

Regular Session, 2010

HOUSE BILL NO. 72

BY REPRESENTATIVE LABRUZZO

RETIREMENT BENEFITS: Prohibits a public servant convicted of an office-related felony from receiving retirement benefits

1 AN ACT

2 To amend and reenact the heading of Subpart L of Part II of Chapter 4 of Subtitle I of Title  
3 11 of the Louisiana Revised Statutes of 1950 and R.S. 11:570, 951.3, 952.3, 1378,  
4 1735(A), 1905, 3014, 3051, 3111, 3140, 3198, 3229, 3321(A), 3345, 3389, 3408,  
5 3440, 3470, 3513, 3608(A), 3691, 3770, 3800, and 3823 and R.S. 13:3881(D)(1) and  
6 to enact R.S. 11:293, relative to public retirement benefits; to provide relative to  
7 public servants who are members, former members, or retirees of public retirement  
8 systems; to require the forfeiture of retirement benefits by such persons who are  
9 convicted of certain felonies related to their offices; to provide relative to the  
10 employer and employee contributions on behalf of such persons; to provide for  
11 repayment of benefits already received by such persons; to provide for confiscation  
12 of employee contributions to satisfy criminal fines and restitution; to require certain  
13 entities to report such office-related felonies; and to provide for related matters.

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

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. The heading of Subpart L of Part II of Chapter 4 of Subtitle I of Title 11  
19 of the Louisiana Revised Statutes of 1950 and R.S. 11:570, 951.3, 952.3, 1378, 1735(A),  
20 1905, 3014, 3051, 3111, 3140, 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470, 3513,  
21 3608(A), 3691, 3770, 3800, and 3823 and R.S. 13:3881(D)(1) are hereby amended and  
22 reenacted and R.S. 11:293 is hereby enacted to read as follows:

1                   SUBPART L. APPLICABILITY OF CERTAIN ~~COURT ORDERS~~

2   LEGAL DETERMINATIONS

3   \*       \*       \*

4           §293. Forfeiture of retirement benefits; public corruption crimes

5                   A. As used in this Section, the following words or phrases shall have the  
6           following meanings:

7                                   (1) "Conviction" or "convicted" means a criminal conviction, guilty plea, or  
8           plea of nolo contendere that is final, and all appellate review of the original trial  
9           court proceedings is exhausted.

10                                  (2) "Public Corruption Crime" means a state or federal felony offense for  
11           any of the following crimes, or conspiracy to commit any of the following crimes,  
12           for which conspiracy is not an element, or attempt to commit the following crimes  
13           associated with a person's public service, which offense was committed after the  
14           effective date of this Section:

15                                  (a) The theft of public money or thing entrusted to such individual as part of  
16           his official duties.

17                                  (b) Extortion (R.S. 14:66).

18                                  (c) Perjury (R.S. 14:123 and 124).

19                                  (d) Public bribery (R.S. 14:118).

20                                  (e) Corrupt influencing (R.S. 14:120).

21                                  (f) Obstruction of justice (R.S. 14:130.1).

22                                  (g) Malfeasance in office (R.S. 14:134, 134.1, and 134.2).

23                                  (h) Abuse of office (R.S. 14:134.3)

24                                  (i) Public salary extortion (R.S. 14:136).

25                                  (j) Public payroll fraud (R.S. 14:138).

26                                  (k) Political payroll padding (R.S. 14:139).

27                                  (l) Public contract fraud (R.S. 14:140).

28                                  (m) Bribery of public officials and witnesses (18 U.S.C. 201).

29                                  (n) Offer to procure appointive public office (18 U.S.C. 210).

- 1           (o) Acceptance or solicitation to obtain appointive public office (18 U.S.C.  
2           211).
- 3           (p) Conspiracy to defraud the government with respect to claims (18 U.S.C.  
4           286).
- 5           (q) False, fictitious, or fraudulent claims (18 U.S.C. 287).
- 6           (r) Conspiracy to commit offense or to defraud the United States (18 U.S.C.  
7           371).
- 8           (s) Expenditures to influence voting (18 U.S.C. 597).
- 9           (t) Promise of appointment by candidate (18 U.S.C. 599).
- 10          (u) Solicitation of political contributions (18 U.S.C. 602).
- 11          (v) Intimidation to secure political contributions (18 U.S.C. 606).
- 12          (w) Place of solicitation (18 U.S.C. 607).
- 13          (x) Theft of public money, property, or records (18 U.S.C. 641).
- 14          (y) Embezzlement or theft by court officers (18 U.S.C. 645).
- 15          (z) Theft or bribery concerning programs receiving federal funds (18 U.S.C.  
16          666).
- 17          (aa) Extortion by officers or employees of the United States (18 U.S.C. 872).
- 18          (bb) Kickbacks from public works employees (18 U.S.C. 874).
- 19          (cc) Fraudulent or false statements or entries (18 U.S.C. 1001).
- 20          (dd) Frauds and swindles (18 U.S.C. 1341).
- 21          (ee) Fraud by wire, radio, or television (18 U.S.C. 1343).
- 22          (ff) Influencing or injuring officer or juror (18 U.S.C. 1503).
- 23          (gg) Interference with commerce by threats or violence (18 U.S.C. 1951).
- 24          (hh) Interstate and foreign travel or transportation in aid of racketeering  
25          enterprises (18 U.S.C. 1952).
- 26          (ii) Prohibited activities (18 U.S.C. 1962).
- 27          (3) "Public retirement system" means any state, statewide, or any local  
28          public retirement system, plan, or fund.

1           (4) "Public servant" means a public employee or an elected official as  
2           defined in R.S. 42:1102, whether a member, former member, or retiree under the  
3           provisions of any public retirement system.

4           B. Any public servant who is convicted for the commission of a public  
5           corruption crime shall forfeit all rights and benefits under and membership in any  
6           public retirement system in which he is a member. Any such individual shall have  
7           his employee contributions refunded except as provided in Subsection E of this  
8           Section.

9           C. Any person subject to forfeiture of retirement benefits under this Section  
10           who has received retirement benefits in excess of the benefits permitted in  
11           Subsection B of this Section shall repay the retirement system the amount of the  
12           excess benefits plus interest. If such person fails to pay back such amount, the  
13           system may bring an action in civil court to recover such amount plus court costs and  
14           legal interest from the date of forfeiture.

15           D. The provisions of Subsection B of this Section shall not apply to any  
16           defined contribution plan; however, any public servant convicted of a public  
17           corruption crime who is in a defined contribution plan shall forfeit the ability to  
18           participate in such plan. All contributions being remitted to such plan on behalf of  
19           such public servant shall cease.

20           E.(1)(a) Upon conviction of a public servant of a public corruption crime,  
21           if the court orders restitution as part of the sentence imposed pursuant to Code of  
22           Criminal Procedure Article 883.2 or any specific criminal statute, all employee  
23           contributions otherwise refundable under this Section shall be available to satisfy the  
24           order of restitution. The system, upon being served with a copy of the court's order  
25           after conviction, shall pay the amount necessary to satisfy the court order, to the  
26           extent possible, from such employee contributions.

27           (b) Upon conviction of a public servant of a public corruption crime, if the  
28           court orders payment of a fine as part of the sentence imposed, all employee  
29           contributions otherwise refundable under this Section shall be available to satisfy the

1 court-ordered fine. The system, upon being served with a copy of the court's order,  
2 shall make available to the sheriff or executive officer of the court of conviction such  
3 employee contributions to the extent necessary to satisfy the court order. After  
4 collection by the sheriff or court officer, the monies will be disposed of as otherwise  
5 provided in R.S. 15:571.11.

6 (2) If the employee contributions are not sufficient to satisfy both an order  
7 for restitution and a fine, the employee contributions refundable under this Section  
8 shall be proportionally divided for the satisfaction of both the restitution and the fine.

9 (3) The provisions of this Section shall supersede any provision of law  
10 exempting public retirement benefits from garnishment, attachment, seizure, or other  
11 process.

12 (4) Any employee contributions remaining after satisfaction of an order for  
13 restitution or fine shall be refunded to the public servant without interest.

14 F.(1) A parish prosecutor shall inform the secretary of the Department of  
15 Public Safety and Corrections in writing when a conviction for a public corruption  
16 crime is entered against a person who the prosecutor knows, or has reason to believe,  
17 is a member of a public retirement system and who is subject to the provisions of this  
18 Section. The secretary shall compile such information and transmit it to the  
19 appropriate public retirement system.

20 (2) The secretary of state, upon being notified by a United States attorney of  
21 a felony conviction for a federal public corruption crime listed in Paragraph (A)(2)  
22 of this Section, whether or not such conviction qualifies as a conviction as defined  
23 by this Section, shall promptly transmit to each public retirement system information  
24 pertaining to such conviction. Each public retirement system shall determine if the  
25 provisions of this Section apply to the person convicted of such felony and shall  
26 determine if such conviction qualifies as a conviction as that term is defined by this  
27 Section.

28 G. The board of trustees or other governing authority of each public  
29 retirement system shall prescribe any rules or regulations necessary to carry out the

1 provisions of this Section. Such rules or regulations shall specifically provide for the  
2 payment to the spouse or minor or handicapped children of a public servant  
3 convicted of a public corruption crime of any retirement benefits, which except for  
4 this Section, would otherwise have been payable to such public servant. Such rules  
5 or regulations shall include provisions to ensure that the authority to make such  
6 payments to such spouse or minor or handicapped children shall be available only  
7 to the extent that such payments are necessary and appropriate, considering the  
8 following factors:

9 (1) The financial needs of such spouse or minor or handicapped children.

10 (2) Whether the spouse or minor or handicapped children participated in the  
11 crime for which the public servant was convicted.

12 (3) What measures, if any, may be necessary to ensure that the public servant  
13 does not benefit from any such payment.

14 \* \* \*

15 §570. Exemption from execution

16 Any annuity, retirement allowance or benefit, or refund of contributions, or  
17 any optional benefit or any other benefit paid or payable to any person under the  
18 provisions of this Subpart is exempt from state or municipal tax, and is exempt from  
19 levy and sale, garnishment, attachment, or any other process whatsoever, except as  
20 provided in R.S. 11:293, and is unassignable.

21 \* \* \*

22 §951.3. Pensions, benefits, etc., exemption from seizure

23 The right of a person to a pension, an annuity, or a retirement allowance, to  
24 the return of contributions, the pension, annuity, or retirement allowance itself, or  
25 any other right accrued or accruing to any person under the provisions of this Part  
26 and the money in the various accounts created by this Part shall not be subject to  
27 execution, garnishment, attachment, or any other process whatsoever, except as

1 provided in R.S. 11:293, and shall be unassignable except as specifically provided  
2 for in this Part.

3 \* \* \*

4 §952.3. Exemption of pension and other rights from levy and other processes

5 The right of a person to a retirement allowance, or to the return of  
6 contributions; the retirement allowance itself; any optional benefit or any other right  
7 accrued or accruing to any person under the provisions of this Part; and the ~~moneys~~  
8 monies in the funds created by this Part are exempt from any state or municipal tax,  
9 and exempt from levy and sale, garnishment, attachment, or any other process  
10 whatsoever, except as provided in R.S. 11:293, and shall be unassignable except as  
11 otherwise specifically provided in this Part.

12 \* \* \*

13 §1378. Retirement pay or pension; exemption from taxes and execution

14 Any retirement pay or pension paid to any judge or the surviving spouse of  
15 any judge under the unfunded judicial retirement plan is exempt from any state or  
16 municipal income tax, and is exempt from levy and sale, garnishment, attachment,  
17 or any other process whatsoever, except as provided in R.S. 11:293.

18 \* \* \*

19 §1735. Exemption from execution

20 A. The following items are hereby exempt from any state or municipal tax  
21 and from levy and sale, garnishment, attachment, or any other process whatsoever  
22 as provided in this Chapter, except as provided in R.S. 11:292 and 293: the right of  
23 a person to a pension, an annuity, or a retirement allowance, or to the return of  
24 contributions, the pension, annuity, or retirement allowance itself, any optional  
25 benefit or any other right accrued or accruing to any person, and the ~~moneys~~ monies  
26 in various funds created by this Chapter. These enumerated items shall be  
27 unassignable, except as in this Chapter specifically otherwise provided. Benefits  
28 paid under this Chapter shall be exempt from state income tax. If the contributions  
29 of an employee are paid by a municipality in order to secure credit for back service,

1 these funds may be assigned to the municipality until such time as the employee has  
2 repaid contributions so paid or the municipality has released the contributions so  
3 paid by written notice to the board of trustees of the Municipal Employees'  
4 Retirement System.

5 \* \* \*

6 §1905. Exemption from execution

7 The following items are hereby exempt from any state or municipal tax and  
8 from levy and sale, garnishment, attachment, or any other process whatsoever as  
9 provided in this Chapter, except as provided in R.S. ~~42:720.21~~ 11:293; the right of  
10 a person to a pension, an annuity, or a retirement allowance, or to the return of  
11 contributions, the pension, annuity, or retirement allowance itself, any optional  
12 benefit or any other right accrued or accruing to any person, and the ~~moneys~~ monies  
13 in various funds created by this Chapter. These enumerated items shall be  
14 unassignable, except as in this Chapter specifically otherwise provided. Benefits  
15 paid under this Chapter shall be exempt from state income tax. If the contributions  
16 of an employee are paid by an employer in order to secure credit for service, these  
17 funds may be assigned to the employer until such time as the employee has repaid  
18 contributions so paid or the employer has released the contributions so paid by  
19 written notice to the board.

20 \* \* \*

21 §3014. Exemptions from execution

22 The right of a person to an annuity, a retirement allowance, or benefit, or to  
23 the return of contributions, or to any optional benefit or any other right accrued or  
24 accruing to any person under the provisions of this Part, and the monies in the system  
25 created by this Part, ~~is~~ are hereby exempt from any state or municipal tax, and  
26 exempt from levy and sale, garnishment, attachment, or any other process  
27 whatsoever, except as provided in R.S. 11:293, and shall be unassignable except as  
28 in this Part specifically otherwise provided.

29 \* \* \*



1 §3051. Assignment prohibited

2 The right of a person to an annuity, a pension or any other benefit or refund,  
3 or any right accrued or accruing to any member or beneficiary under the provisions  
4 of this system, and the monies belonging to the system, shall be unassignable and  
5 shall not be subject to execution, garnishment, attachment, the operation of  
6 bankruptcy, or the insolvency law or any other process of law except as specifically  
7 provided by the provisions of this system and in R.S. 11:293, and except that the ~~City~~  
8 city shall have the right to set off funds for any claim arising from embezzlement by  
9 or fraud of a member.

10 \* \* \*

11 §3111. Exemption from seizure and attachment

12 ~~No~~ Except as provided in R.S. 11:293, no portion of the said Firemen's  
13 Pension and Relief Fund shall, before or after its order for distribution is issued by  
14 the said Board of Trustees to the person or persons entitled thereto under the  
15 provisions of this Part, be held, seized, or levied upon, by virtue of any attachment,  
16 garnishment, execution, or order or decree, or any other process whatsoever, issued  
17 out of or by any court, for the payment or satisfaction, in whole or in part, of any  
18 debt, damage, claim, judgment, or decree against any beneficiary of such Fund; but  
19 shall be exempt therefrom. ~~That the said~~ The Fund shall be kept, held, and  
20 distributed for no purposes other than those provided for in this Part.

21 \* \* \*

22 §3140. Exemption from seizure and attachment

23 ~~No~~ Except as provided in R.S. 11:293, no portion of the Firemen's Pension  
24 and Relief Fund shall, before or after its order for distribution is issued by the board  
25 of trustees to the person or persons entitled thereto under the provisions of this Part,  
26 be held, seized, taken, subjected to, detained or levied upon, by virtue of any  
27 attachment, garnishment, execution, injunction, writ, order, decree, or any other  
28 process whatsoever, issued out of or by any court of this state, for the payment or  
29 satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment, or

1 decree against any beneficiary of such Fund but shall be exempt therefrom. The  
2 Fund shall be kept, held, and distributed solely for the purposes named in this Part  
3 and for no other purposes whatsoever.

4 \* \* \*

5 §3198. Exemption from seizure and attachment

6 ~~That~~ Except as provided in R.S. 11:293, no portion of the said Firemen's  
7 Pension and Relief Fund shall, before or after its order for distribution is issued by  
8 the said board of trustees to the person or persons entitled thereto under the  
9 provisions of this Part, be held, seized, taken, subjected to, detained, or levied upon,  
10 by virtue of any attachment, garnishment, execution, injunction, writ, order, decree,  
11 or any other process whatsoever, issued out of or by any court of this state, for the  
12 payment or satisfaction, in whole or in part, for any debt, damage, demand, claim,  
13 judgment, or decree, against any beneficiary of such fund but shall be exempt  
14 therefrom. ~~That said~~ The fund shall be sacredly kept, held, and distributed for the  
15 purposes named in this Part, and for no other purposes whatsoever.

16 \* \* \*

17 §3229. Exemption from seizure and attachment

18 ~~No~~ Except as provided in R.S. 11:293, no portion of the Firemen's Pension  
19 and Relief Fund shall, before or after its order for distribution is issued by the board  
20 of trustees to the person or persons entitled thereto under the provisions of this Part,  
21 be held, seized, taken, subjected to, detained, or levied upon, by virtue of any  
22 attachment, garnishment, execution, injunction, writ, order, decree, or any other  
23 process whatsoever, issued out of or by any court of this state, for the payment or  
24 satisfaction, in whole or in part, of any debts, damage, demand, claim, judgment, or  
25 decree against any beneficiary of such fund, but shall be exempt therefrom. The  
26 fund shall be kept, held, and distributed solely for the purposes named in this Part  
27 and for no other purposes whatsoever.

28 \* \* \*

1 §3321. Exemption from seizure and attachment

2 A. ~~No~~ Except as provided in R.S. 11:293, no portion of the Firemen's  
3 Pension and Relief Fund shall, before or after any order for distribution is issued by  
4 the said board of directors to the person or persons entitled thereto under the  
5 provisions of this Part, be held, seized, or levied upon, by virtue of any attachment,  
6 garnishment, execution, or order or decree, or any other process whatsoever issued  
7 out of; or by any court, for the payment or satisfaction, in whole or in part, of any  
8 debt, damage, claim, judgment, or decree against any beneficiary of said fund but  
9 shall be exempt therefrom. ~~That the said~~ The fund shall be kept, held, and  
10 distributed for no purpose other than those provided for in this Part.

11 \* \* \*

12 §3345. Exemption from seizure

13 ~~No~~ Except as provided in R.S. 11:293, no portion of the pension fund shall,  
14 before or after its order for distribution is issued by the board of trustees to the  
15 person or persons entitled thereto under the provisions of this Part, be held, seized,  
16 taken, subjected to, detained, or levied upon by virtue of any attachment,  
17 garnishment, execution, writ, order, injunction, decree, or any other process  
18 whatsoever, issued out of or by any court of the state of Louisiana, for the payment,  
19 or satisfaction, in whole or in part, of any debt, claim, damage, demand, judgment,  
20 or any other decree against any beneficiary of this fund, but shall be exempt  
21 therefrom.

22 \* \* \*

23 §3389. Exemption of pension and other rights from levy and other process

24 The right of a person to a pension, an annuity, a retirement allowance, or to  
25 the return of contributions; the pension, annuity, or retirement allowance itself; any  
26 optional benefit or any other right accrued or accruing to any person under the  
27 provisions of this Part; and the ~~moneys~~ monies in the various funds created by this  
28 Part are exempt from any state or municipal tax; and all state income tax, and exempt  
29 from levy and sale, garnishment, attachment, or any other process whatsoever,

1 except as provided in R.S. 11:293, and shall be unassignable except as otherwise  
2 specifically provided in this Part. The fund shall be sacredly held, kept, and secured  
3 and distributed for the purpose of pensioning the persons named in this Part and for  
4 the payment of death benefits and for no other purpose whatsoever.

5 \* \* \*

6 §3408. Exemption from seizure and attachment

7 ~~No~~ Except as provided in R.S. 11:293, no portion of the ~~fireman's pension~~  
8 ~~and relief fund~~ Firemen's Pension and Relief Fund, before or after its order for  
9 distribution is issued by the board of trustees to the person or persons entitled thereto  
10 under the provisions of this Part, shall be held, seized, taken, subjected to, detained,  
11 or levied upon, by virtue of any attachment, garnishment, execution, injunction, writ,  
12 order, decree, or any other process whatsoever, issued out of or by any court of this  
13 state, for the payment or satisfaction, in whole or in part, of any debt, damage,  
14 demand, claim, judgment, or decree against any beneficiary of such fund, but shall  
15 be exempt therefrom. The fund shall be kept, held, and distributed solely for the  
16 purposes named in this Part and for no other purposes whatsoever.

17 \* \* \*

18 §3440. Exemption from seizure and attachment

19 ~~No~~ Except as provided in R.S. 11:293, no portion of the said Firemen's  
20 Pension and Relief Fund shall, before or after its order for distribution is issued by  
21 the said Board of Trustees to the person or persons entitled thereto under the  
22 provisions of this Part, be held, seized, taken, subjected to, detained, or levied upon,  
23 by virtue of any attachment, garnishment, execution, injunction, writ, order, decree,  
24 or any other process whatsoever, issued out of or by any court of this state, for the  
25 payment or satisfaction, in whole or in part, of any debt, damage, demand, claim,  
26 judgment, or decree, against any beneficiary of such fund; but shall be exempt  
27 therefrom. The Fund shall be sacredly kept, held, and distributed for the purposes  
28 named in this Part, and for no other purposes whatsoever.

29 \* \* \*

1 §3470. Exemption from seizure and attachment

2 ~~That~~ Except as provided in R.S. 11:293, no portion of the said Firemen's  
3 Pension and Relief Fund shall, before or after its order for distribution is issued by  
4 the said board of trustees to the person or persons entitled thereto under the  
5 provisions of this Part, be held, seized, taken, subjected to, detained, or levied upon,  
6 by virtue of any attachment, garnishment, execution, injunction, writ, order, decree,  
7 or any other process whatsoever, issued out of or by any court of this state, for the  
8 payment or satisfaction, in whole or in part, of any debt, damage, demand, claim,  
9 judgment, or decree against any beneficiary of such fund; ~~but shall be exempt~~  
10 ~~therefrom.~~ ~~That said~~ The fund shall be sacredly kept, held, and distributed for the  
11 purposes named in this Part, and for no other purposes whatsoever.

12 \* \* \*

13 §3513. Fund not subject to execution

14 ~~The~~ Except as provided in R.S. 11:293, the fund, or any portion thereof,  
15 before or after an order for its distribution is issued, shall be exempt from assignment  
16 or pledge by a beneficiary of the fund or from seizure by virtue of any judicial  
17 process issued against the beneficiary.

18 \* \* \*

19 §3608. Attachment of fund; exemption from state income tax

20 A. ~~No~~ Except as provided in R.S. 11:293, no portion of the fund shall, before  
21 or after the order for distribution is issued by the board of directors to the person or  
22 persons entitled thereto under the provisions of this Subpart, be held, seized, or  
23 levied upon, by virtue of any attachment, garnishment, execution, ~~or~~ order or decree,  
24 or any other process whatsoever, issued out of; or by; any court, for the payment or  
25 satisfaction, in whole or in part, of any debt, damage, claim, judgment, or decree  
26 against any beneficiary of such fund, but shall be exempt therefrom. The fund shall  
27 be kept, held, and distributed for no purpose other than those provided for in this

1 Subpart. No present or future revision or amendments to the fund shall have the  
2 effect of reducing any benefit now in existence.

3 \* \* \*

4 §3691. Exemption from execution

5 The right of a person to a pension, an annuity, or a retirement allowance, to  
6 the return of contributions, the pension, annuity, or retirement allowance itself, any  
7 optional benefit or any other right accrued or accruing to any person under the  
8 provisions of this Subpart, and the ~~moneys~~ monies in the various funds created by  
9 this Subpart, are hereby exempt from any state or municipal tax, and exempt from  
10 levy and sale, garnishment, attachment, or any other process whatsoever, except as  
11 provided in R.S. 11:293, and shall be unassignable except as in this Subpart  
12 specifically otherwise provided.

13 \* \* \*

14 §3770. Exemption from seizure and attachment

15 ~~No~~ Except as provided in R.S. 11:293, no portion of the said Bus Drivers'  
16 Pension and Relief Fund shall, before or after its order for distribution is issued by  
17 the said Board of Trustees to the person or persons entitled thereto under the  
18 provisions of this Part, be held, seized, taken, subjected to, detained, or levied upon  
19 by virtue of any attachment, garnishment, execution, injunction, writ, order, decree,  
20 ~~of or~~ or any other process whatsoever, issued out of or by any ~~Court~~ court of this ~~State~~  
21 state for the payment or satisfaction, in whole or in part, of any debt, damage,  
22 demand, claim, judgment, or decree, against any beneficiary of such fund, but shall  
23 be exempt therefrom. ~~That said~~ The Fund shall be sacredly kept, held, and  
24 distributed for the purposes named in this Part, and for no other purposes  
25 whatsoever.

26 \* \* \*

27 §3800. Exemption from seizure and attachment

28 ~~That no~~ Except as provided in R.S. 11:293, no portion of the said Electrical  
29 Workers' Pension and Relief Fund shall, before or after its order for distribution is

1 issued by the said Board of Trustees to the person or persons entitled thereto under  
 2 the provisions of this Part, be held, seized, taken, subjected to, detained, or levied  
 3 upon by virtue of any attachment, garnishment, execution, injunction, writ, order,  
 4 decree, or any other process whatsoever, issued out of, or by, any ~~Court~~ court of this  
 5 ~~State~~ state for the payment or satisfaction, in whole or in part, of any debt, damage,  
 6 demand, claim, judgment, or decree, against any beneficiary of such Fund, but shall  
 7 be exempt therefrom. ~~That said~~ The Fund shall be sacredly kept, held, and  
 8 distributed for the purposes named in this Part, and for no other purposes  
 9 whatsoever.

\* \* \*

§3823. Exemption from execution

12 The right of a person to a pension, an annuity, or a retirement allowance or  
 13 benefit, ~~or to the return of contributions;~~ the pension, annuity, or retirement  
 14 allowance itself; ~~to any optional benefit; or any other right accrued or accruing to any~~  
 15 person under the provisions of this Part or to any person with such rights in the  
 16 Employees' Retirement System of the city of New Orleans ~~are~~ is exempt from any  
 17 state or municipal tax and, ~~are~~ except as provided in R.S. 11:293, exempt from levy  
 18 and sale, garnishment, attachment, or any other process whatsoever.

Section 2. R.S. 13:3881(D)(1) is hereby amended and reenacted to read as follows:

§3881. General exemptions from seizure

\* \* \*

22 D.(1) Except as provided in Paragraph (2) of this Subsection and in R.S.  
 23 11:293, the following shall be exempt from all liability for any debt except alimony  
 24 and child support: all pensions, all tax-deferred arrangements, annuity contracts, and  
 25 all proceeds of and payments under all tax-deferred arrangements and annuity  
 26 contracts, as defined in Paragraph (3) of this Subsection.

\* \* \*

28 Section 3. This Act shall take effect and become operative if and when the proposed  
 29 amendment of Article X, Section 29(F) of the Constitution of Louisiana contained in the Act

- 1 which originated as House Bill No. \_\_\_\_\_ of this 2010 Regular Session of the Legislature  
2 is adopted at the statewide election to be held on November 2, 2010, and becomes effective.

## 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)]

LaBruzzo

HB No. 72

**Abstract:** Provides for the forfeiture of public retirement benefits by any public servant convicted of a state or federal felony related to his office.

Proposed law provides for the forfeiture of retirement benefits by any public servant convicted of certain crimes related to the holding of office (public corruption crimes) committed after the effective date of proposed law. Specifies the state and federal crimes conviction of which results in such forfeiture. Provides that conviction occurs when all appellate review is exhausted.

Proposed law specifically requires the forfeiture of all public retirement benefits, rights, and membership in the event of a conviction for a public corruption crime committed after the effective date of proposed law. In such event, such person's accumulated employee contributions shall be refunded to him. Requires such person to pay back any funds to the retirement system that he has received in excess of what proposed law allows.

Proposed law does not apply to any defined contribution plan; however, any participant in a defined contribution plan convicted of a public corruption crime shall forfeit his ability to further participate in such plan.

Proposed law provides that all employee contributions otherwise refundable pursuant to proposed law shall be available for the satisfaction of any court-ordered restitution or criminal fine. Provides that in the event that the employee contributions are insufficient to satisfy both the restitution and the fine, the employee contributions shall be apportioned for the satisfaction of both.

Proposed law provides that a parish prosecutor shall inform the secretary of DPS&C in writing when a conviction has been obtained against a person to whom proposed law may apply. The secretary shall then report this information to the appropriate retirement system. Relative to convictions for federal felonies, requires the secretary of state to report information to the retirement system regarding any federal convictions upon which he receives notice from the U.S. attorney for any federal felony listed in proposed law. The retirement system shall determine if any of its members or retirees are the subject of such convictions and whether such convictions are final for purposes of proposed law.

Proposed law requires retirement systems to promulgate rules to provide for the payment of benefits to spouse's and minor and handicapped children of public servants to whom proposed law applies, to the extent necessary and appropriate.

Various provisions of present law specific to particular public retirement or pension systems, plans, or funds provide that any annuity, retirement allowance or benefit, or refund of contributions, or any optional benefit or any other benefit paid or payable to any person under the provisions of present law is exempt from any state or municipal tax and is exempt from levy and sale, garnishment, attachment, or any other process whatsoever and is unassignable.



Proposed law retains present law, but excepts orders of restitution and criminal fines pursuant to proposed law.

Effective if and when the proposed amendment of Art. X, §29(F) of the Constitution of La. contained in the Act which originated as HB \_\_\_\_\_ of the 2010 R.S. of the Legislature is adopted at the statewide election to be held on Nov. 2, 2010, and becomes effective.

(Amends the heading of Subpart L of Part II of Chapter 4 of Subtitle I of Title II of the LRS of 1950 and R.S. 11:570, 951.3, 952.3, 1378, 1735(A), 1905, 3014, 3051, 3111, 3140, 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470, 3513, 3608(A), 3691, 3770, 3800, and 3823 and R.S. 13:3881(D)(1); Adds R.S. 11:293)