

Regular Session, 2010

SENATE BILL NO. 274

BY SENATOR HEITMEIER

TEACHERS RETIREMENT. Requires a charter school teacher who is an active member of the system to remain an active member for the duration of employment at the charter school under certain circumstances. (See Act)

1 AN ACT

2 To amend and reenact R.S. 11:701(introductory paragraph), (11), and (33)(b)(i), 728(A)(4),
3 (C)(1)(a) and (b)(ii) and (iii) and (2) and 17:3997(A)(2) and (3), to enact R.S.
4 11:701(33)(d) and (e) and 728(G), and to repeal R.S. 11:701(33)(a)(xii), relative to
5 the Teachers' Retirement System of Louisiana; to provide for definitions; to provide
6 that membership in such system includes certain charter school employees; to
7 provide for purchase of service credit; to provide for an effective date; and to provide
8 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. 11:701(introductory paragraph), (11), and (33)(b)(i), 728(A)(4),
12 (C)(1)(a) and (b)(ii) and (iii) and (2) are hereby amended and reenacted and R.S.
13 11:701(33)(d) and (e) and 728(G) are hereby enacted to read as follows:

14 §701. Definitions

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

* * *

(11) "Employer" means the State of Louisiana, the parish school board, the city school board, **a charter school**, the State Board of **Elementary and Secondary** Education, the board of supervisors of Louisiana State University or any other agency of and within the State by which a teacher is paid.

* * *

(33) * * *

(b) "Teacher" shall not include any of the following:

(i) Any employee of a city or parish school board **or of a charter school** who is employed as a school bus driver, school janitor, school custodian or a school maintenance employee, school bus aide, monitor or attendant, or anyone who actually works on a school bus helping with transportation of school children.

* * *

(d) "Teacher" shall also mean any employee of a charter school whose approved charter agreement requires continued active membership in the system for the duration of the member's charter school employment.

(e) In all cases of doubt, the board of trustees shall determine whether any person is a teacher within the scope of the definition set forth in this Paragraph.

* * *

§728. Prior service credit

A. * * *

(4) Payments to be made under the provisions of this Section shall be made in a lump sum. Effective January 1, 2002, payment for service credit under this Section shall be allowed by a trustee-to-trustee transfer of funds from a Code Section 403(b) annuity or a Code Section 457 plan to the system; ~~provided that no purchase of service credit under this Section shall be allowed by a trustee-to-trustee transfer of funds from a Code Section 403(b) annuity or a Code Section 457 plan to the pension after December 31, 2010.~~

* * *

C.(1)(a) Notwithstanding any other provision of this Chapter or of any other law to the contrary, any person who is a member of this system shall be eligible to obtain credit in this system for teaching service rendered in any **charter school**, nonpublic college or university in Louisiana, and/or state approved elementary or secondary nonpublic or parochial school in Louisiana.

(b) * * *

(ii) In addition, if the member is eligible to retire at the time he establishes credit for such service, there shall be paid into the system an amount equal to the present value of the additional retirement benefit payable on account of his service in **charter schools or** nonpublic or parochial schools or colleges should he retire at the time credit for such service is established.

(iii) If the member is not eligible to retire at the time he establishes credit for service in **charter schools or** nonpublic or parochial schools or colleges, there shall be paid into the system an amount which, if invested at regular interest, would accumulate to an amount equal to the present value of the additional retirement benefit payable on account of his service in **charter schools or** nonpublic or parochial schools or colleges should the member continue until the earliest date he is eligible to retire.

(2)(a) In determining the present value of the additional benefit payable on account of service in **charter schools or** nonpublic or parochial schools or colleges and the amounts to be paid for credit for such service, regular interest, salary scales used to project future salary increases, and the tables of the system as adopted by the board of trustees shall be utilized.

(b) Amounts paid to establish credit for teaching service in **charter schools or** nonpublic or parochial schools or colleges shall be credited to the member's account in the Annuity Savings Fund. Such amounts shall be paid in one lump sum.

* * *

G. Except as provided in Paragraph (A)(1) of this Section, any purchase

1 **of service credit pursuant to this Section shall be paid in accordance with the**
2 **provisions of R.S. 11:158.**

3 * * *

4 Section 2. R.S. 17:3997(A)(2) and (3) are hereby amended and reenacted to read as
5 follows:

6 §3997. Charter school employees

7 A. * * *

8 (2) Employees employed by any charter school who, previous to employment
9 in the charter school, were employees of a local school board shall, if such
10 employees desire, be placed on leave of absence pursuant to Subsection B of this
11 Section. However, for the duration of such leave each such employee shall **continue**
12 **to** contribute to and be ~~eligible for a member of~~ the school employees' **and or**
13 teachers' retirement ~~systems~~ **system**, and **earn** service ~~time~~ **credit** for the accrual of
14 retirement benefits. However, service time while employed by a charter school shall
15 not accrue toward the acquisition of permanent status.

16 (3) Employment in any charter school for all employees other than those
17 provided for in Paragraph (2) of this Subsection shall be deemed to be employment
18 in a public elementary or secondary school in the state regarding eligibility for any
19 or all benefits which would otherwise accrue under state law to such an employee in
20 any other elementary or secondary school, including but not limited to **membership**
21 **in** the school employees' and teachers' retirement systems. However, participation
22 of the charter school and its employees in such benefit programs shall be contingent
23 upon provisions contained in the school's approved charter. **These provisions may**
24 **require only teachers employed by the charter school who, previous to**
25 **employment in the charter school, were employees of a local school board to**
26 **continue active membership in the Teachers' Retirement System of Louisiana**
27 **for the duration of their employment as charter school teachers, regardless of**
28 **their leave status.**

29 * * *

1 Section 3. R.S. 11:701(33)(a)(xii) is hereby repealed.

2 Section 4. The provisions of this Act shall not become effective until the Teachers'
3 Retirement System of Louisiana is in receipt of a private letter ruling issued by the Internal
4 Revenue Service concluding that the provisions of this Act will not adversely affect the
5 status of the Teachers' Retirement System of Louisiana as a qualified governmental plan
6 under the Internal Revenue Code.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Lauren B. Bailey.

DIGEST

Heitmeier (SB 274)

Present law (R.S. 11:701(11)) defines "employer" as the State of La., the parish school board, the city school board, the State Board of Education, the board of supervisors of LSU or any other agency of and within the State. Proposed law retains present law and adds charter schools to the list of employers within the definition.

Present law (R.S. 11:701(33)) defines "teacher" to include certain individuals, including any employee of a city or parish school board, parish or city superintendent, or assistant superintendent of public schools. Proposed law retains present law, and includes any charter school employees whose approved charter agreement requires continued active membership in TRSL for the duration of the employee's charter school employment within the definition of "teacher."

Present law (R.S. 11:721) requires all teachers to be TRSL members as a condition of employment.

Present law (R.S. 11:701(33)) excludes certain individuals from the definition of "teacher" for membership purposes, including any school employee who is employed as a bus driver, janitor, maintenance worker, school custodian, school bus aide, monitor, attendant, or other persons working on a school bus. Proposed law retains present law and provides that charter school employees filling such positions shall not be considered "teachers."

Present law (R.S. 11:728(C)(1)(a)) provides for members eligibility to purchase credit in TRSL for teaching service rendered in any nonpublic college or university in La., and/or state approved elementary or secondary nonpublic or parochial schools in La. Proposed law retains present law and adds eligibility to obtain credit for teaching service in any charter school in La.

Proposed law provides that any purchase of service credit shall be made on an actuarially sound basis in accordance with present law.

Present law (R.S. 17:3997) generally provides that employment in a charter school is deemed to be employment in a public elementary or secondary school for purposes of eligibility for all benefits of public school employment, including but not limited to retirement benefits. However, provides that charter school participation in such benefit programs is determined by the school's charter.

Proposed law retains present law except allows the charter schools to require only those teachers who were members of TRSL due to previous employment to continue active membership in TRSL throughout the duration of their employment at the charter school. All

other teachers may not be eligible to participate in TRSL if the charter school so chooses.

Effective date is contingent upon receipt of a private letter ruling issued by the Internal Revenue Service concluding that the provisions of this Act will not adversely affect the status of the TRSL as a qualified governmental plan under the Internal Revenue Code.

(Amends R.S. 11:701(intro. para.), (11), and (33)(b)(i), and 728(A)(4), and (C)(1)(a) and (b)(ii) and (iii) and (2), and 17:3997(A)(2) and (3); adds R.S.11:701(33)(d) and (e), and 728(G); repeals R.S. 11:701(33)(a)(xii))