

Regular Session, 2010

HOUSE BILL NO. 453

BY REPRESENTATIVE ROBIDEAUX

RETIREMENT/STATE EMPS: Relative to the La. State Employees' Retirement System, establishes the Hazardous Duty Services Plan

1 AN ACT

2 To enact R.S. 11:62(5)(g) and Subpart D of Part VII of Chapter 1 of Subtitle II of Title 11
3 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 11:611 through
4 620, relative to the Louisiana State Employees' Retirement System; to provide
5 relative to certain enforcement personnel who are members of such system; to
6 provide for calculation of benefits; to provide for contributions; to provide for the
7 creation of a Hazardous Duty Services Plan; to provide for the employee contribution
8 rate, eligibility, calculation of benefits, and certification for members of the
9 Hazardous Duty Services Plan; to provide for disability and survivors benefits; to
10 provide for transfers to the Hazardous Duty Services Plan; to provide for an effective
11 date; and to provide for related matters.

12 Notice of intention to introduce this Act has been published
13 as provided by Article X, Section 29(C) of the Constitution
14 of Louisiana.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 11:62(5)(g) and Subpart D of Part VII of Chapter 1 of Subtitle II of
17 Title 11 of the Louisiana Revised Statutes of 1950, comprised of R.S. 11:611 through 620,
18 are hereby enacted to read as follows:

19 §62. Employee contribution rates established

20 Employee contributions to state and statewide public retirement systems shall
21 be paid at the following rates:

22 * * *

1 (5) Louisiana State Employees' Retirement System:

2 * * *

3 (g) Members of the Hazardous Duty Services Plan, as defined in R.S. 11:611

4 - 9.5%.

5 * * *

6 SUBPART D. HAZARDOUS DUTY SERVICES PLAN

7 §611. Creation of Hazardous Duty Services Plan

8 A.(1) The legislature recognizes that certain state service requires employees
9 to carry weapons and routinely be put in harm's way. These hazardous duty services
10 employees, because of the dangerous and unpredictable nature of their
11 responsibilities, should be entitled to unique retirement benefits.

12 (2) The legislature further recognizes that current law provides myriad
13 hazardous duty services plans, but that a single plan applied consistently and
14 comprehensively to all hazardous duty services positions is preferred.

15 (3) The legislature further recognizes the need for an adequate funding
16 source for all retirement benefits as required by Article X, Section 29 of the
17 Constitution of Louisiana. The Hazardous Duty Services Plan is therefore created
18 for persons hired on or after January 1, 2011, in hazardous duty positions, as defined
19 in this Subpart.

20 (4) Funding for this plan shall be actuarially sound with employee and
21 employer contribution rates calculated and established at levels necessary to fund all
22 benefits provided.

23 (5) Members of existing hazardous duty plans may retain membership in
24 those plans.

25 B. Any other provisions of this Chapter or any other laws to the contrary
26 notwithstanding, the retirement of hazardous duty services employees shall be
27 governed by the provisions of this Subpart; however, if provisions of this Chapter
28 cover matters not specifically addressed by the provisions of this Subpart or if any

1 of the provisions of this Chapter are made applicable in this Subpart, then those
2 provisions shall apply to members governed by this Subpart.

3 §612. Application; definitions

4 Terms not specifically defined in this Section shall have the meanings
5 provided in R.S. 11:403 unless a different meaning is clearly required by the context.

6 For purposes of this Subpart:

7 (1) "Average compensation" means the average annual earned compensation
8 of a member for the sixty highest months of successive employment, or for the
9 highest sixty successive joined months of employment where interruption of service
10 occurred; however, average compensation for part-time employees who do not use
11 sixty months of full-time employment for average compensation purposes shall be
12 based on the base pay the part-time employee would have received had he been
13 employed on a full-time basis.

14 (2) "Member" or "members" shall include:

15 (i) Wildlife agents of the enforcement division of the Department of Wildlife
16 and Fisheries.

17 (ii) Wardens, correctional officers, security personnel, and probation and
18 parole officers employed by the Department of Public Safety and Corrections.

19 (iii) Employees of the bridge police section of the Crescent City Connection
20 Division of the Department of Transportation and Development.

21 (iv) Full-time law enforcement personnel, supervisors, and administrators
22 who are employed with the Department of Revenue, office of alcohol and tobacco
23 control, who are P.O.S.T.-certified, who have the power to arrest, and who hold a
24 commission from such office.

25 (v) Peace officers, as defined by R.S. 40:2402(3)(a), employed by the
26 Department of Public Safety and Corrections, office of state police, other than state
27 troopers.

1 (vi) Arson investigators employed by the office of state fire marshal who are
2 P.O.S.T.-certified, who have the power to arrest, and who hold a commission from
3 such office.

4 (vii) Park rangers employed by the Department of Culture, Recreation and
5 Tourism, office of state parks, who are P.O.S.T.-certified, who have the power to
6 arrest, and who hold a commission from such office.

7 (viii) Campus police officers employed by the various colleges and
8 universities, who are P.O.S.T.-certified, who have the power to arrest, and who hold
9 a commission from such office.

10 (ix) Hospital security officers employed by Louisiana State University
11 Health Sciences Center, who are P.O.S.T.-certified, who have the power to arrest,
12 and who hold a commission from such office.

13 (x) Investigators of the Department of Justice who are in a position required
14 to be P.O.S.T.-certified.

15 (xi) All personnel employed in a position required to be P.O.S.T.-certified,
16 who have the power to arrest, and who hold a commission from such office, who are
17 otherwise members of the Louisiana State Employees' Retirement System, and are
18 not members of any other retirement system.

19 (3) "Plan" means the Hazardous Duty Services Plan created by this Subpart
20 for certain hazardous duty services employees within the Louisiana State Employees'
21 Retirement System.

22 (4) "Qualified Survivors" means a surviving spouse, a minor child as defined
23 in R.S. 11:403, and a handicapped or mentally incapacitated child.

24 (5) "System" means the Louisiana State Employees' Retirement System.

25 §613. Eligibility for membership

26 Each person who becomes an employee in state service in one of the
27 positions enumerated in R.S. 11:612(2), or who transfers to the plan pursuant to R.S.
28 11:620, shall become a member of the Hazardous Duty Plan of the system as a
29 condition of employment.

1 §614. Eligibility for retirement

2 A. Any member shall be eligible for retirement if he has:

3 (1) Twenty-five years or more of service, at any age.

4 (2) Ten years or more of service, at age sixty or thereafter.

5 (3) Twenty years of service credit at any age, exclusive of military service

6 and unused annual and sick leave, but any person retiring under this Paragraph shall

7 have his benefit, inclusive of military service credit and allowable unused annual and

8 sick leave, actuarially reduced. Any member retiring under this Paragraph who is

9 in state service at the time of his retirement shall have his benefit actuarially reduced

10 from the earliest age that he would normally become eligible for a regular retirement

11 benefit under Paragraph (1) or (2) of this Subsection if he had continued in service

12 to that age. Any member retiring under this Paragraph who is out of state service at

13 the time of his retirement shall have his benefit actuarially reduced from the earliest

14 age that he would normally become eligible for a regular retirement benefit under

15 Paragraph (1) or (2) of this Subsection based upon his years of service as of the date

16 of retirement. Any employee who elects to retire under the provisions of this

17 Paragraph shall not be eligible to participate in the Deferred Retirement Option Plan

18 provided by R.S. 11:447 or the Initial Benefit Option provided by R.S. 11:446(A)(5).

19 B. Notwithstanding Subsection A of this Section, to be eligible to retire

20 under this plan, the member's last ten years of system eligible service must have been

21 in one of the hazardous duty positions defined in R.S. 11:612(2). With less than ten

22 years hazardous duty service, he shall be eligible to retire at two and one-half percent

23 of his average compensation for the actual number of years of service credit provided

24 he has sufficient system service as required in Subsection A of this Section.

25 §615. Retirement benefit

26 A. A member shall receive a retirement benefit, except as provided in R.S.

27 11:614(B), equal to three and one-third percent of average compensation for every

28 year of creditable service in the Hazardous Duty Services Plan, not to exceed one

29 hundred percent of the member's average compensation.

1 B. Retirement benefits for members who had service in nonhazardous duty
2 or service under existing plans prior to entering the Hazardous Duty Services Plan
3 shall upon retirement eligibility receive a retirement benefit for that prior service
4 based on the applicable accrual rate when earned.

5 C. Upon application for retirement, members of this plan may choose any
6 of the options specified in R.S. 11:446.

7 §616. Deferred Retirement Option Plan

8 A member, except as specified in R.S. 11:614(A)(3), shall have the option of
9 participating in the Deferred Retirement Option Plan in accordance with the
10 provisions of R.S. 11:447 through 454.

11 §617. Disability retirement

12 A. Upon approval of a member's retirement based upon a total and permanent
13 disability resulting solely from injuries sustained in the performance of his official
14 duties, a member shall receive a disability benefit equal to seventy-five percent of
15 his average compensation regardless of years of service. This benefit is payable only
16 if the injury or injuries were sustained while on active duty status.

17 B. If a member's disability occurs for reasons other than in the performance
18 of his duties and the member has earned at least ten years of hazardous duty service
19 credit, then the member shall be entitled to disability benefits under the provisions
20 of R.S. 11:461(B)(1), except for R.S. 11:461(B)(2).

21 C. The disability retirement procedures contained in R.S. 11:216 through
22 225, which are not in conflict with this Section, shall apply to members.

23 §618. Survivor's benefit for members killed in the line of duty

24 A. If a member's death occurs in the line of duty or is a direct result of an
25 injury sustained while in the line of duty, survivor benefits shall be payable to
26 qualified survivors as provided for in this Section, except that a survivor shall be
27 eligible for benefits under this Section without regard to the amount of time that the
28 surviving spouse was married to the deceased member and without regard to the

1 amount of time that the deceased was a member of this plan. This benefit is payable
2 only if the injury or injuries were sustained while on active duty status.

3 B. If the member has a surviving spouse, minor, or handicapped or mentally
4 incapacitated child or children, the amount of the total benefit shall equal eighty
5 percent of the member's average compensation. The benefit shall be shared equally
6 by the surviving spouse and children. When a child who is not handicapped or
7 mentally incapacitated no longer meets the definition of minor child under R.S.
8 11:403, his benefit shall cease, and the remaining beneficiaries shall have their
9 shares adjusted accordingly.

10 C. The provisions of R.S. 11:472 through 477, concerning procedures for
11 payment of survivor benefits which are not in conflict with this Section, shall apply
12 to members.

13 §619. Survivor's benefit for death other than in the line of duty

14 A. The surviving spouse or children of any active member whose death
15 occurs other than in the performance of his duties shall have the same pension rights
16 as provided in R.S. 11:471.

17 B. The provisions of R.S. 11:472 through 477, concerning procedures for
18 payment of survivor benefits which are not in conflict with this Section, shall apply
19 to members.

20 §620. Transfer of other service credit

21 A. Any member who would otherwise be eligible for benefits under the plan
22 except that he was employed prior to January 1, 2011, and who has not participated
23 in the Deferred Retirement Option Plan, shall have the right to irrevocably elect to
24 become a member of the plan by submitting an application to the board of trustees
25 to be effective on or after January 1, 2011.

26 B. Any member who elects to join the Hazardous Duty Services Plan from
27 another plan shall have the option of:

1 (1) Maintaining prior service credit at the accrual rate and eligibility
2 requirements at which it was earned and earning the plan accrual rate and eligibility
3 requirements for all hazardous duty service credit earned after the date of joining.

4 (2)(a) An internal actuarial transfer in accordance with the provisions of R.S.
5 11:143(C) and (D) where LASERS is both the transferring and receiving system in
6 which the member transfers his entire service credit from all LASERS plans and
7 maintains prior service credit at the accrual rate at which it was earned in the other
8 plan prior to joining the Hazardous Duty Services Plan. Also, in accordance with
9 R.S. 11:143(D), the member may at his option, but only at the time of the transfer,
10 be granted an amount of credit in the Hazardous Duty Services Plan based on the
11 amount of funds transferred.

12 (b) A member choosing an internal actuarial transfer shall be eligible to
13 upgrade any service credit that was actuarially transferred pursuant to this Subsection
14 to the accrual rate of the Hazardous Duty Services Plan by paying an amount that
15 totally offsets the increase in actuarial liability resulting from the upgrade in
16 accordance with R.S. 11:158.

17 C. An employee who would otherwise be eligible to become a member of the
18 plan by virtue of accepting a position which would otherwise qualify him for such
19 membership after January 1, 2011, may elect not to join the plan if he has service
20 credit in an existing LASERS plan or another state or statewide system. The
21 employee may elect to remain a member of only that system in which he has existing
22 service credit.

23 Section 2. The cost of this Act, if any, shall be funded as otherwise provided in the
24 Act and with additional employer contributions in compliance with Article X, Section
25 29(E)(5)(b) of the Constitution of Louisiana.

26 Section 3. This Act shall become effective on July 1, 2010; if vetoed by the governor
27 and subsequently approved by the legislature, this Act shall become effective on July 1,
28 2010, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Robideaux

HB No. 453

Abstract: Relative to the La. State Employees' Retirement System (LASERS), establishes the Hazardous Duty Services Plan for certain members of LASERS who are law enforcement personnel hired on or after Jan. 1, 2011. Establishes an employee contribution rate of 9.5% and retirement eligibility requirements for such members at 25 years of service at any age, 10 years of service at age 60, and 20 years of service early retirement at an actuarially reduced rate. Establishes an accrual rate of 3-1/3% for every year of service for members. Establishes disability retirement benefits for such persons at 75% of average compensation for in-the-line-of duty disability. Establishes survivor benefits for members killed in the line of duty at 80% of average compensation. Provides for transfers of individuals performing hazardous duty service from other plans.

Present law provides generally for several plans for certain hazardous duty personnel, including plans for:

- (1) Wildlife agents of the enforcement division of the Dept. of Wildlife and Fisheries.
- (2) Wardens, correctional officers, security personnel, and probation and parole officers employed by the Dept. of Public Safety and Corrections (DPS&C).
- (3) Full-time law enforcement personnel, supervisors, and administrators who are employed with the Dept. of Revenue, office of alcohol and tobacco control, who are Peace Officers Standard and Training (P.O.S.T.)-certified, who have the power to arrest, and who hold a commission from such office.
- (4) Peace officers, as defined by R.S. 40:2402(3)(a), employed by DPS&C, office of state police, other than state troopers.

Such provisions of present law typically provide members of those plans with enhanced provisions compared with the provisions generally applicable to LASERS members, such as a 3-1/3% accrual rate and enhanced disability and survivor benefits for injuries or death sustained in the line of duty.

Proposed law generally creates the Hazardous Duty Services Plan within LASERS for certain law enforcement personnel hired on or after Jan. 1, 2011, who are members of LASERS, and provides that members of existing hazardous duty plans may retain membership in those plans. Provides that with respect to any matters not addressed within the provisions of the Hazardous Duty Services Plan, the generally applicable LASERS provisions shall apply. The law enforcement personnel eligible for the Hazardous Duty Services Plan include the following persons hired on or after Jan. 1, 2011:

- (1) Wildlife agents of the enforcement division of the Dept. of Wildlife and Fisheries.
- (2) Wardens, correctional officers, security personnel, and probation and parole officers employed by DPS&C.
- (3) Employees of the bridge police section of the Crescent City Connection Division of DOTD.

- (4) Full-time law enforcement personnel, supervisors, and administrators who are employed with the Dept. of Revenue, office of alcohol and tobacco control, who are P.O.S.T.-certified, who have the power to arrest, and who hold a commission from such office.
- (5) Peace officers, as defined by R.S. 40:2402(1)(a), employed by DPS&C, office of state police, other than state troopers.
- (6) Arson investigators employed by the office of state fire marshal who are P.O.S.T.-certified, who have the power to arrest, and who hold a commission from such office.
- (7) Park rangers employed by the Dept. of Culture, Recreation and Tourism, office of state parks, who are P.O.S.T.-certified, who have the power to arrest, and who hold a commission from such office.
- (8) Campus police officers employed by the various colleges and universities, who are P.O.S.T.-certified, who have the power to arrest, and who hold a commission from such office.
- (9) Hospital security officers employed by LSU Health Sciences Center, who are P.O.S.T.-certified, who have the power to arrest, and who hold a commission from such office.
- (10) Investigators of the Dept. of Justice who are in a position required to be P.O.S.T.-certified.
- (11) All personnel employed in a position required to be P.O.S.T.-certified, who have the power to arrest, and who hold a commission from such office, who are otherwise members of LASERS and are not members of any other retirement system.

Employee Contributions

Present law (R.S. 11:62(5)) provides that members of LASERS primary component shall pay an employee contribution rate of 7.5% (if employed on or before June 30, 2006) or 8% (if employed on or after July 1, 2006).

Proposed law provides that members of the Hazardous Duty Services Plan shall pay 9.5%.

Average Compensation

Present law (R.S. 11:231 and 403(5)(a) and (b)) provides that average compensation is based on the 36 highest months of employment for LASERS members employed on or before June 30, 2006. Provides that for members employed on or after July 1, 2006, average compensation is based on the 60 highest months of employment.

Proposed law provides that the average compensation of members of the Hazardous Duty Services Plan shall be for the 60 highest months of employment.

Retirement Eligibility

Present law (R.S. 11:441(A)(1)), relative to LASERS regular retirement, provides that any member hired on or before June 30, 2006, shall be eligible for retirement if he has:

- (1) 30 years or more of service, at any age.
- (2) 25 years or more of service, at age 55 or thereafter.

- (3) 10 years or more of service, at age 60 or thereafter.
- (4) 20 years of service credit at any age, exclusive of military service and unused annual and sick leave, but shall be actuarially reduced from the earliest age that he would normally become eligible for a regular retirement benefit under (1), (2), or (3) above if he had continued in service to that age. Provides that any employee who elects to retire under this option (4) shall not be eligible to participate in the Deferred Retirement Option Plan (DROP) or the Initial Benefit Option (IBO).

Present law (R.S. 11:441(A)(2)) provides that any member hired on or after July 1, 2006, shall be eligible for retirement if he has 10 years or more of service, at age 60 or thereafter.

Proposed law provides that members of the Hazardous Duty Services Plan shall be eligible for retirement with:

- (1) 25 years or more of service, at any age.
- (2) 10 years or more of service, at age 60 or thereafter.
- (3) 20 years of service credit at any age, exclusive of military service and unused annual and sick leave, but shall be actuarially reduced from the earliest age that he would normally become eligible for a regular retirement benefit under (1) or (2) above if he had continued in service to that age. Provides that for a person who is in state service at the time of retirement, his benefit shall be reduced from the earliest age that he would normally become eligible for regular retirement, as though he had continued working to that age. For a person out of state service at the time of retirement, the years of service he has accrued at the time of retirement shall be used to determine the earliest age that he would normally become eligible for regular retirement. Provides that any employee who elects to retire under this option (3) shall not be eligible to participate in DROP or IBO.

Proposed law further provides that in order to be eligible to retire under the Hazardous Duty Services Plan, the member's last 10 years of LASERS service must have been in a hazardous duty position; otherwise such person shall receive 2-1/2% of his average compensation for each year of service provided he has sufficient years of service to be eligible to retire under the Hazardous Duty Services Plan.

Retirement Benefit

Present law (R.S. 11:444) provides that rank-and-file LASERS retirees shall receive a maximum retirement allowance equal to 2.5% of average compensation for every year of creditable service.

Proposed law provides that members of the Hazardous Duty Services Plan shall receive a retirement benefit equal to 3-1/3% of average compensation for every year of service. Members who have any service in nonhazardous duty or service prior to entering the Hazardous Duty Services Plan, shall receive the rate otherwise applicable to such service when it was earned.

Present law (R.S. 11:446) provides that upon retirement, a LASERS member may elect to receive his benefit payable throughout his life or throughout the life of his beneficiary, subject to certain actuarial reductions.

Proposed law retains present law and allows members of the Hazardous Duty Services Plan to make the same election.

Present law (R.S. 11:447-454) generally provides for membership in the Deferred Retirement Option Plan (DROP).

Proposed law retains present law and allows members of the Hazardous Duty Services Plan to participate in DROP.

Disability Retirement

Present law (R.S. 11:461(B)(3)(a)) provides that for any disability retiree employed on or before June 30, 2006, or who has attained the age of 60, the disability retiree may retire under any regular retirement plans that apply to him (and therefore shall earn a benefit at the applicable accrual rate of such plan). Present law (R.S. 11:461(B)(3)(b)) provides that for any disability retiree employed on or after July 1, 2006, and who has not attained the age of 60, the disability retiree shall receive a disability benefit equal to 2.5% of average compensation for every year of creditable service.

Proposed law provides that for injuries sustained in the line of service, a member of the Hazardous Duty Services Plan shall receive a disability benefit equal to 75% of his average compensation, regardless of years of service. If the injury is sustained other than in the line of service and the member has at least 10 years of hazardous duty service, he shall receive a disability benefit which is equivalent to the regular retirement formula, without reduction by reason of age.

Survivors Benefits

Present law (R.S. 11:471) provides generally for survivor benefits of members of LASERS.

Proposed law retains present law and provides that if a member's death occurs in the line of duty, when there is a spouse and minor, handicapped, or mentally incapacitated child or children, the survivor benefit shall be 80% of the member's average compensation. The benefit shall be shared equally by the spouse and children. When a child who is not handicapped or mentally incapacitated reaches the age of majority, or 23 if a full-time student, their benefit shall cease, and the remaining beneficiaries shall have their shares adjusted accordingly.

Proposed law provides that if the member's death occurs other than in the line of duty, the surviving spouse or children shall have the same pension rights as provided in present law (R.S. 11:471).

Transfers to Hazardous Duty Services Plan

Proposed law provides that any member of a hazardous duty plan existing under present law, within LASERS, or any other member of LASERS who performs hazardous duty and qualifies as a "member" as that term is defined in proposed law, may irrevocably choose to become a member of the Hazardous Duty Services Plan. Any such member who elects to do so shall have the option of:

- (1) Maintaining prior service credit at the accrual rate and eligibility requirements at which it was earned in the previous plan, and earning the Hazardous Duty Services Plan accrual rate and eligibility requirements for all hazardous duty service earned after the date of joining; or
- (2) An internal actuarial transfer in accordance with present law (R.S. 11:143(C) and (D)), where LASERS will be considered both the transferring system and the receiving system, in which the member transfers his entire service credit from all LASERS plans but maintains prior service at the accrual rate at which it was earned in the prior plan. Also, the member may, but only at the time of transfer, be granted an amount of credit in the Hazardous Duty Services Plan based upon the amount of funds transferred.

- (3) A member who chooses the internal actuarial transfer may also upgrade any service credit that was actuarially transferred by paying an amount that totally offsets the increase in actuarial liability resulting from the upgrade in accordance with present law (R.S. 11:158).

Proposed law provides that a member who would otherwise be eligible for the Hazardous Duty Services Plan by accepting a job after Jan. 1, 2011, that would make him so eligible, may choose not to become a member of such plan if he has prior LASERS service or service credit in another state or statewide retirement system. Such a member who makes such an election may only remain a member of the system in which he already has service credit.

Proposed law requires that any cost of proposed law be funded as provided in proposed law and with additional employer contributions in compliance with Art. X, §29(E)(5)(b) of the state constitution.

Effective July 1, 2010.

(Adds R.S. 11:62(5)(g) and 611-620)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Retirement to the original bill.

1. Relative to members having 20 years of service at any age choosing early retirement, provided that for a person who is in state service at the time of retirement, his benefit shall be reduced from the earliest age that he would normally become eligible for regular retirement, as though he had continued working to that age. For a person out of state service at the time of retirement, the years of service he has accrued at the time of retirement shall be used to determine the earliest age that he would normally become eligible for regular retirement.