets the
14 qualification requirements of the academy to issue a particular statement of actuarial
15 opinion.

16 Section 7.(A) Because the legislature finds and declares that questions of law may
17 be raised by some persons with respect to the constitutionality of some of the provisions of
18 this Act, the public welfare requires that such questions of law be resolved with expedition
19 prior to such time as its provisions take effect in order to avoid disruption of the orderly
20 implementation of its provisions. Therefore, the legislature finds that an expedited hearing
21 schedule for actions filed relative to the constitutionality of any provision of this Act should
22 be immediately made available in order to avoid confusion by the public. Therefore, any
23 domiciliary of this state may institute an action in the Nineteenth Judicial District Court
24 seeking a declaratory judgment to determine the constitutionality of the provisions of this
25 Act. In the interest of further expediting this procedure, the Nineteenth Judicial District
26 Court, First Circuit Court of Appeal, and Louisiana Supreme Court are urged to minimize
27 all unnecessary delays in order to resolve any questions of law no later than thirty days prior
28 to the prefiling deadline for retirement legislation for the 2013 regular legislative session,
29 and the courts may suspend all applicable rules of court for this limited purpose.

1 (B) The retirement systems shall provide for the orderly and equitable
 2 implementation of the provisions of this Act. Such implementation shall be consistent with
 3 the duties required of the systems' fiduciaries. Notwithstanding any other provision of this
 4 Act or law to the contrary, and if required by the duties of the systems' fiduciaries, the
 5 implementation of this Act may be delayed until a final nonappealable judgment is rendered
 6 in any action instituted on or before June 30, 2013, challenging the constitutionality of the
 7 provisions of this Act.

8 Section 8. If a final judgment declares any of the provisions of this Act
 9 unconstitutional or unconstitutional as applied to a particular class of employees, the other
 10 provisions of this Act shall remain in effect and also shall be applicable to all other classes
 11 of employees unrelated to the judgment.

12 Section 9. The provisions of this Act and the provisions of the Acts which originated
 13 as Senate Bill No. 749 and Senate Bill No. 52 of the 2012 Regular Session shall not apply
 14 to any member of the Teachers' Retirement System of Louisiana whose membership in the
 15 system is based solely on employment as a teacher in a public elementary or secondary
 16 school.

17 Section 10. The provisions of this Act shall become effective on June 30, 2012; if
 18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 19 effective on June 30, 2012, or on the day following such approval by the legislature,
 20 whichever is later.

The original instrument was prepared by Laura Gail Sullivan. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Linda Nugent.

DIGEST

Guillory (SB 47)

Present law generally provides for a benefit calculation formula for members of each state system including the Louisiana State Employees' Retirement System (LASERS) and the Teachers' Retirement System of Louisiana (TRSL), typically consisting of:

(years of service) x (accrual rate) x (final average compensation (FAC))

Present law (R.S. 11:403(5) and 701(5)), relative to LASERS and TRSL, provides varying periods of FAC for members of those systems of either 36 or 60 months.

Persons with a 36-month FAC period in present law include:

1. Rank-and-file members of LASERS hired on or before June 30, 2006.
2. Certain elected officials whose state system membership began before Jan. 1, 2011, including:
 - (a) Governor.
 - (b) Lieutenant governor.
 - (c) Legislators.
 - (d) Judges.
 - (e) Treasurer.
3. Certain persons in public safety positions whose state system membership began before Jan. 1, 2011, including:
 - (a) Wildlife agents.
 - (b) Corrections officers.
 - (c) Alcohol-Tobacco Control agents.
 - (d) Probation and parole officers.
 - (e) Bridge police.
4. All members of TRSL whose state system membership began before Jan. 1, 2011.

Persons with a 60-month FAC period in present law include:

1. Rank-and-file members of LASERS hired after June 30, 2006.
2. Elected officials whose state system membership began on or after Jan. 1, 2011, including those listed in (2) above.
3. Members of the Hazardous Duty Services Plan in LASERS, which includes all persons in (3) above whose state system membership began on or after Jan. 1, 2011.
4. All TRSL members whose state system membership began on or after Jan. 1, 2011.

Proposed law retains present law 36-month FAC period for LASERS members who are in "hazardous duty" jobs and for pre-K-12 members of TRSL who have the 36 month FAC currently.

Proposed law further provides that all "non-hazardous duty" employees in LASERS and higher education employees in TRSL shall have a five-year FAC, regardless of the date of hire.

Proposed law specifies that a person who retires on or before June 30, 2013, shall have a 36-month FAC, and that a person who retires on or after July 1, 2015, shall have a 60-month FAC. For any person who retires between the two dates, the FAC period shall be 36 plus the number of whole months that have elapsed since July 1, 2013.

Proposed law provides that in order to have the benefit of a revised FAC for the supplemental benefit, a Deferred Retirement Option Plan (DROP) participant must continue working after DROP for a period of months that equals or exceeds the FAC period used to

calculate his benefit upon DROP entry.

Present law provides that a member who had elected to participate in the optional retirement plan (ORP) in lieu of the defined benefit plan before July 31, 2002, may regain membership in the defined benefit plan. Proposed law retains present law but would authorize anyone who opted to participate in the ORP before December 31, 2007, to regain membership in the defined benefit plan.

Proposed law provides for actuarial calculation of required employer contributions that retain any "savings" from proposed law within the system trust.

Proposed law provides for an expedited hearing process if proposed law is subjected to legal challenge and provides that the implementation of proposed law may be delayed until a final nonappealable judgment is rendered in any such action instituted on or before June 30, 2013. Provides for severability if a court declares any provisions of proposed law to be unconstitutional as applicable to certain members of LASERS and TRSL, retaining application of the Act to the remaining members of the system.

Effective June 30, 2012.

(Amends R.S. 11:102(B)(1) and (3)(a) and (d)(i), (iv), (v), and (vii) and (C)(2), (3), and (4)(a), 403(5)(a)(i) and (b)(i) and (ii), 502(B)(1), and 701(5)(a)(intro para); adds R.S. 11:102(D) and 701(5)(f); repeals R.S. 11:403(5)(b)(iii))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Retirement to the original bill

1. Makes technical corrections.
2. Provides for an expedited hearing process.
3. Expands the agencies which may present actuarial valuations to the Public Retirement Systems' Actuarial Committee for consideration to include the division of administration, for purposes of determining the employer contribution rate to be remitted for the fiscal year beginning July 1, 2012.

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Provides for implementation to begin July 1, 2013. Deletes requirement for the Public Retirement Systems' Actuarial Committee to meet for the purpose of adopting a revised valuation, which was made superfluous by the delayed implementation date.
2. Provides for phase-in of the 60-month FAC period in one-month increments beginning July 1, 2013.
3. Specifies that a member's post-DROP supplemental benefit will be calculated with a post-DROP FAC if the member remains employed after DROP for a period that equals or exceeds the number of months used to calculate his pre-DROP FAC.
4. Provides a mechanism for any "savings" produced by proposed law to remain with the system and to be applied to reduce that system's unfunded accrued liability (UAL).

5. Specifies that proposed law applies to elected officials in office on June 30, 2013; provides, however, for such elected officials to opt out of proposed law by filing a written request with his retirement system.

Senate Floor Amendments to engrossed bill

1. Provides that implementation of the proposed law may be delayed until a final nonappealable judgment is rendered in any legal challenge instituted on or before June 30, 2013.
2. Allows a person who had elected to participate in the optional retirement plan before December 31, 2007, to return to the defined benefit plan.
3. Technical changes relative to the actuarial calculation of employer contributions.