

Regular Session, 2011

SENATE BILL NO. 12

BY SENATOR GAUTREAUX AND REPRESENTATIVE PEARSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

RETIREMENT BENEFITS. Provides relative to eligibility and benefit calculation for state and statewide retirement systems. (7/1/11)

1 AN ACT

2 To enact Part III of Chapter 4 of Subtitle I of Title 11 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 11:381 - 392, relative to state and statewide retirement
4 systems; to provide for contributions, eligibility, and benefits; to provide for an
5 effective date; and to provide for related matters.

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

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part III of Chapter 4 of Subtitle I of Title 11 of the Louisiana Revised
9 Statutes of 1950, to be comprised of R.S. 11:381 - 392, is hereby enacted to read as follows:

10 **PART III. TIER 2 FOR STATE AND STATEWIDE RETIREMENT SYSTEMS**

11 **§381. Tier 2 creation**

12 **There is hereby created within each state and statewide public**
13 **retirement system or fund, a second tier of benefits to be known as "Tier 2".**

14 **The current provisions of each system, including any subplans, shall be known**
15 **as "Tier 1". Participation in Tier 2 shall be at the option of the employing**
16 **agency, and shall apply to all the agency's employees for benefits accrued on or**
17 **after the date the agency begins participating in Tier 2, regardless of whether**

1 all agency employees are in Tier 1 of a single system or subplan before
2 participation in Tier 2 begins.

3 §382. Tier 2 definitions

4 As used in this Part, the following terms have the meanings ascribed
5 below unless a different meaning is clearly required by the context:

6 (1)"Average compensation" shall mean the average annual earned
7 compensation for the sixty highest months of successive employment or for the
8 highest sixty successive joined months of employment where interruption of
9 service occurred; however, average compensation for part-time employees who
10 do not use sixty months of full-time employment for average compensation
11 purposes shall be based on the base pay the part-time employee would have
12 received had he been employed on a full-time basis. The earnings to be
13 considered for the thirteenth through the twenty-fourth month shall not exceed
14 one hundred fifteen percent of the earnings of the first through the twelfth
15 month. The earnings to be considered for the twenty-fifth through the thirty-
16 sixth month shall not exceed one hundred fifteen percent of the earnings of the
17 thirteenth through the twenty-fourth month. The earnings to be considered for
18 the thirty-seventh through the forty-eighth month shall not exceed one hundred
19 fifteen percent of the earnings of the twenty-fifth through the thirty-sixth
20 month. The earnings for the final twelve months shall not exceed one hundred
21 fifteen percent of the earnings of the thirty-seventh through the forty-eighth
22 month. The limitations on the computation of average compensation contained
23 in this Paragraph shall not apply to any twelve-month period during which
24 compensation increased by more than fifteen percent over the previous twelve-
25 month period solely because of an increase in compensation by a uniform
26 systemwide increase adopted by the state Department of Civil Service and
27 approved by the governor or because of a pay adjustment enacted by the
28 legislature.

29 §383. Tier 2 participation

1 An agency choosing to change its participation in a retirement system
2 from Tier 1 to Tier 2 shall notify its employees and the retirement system of the
3 choice. For a retirement system with a plan year beginning July first, the
4 agency shall provide notice on or before the December thirty-first prior to the
5 change. For any retirement system with a plan year beginning on another date,
6 the agency shall provide notice at least one hundred eighty days before the plan
7 year begins. A change may be made only at the beginning of a plan year.

8 §384. Tier 2 employee subplans

9 A. For each system, Tier 2 shall have a benefit structure with two
10 subplans, one for persons employed in hazardous duty positions and the other
11 for employees who are not employed in hazardous duty positions.

12 B. An employee whose employer participates in Tier 2 shall be in the
13 hazardous duty subplan if a new person employed in the same position in Tier
14 1 of the retirement system is:

15 (1) Covered by the State Police Pension and Retirement System.

16 (2) Covered by the Hazardous Duty Services Plan of the Louisiana State
17 Employees' Retirement System.

18 (3) Covered by the Municipal Police Employees' Retirement System, the
19 Firefighters' Retirement System, the Sheriffs' Pension and Relief Fund, or the
20 Municipal Employees' Retirement System and receives extra compensation
21 pursuant to R.S. 33:2002, 2218.2, or 2218.8.

22 C. Any other employee whose employer participates in Tier 2 shall be
23 in the nonhazardous duty subplan.

24 §385. Tier 2 nonhazardous subplan

25 A. The provisions of this Section shall apply to employees in the Tier 2
26 nonhazardous subplan.

27 B. Each employee shall contribute an additional one-half of one percent
28 of pay above the employee contribution rate applicable to employees in Tier 1
29 of the system or subplan of the system.

1 C.(1) An employee shall be eligible to retire without benefit reduction if
2 he has five or more years of service credit and has attained the age of sixty-five
3 years or more.

4 (2) An employee may retire with an actuarially-reduced benefit at any
5 age if he has twenty-five or more years of service credit.

6 D. An employee shall receive a maximum retirement allowance equal to
7 two and one-half percent of his average compensation for each year of service
8 credit.

9 §386. Tier 2 hazardous subplan

10 A. The provisions of this Section shall apply to employees in the Tier 2
11 hazardous subplan.

12 B. Each employee shall contribute an additional one percent of pay
13 above the employee contribution rate applicable to employees in Tier 1 of the
14 system or subplan of the system.

15 C.(1) An employee who is in service in Tier 2 at his retirement shall be
16 eligible to retire without benefit reduction if he has twelve or more years of
17 service credit and has attained the age of fifty-seven years or more.

18 (2) An employee who separates from service before he is eligible to
19 receive an unreduced benefit pursuant to Paragraph (1) of this Subsection may
20 receive an unreduced benefit if he has twelve or more years of service credit and
21 has attained the age of sixty years or more.

22 (3) An employee may retire with an actuarially-reduced benefit if he has
23 twenty or more years of service credit at any age.

24 (4) An employee with fewer than twelve years of service credit but more
25 than five years may retire pursuant to the provisions of R.S. 11:385, with his
26 benefit calculated as provided in that Section.

27 D. Except as provided in Paragraph (C)(4) of this Section, an employee
28 in Tier 2 shall receive a benefit equal to three percent of his average
29 compensation for each year of service credit.

1 **§387. Tier 2 retirement options**

2 **A. Upon application for retirement any member may elect to receive his**
3 **benefit in a retirement allowance payable throughout his life, or he may elect**
4 **at that time to receive the actuarial equivalent of his retirement allowance in a**
5 **reduced retirement allowance payable throughout life, pursuant to any**
6 **retirement option provided for Tier 1 members of the system.**

7 **B. No member of Tier 2 shall be eligible to participate in any deferred**
8 **retirement option plan or program or any similar retirement option that**
9 **requires continued employment for participation. However, a Tier 2 member**
10 **may participate in any initial benefit option, initial lump sum benefit option,**
11 **back-deferred retirement option plan or program, or any similar retirement**
12 **option designed to provide a reduced annuity in exchange for a lump-sum**
13 **payment which is selected upon separation from service.**

14 **§388. Tier 2 withdrawal of contributions**

15 **An employee who separates from employment covered by the retirement**
16 **system who has service credit in Tier 2 of more than four years but less than**
17 **five years may apply for a refund of his Tier 2 employee contributions. The**
18 **employee's refund pursuant to this Section shall include four percent annual**
19 **interest.**

20 **§389. Disability benefit; calculation**

21 **Eligibility for disability benefits and calculation of the benefit amount**
22 **shall generally be governed by the provisions of Tier 1; however, for**
23 **calculations pursuant to the provisions of Tier 1 which utilize an accrual rate,**
24 **the Tier 2 rate applicable to the member's service shall be substituted for the**
25 **accrual rate applicable to the Tier 1 calculation.**

26 **§390. Combining Tier 1 and Tier 2 benefits**

27 **The eligibility for retirement and benefit calculation for an employee**
28 **who has service credit in a retirement system in both Tier 1 and Tier 2 shall be**
29 **governed by the provisions of R.S. 11:142 for reciprocal recognition of service**

1 credit.

2 §390. Payment of Tier 1 costs

3 A. An employing agency terminating its participation in Tier 1 of the
 4 retirement system shall remit to the retirement system its proportionate share
 5 of any unfunded actuarial accrued liability of Tier 1. The amounts required to
 6 be remitted pursuant to this Section shall be determined by the system's actuary
 7 as of ending date for the plan year immediately prior to the date the employer
 8 begins participation in Tier 2, and shall account for any legacy costs
 9 attributable to the employing agency's retirees.

10 B. The amounts due pursuant to this Section shall, at the option of the
 11 employing agency, be paid either in a lump sum or in equal monthly payments
 12 with interest at the retirement system's actuarial valuation rate amortized over
 13 the longer of ten years or the amortization period utilized in the retirement
 14 system's most recent valuation approved by the Public Retirement Systems'
 15 Actuarial Committee.

16 §391. Application

17 The provisions of the applicable Tier 1 system or subplan shall apply to
 18 Tier 2 for any matter on which this Part is silent. In case of any conflict
 19 between the provisions of Tier 1 and Tier 2, Tier 2 shall prevail.

20 Section 2. This Act shall become effective on July 1, 2011; if vetoed by the governor
 21 and subsequently approved by the legislature, this Act shall become effective on July 1,
 22 2011, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Laura Gail Sullivan.

DIGEST

Proposed law provides for a second tier of benefits in each state and statewide retirement system, at the option of the employer, known as "Tier 2". Provides that the current provisions of each retirement system, including any subplans, shall be known as "Tier 1".

The state retirement systems are:

- (1) Louisiana State Employees' Retirement System (LASERS)

- (2) Teachers' Retirement System of Louisiana (TRSL)
- (3) Louisiana School Employees' Retirement System (LSERS)
- (4) State Police Pension and Retirement System (State Police)

The statewide retirement systems are:

- (1) Assessors' Retirement Fund (ARF)
- (2) Clerks' of Court Retirement and Relief Fund (Clerks)
- (3) District Attorneys' Retirement System (DARS)
- (4) Firefighters' Retirement System (FRS)
- (5) Municipal Employees' Retirement System (MERS)
- (6) Municipal Police Employees' Retirement System (MPERS)
- (7) Parochial Employees' Retirement System (PERS)
- (8) Registrars of Voters Employees' Retirement System (ROVERS)
- (9) Sheriffs' Pension and Relief Fund (Sheriffs)

Proposed law provides that participation in Tier 2 shall be at the option of the employing agency. Provides that participation shall apply to all the agency's employees for benefits accrued on or after the date the agency begins participating in Tier 2, regardless of whether all agency employees are in a single system or subplan in Tier 1.

Proposed law provides that an agency opting into Tier 2 from Tier 1 shall notify its employees and the retirement system. For retirement systems with a plan year beginning July 1st, requires the agency to provide notice on or before the December 31st prior to the switch. For retirement systems with a plan year beginning on another date, requires the agency to provide notice at least 180 days before the plan year begins. Provides that a switch from Tier 1 to Tier 2 may only be made at the beginning of a plan year.

Proposed law provides that Tier 2 shall have a hazardous duty subplan and a nonhazardous duty subplan. Provides that the hazardous duty subplan shall apply to Tier 2 for:

- (1) members of State Police;
- (2) employees otherwise eligible for the LASERS Tier 1 "Haz Plan"; and
- (3) employees covered by MERS, MPERS, FRS, and Sheriffs who receive supplemental pay pursuant to present law.

Provides that the nonhazardous duty subplan applies for all other Tier 2 members.

Nonhazardous subplan

Proposed law provides for Tier 2 nonhazardous employees to contribute an additional 0.5% of pay above the contribution rate required for employees in Tier 1 of the system.

Proposed law provides for eligibility for an unreduced retirement benefit with five years of service credit at age 65. Provides for retirement with 25 years of service at any age, with an

actuarially-reduced benefit.

Proposed law provides for a maximum retirement allowance calculation as follows:

2.5% x 60-month average compensation x years of service.

Provides for a 15% antispiking provision.

Hazardous subplan

Proposed law provides for Tier 2 hazardous employees to contribute an additional 1.0% of pay above the contribution rate required for employees in Tier 1 of the system.

Proposed law provides for eligibility for an unreduced retirement benefit with 12 years of service credit at age 57, if the employee is in service at his retirement. Provides that an employee who separates from service before he is eligible to receive an unreduced benefit pursuant to proposed law may receive an unreduced benefit if he has 12 or more years of service credit and has attained the age of 60 years or more. Provides for retirement with 20 years of service at any age, with an actuarially-reduced benefit.

Proposed law provides that a participant in the Tier 2 hazardous subplan with fewer than 12 years of service credit but more than five years may retire pursuant to the provisions of proposed law for Tier 2 nonhazardous subplan members.

Proposed law provides for a maximum retirement allowance calculation as follows:

3.0% x 60-month average compensation x years of service.

Provides for a 15% antispiking provision.

Retirement options

Proposed law provides that upon application for retirement any Tier 2 member may elect to receive his benefit in a retirement allowance payable throughout his life, or he may elect at that time to receive the actuarial equivalent of his retirement allowance in a reduced retirement allowance payable throughout life, pursuant to any retirement option provided for Tier 1 members of the system pursuant to present law.

Proposed law provides that no member of Tier 2 shall be eligible to participate in any deferred retirement option plan or program or any similar retirement option that requires continued employment for participation. Provides, however, a Tier 2 member may participate in any initial benefit option, initial lump sum benefit option, back-deferred retirement option plan or program, or any similar retirement option designed to provide a reduced annuity in exchange for a lump-sum payment which is selected upon separation from service.

Other provisions

Proposed law provides that an employee who separates from employment covered by the retirement system who has Tier 2 service credit of more than four years but less than five years may apply for a refund of Tier 2 contributions. Specifies that the employee's refund pursuant to proposed law shall include 4% annual interest.

Proposed law provides that eligibility for retirement and benefit calculation for an employee who has service credit in both Tier 1 and Tier 2 of a retirement system shall be governed by the provisions of present law for reciprocal recognition of service credit.

Proposed law provides that an employing agency terminating its participation in Tier 1 of

the retirement system shall remit to the retirement system its proportionate share of any unfunded actuarial accrued liability of Tier 1. Provides that the amounts required to be remitted pursuant to proposed law shall be determined by the actuary employed by the retirement system as of plan year ending immediately prior to the date the employer begins participation in Tier 2, and shall account for any legacy costs attributable to the employing agency's retirees.

Proposed law provides that the amounts due pursuant to proposed law shall, at the option of the employing agency, be paid either in a lump sum or in equal monthly payments with interest at the retirement system's actuarial valuation rate amortized over the longer of ten years or the amortization period utilized in the retirement system's most recent valuation approved by the Public Retirement Systems' Actuarial Committee.

Proposed law provides that the provisions of present law for the applicable Tier 1 system or subplan shall apply to Tier 2 for any matter on which proposed law is silent. In case of any conflict between the provisions of proposed law and present law, proposed law shall prevail.

Effective July 1, 2011.

(Adds R.S. 11:381-392)