

Regular Session, 2012

SENATE BILL NO. 35

BY SENATOR GUILLORY

SHERIFFS. Provides relative to benefits. (6/30/12)

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AN ACT

To amend and reenact R.S. 11:207 and 2178(B) and (G) and to enact R.S. 11:2186, relative to the Sheriffs' Pension and Relief Fund; to provide for benefits; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:207 and 2178(B) and (G) are hereby amended and reenacted and R.S. 11:2186 is hereby enacted to read as follows:

§207. Sheriffs' Pension and Relief Fund

A. A member who becomes disabled, and who files **an application** for disability benefits while in service, and who upon medical examination and certification as provided for elsewhere in this Subpart, is found to be totally disabled solely as the result of injuries sustained in the performance of his official duties, ~~or for any cause, provided the member has at least ten years of creditable service, and provided that the disability was incurred while the member was an active contributing member in active service,~~ shall be entitled to disability benefits under the provisions of R.S. 11:2178(B)**(1)**. ~~However, if the application for disability~~

1 ~~benefits is not filed while the member is in service, it shall be presumed that the~~  
2 ~~disability was not incurred while the member was an active contributing member in~~  
3 ~~active service. Such presumption may be overcome only by clear, competent, and~~  
4 ~~convincing evidence that the disability was incurred while the member was an active~~  
5 ~~contributing member in active service.~~

6 **B. A member who becomes disabled, and who files for disability benefits**  
7 **while in service, and who upon medical examination and certification as**  
8 **provided for elsewhere in this Subpart, is found to be totally disabled for any**  
9 **cause other than injuries sustained in the performance of his official duties,**  
10 **provided the member has at least ten years of creditable service, and provided**  
11 **that the disability was incurred while the member was an active contributing**  
12 **member in active service, shall be entitled to disability benefits under the**  
13 **provisions of R.S. 11:2178(B)(3).**

14 **C. If the application for disability benefits is not filed while the member**  
15 **is in service, it shall be presumed that the disability was not incurred while the**  
16 **member was an active contributing member in active service. Such presumption**  
17 **may be overcome only by clear, competent, and convincing evidence that the**  
18 **disability was incurred while the member was an active contributing member**  
19 **in active service.**

20 \* \* \*

21 §2178. Disability benefits; retirement benefits; death benefits

22 \* \* \*

23 B. The board of trustees shall award disability benefits to eligible members  
24 who have been officially certified as disabled by the State Medical Disability Board.  
25 The disability benefit shall be as follows:

26 ~~(1) (a) The disability benefit for total disability from gainful employment~~  
27 ~~shall be the lesser of (i) or (ii) as set forth herein:~~

28 ~~(i) A sum equal to the greater of forty-five percent of final average~~  
29 ~~compensation or the member's accrued retirement benefit at the time of termination~~

1 of employment due to disability, or

2 (ii) ~~The retirement benefit which would be payable assuming accrued~~  
3 ~~creditable service plus additional continued service, if any, to the earliest normal~~  
4 ~~retirement age based on final average compensation at the time of termination of~~  
5 ~~employment due to disability.~~

6 (b)(i) ~~For the purpose of this Subsection, for any member whose first~~  
7 ~~employment making him eligible for membership in the system began prior to July~~  
8 ~~1, 2006, final average compensation is defined as the member's average salary for~~  
9 ~~the thirty-six highest successive months of employment, or the highest thirty-six~~  
10 ~~successive joined months of employment where interruption of service occurred. If~~  
11 ~~the member has been employed for a period of less than thirty-six months, final~~  
12 ~~average compensation shall be based on the average monthly salary received for the~~  
13 ~~time employed.~~

14 (ii) ~~For the purpose of this Subsection, for any member whose first~~  
15 ~~employment making him eligible for membership in the system began on or after~~  
16 ~~July 1, 2006, final average compensation is defined as the member's average salary~~  
17 ~~for the sixty highest successive months of employment, or the highest sixty~~  
18 ~~successive joined months of employment where interruption of service occurred. If~~  
19 ~~the member has been employed for a period of less than sixty months, final average~~  
20 ~~compensation shall be based on the average monthly salary received for the time~~  
21 ~~employed.~~

22 (iii) ~~Upon approval for disability benefits, the member shall exercise a~~  
23 ~~retirement option as provided for service retirement under the provisions of~~  
24 ~~Subsection I of this Section and no change in the option selected shall be permitted~~  
25 ~~after it has been filed with the board. The retirement option factors shall be the same~~  
26 ~~as those utilized for regular retirement based on the age of the retiree and spouse had~~  
27 ~~the retiree continued in active service until the normal retirement date.~~

28 (c) ~~A member who is classified as totally disabled for any employment shall~~  
29 ~~be entitled to earn twenty-five percent of his disability benefit in a calendar year~~

1 before being reclassified as partially disabled.

2 ~~(2) The benefit for partial disability shall be seventy-five percent of the~~  
3 ~~amount that the member would have received for total disability.~~

4 **(1) Service related disability benefit. (a) The disability benefit for total**  
5 **disability from gainful employment due to an injury sustained while in the**  
6 **performance of official duties shall be a sum equal to forty-five percent of final**  
7 **average compensation.**

8 **(b)(i) For the purpose of this Subsection, for any member whose first**  
9 **employment making him eligible for membership in the system began prior to**  
10 **July 1, 2006, final average compensation is defined as the member's average**  
11 **salary for the thirty-six highest successive months of employment, or the highest**  
12 **thirty-six successive joined months of employment where interruption of service**  
13 **occurred. If the member has been employed for a period of less than thirty-six**  
14 **months, final average compensation shall be based on the average monthly**  
15 **salary received for the time employed.**

16 **(ii) For the purpose of this Subsection, for any member whose first**  
17 **employment making him eligible for membership in the system began on or**  
18 **after July 1, 2006, final average compensation is defined as the member's**  
19 **average salary for the sixty highest successive months of employment, or the**  
20 **highest sixty successive joined months of employment where interruption of**  
21 **service occurred. If the member has been employed for a period of less than**  
22 **sixty months, final average compensation shall be based on the average monthly**  
23 **salary received for the time employed.**

24 **(c) A member who is classified as totally disabled for any employment**  
25 **shall be entitled to earn twenty-five percent of his disability benefit in a**  
26 **calendar year before being reclassified as partially disabled.**

27 **(2) Supplemental service related disability benefit. (a) A member who**  
28 **is eligible for a service related disability under R.S. 11:207(A) shall be entitled**  
29 **to a supplemental service related disability benefit if the benefit to which he is**

1 entitled under R.S. 11:207(A) is less than the benefit the member would have  
2 received had he retired under R.S. 11:207(B).

3 (b) The amount of the member's supplemental service-related disability  
4 benefit shall be equal to the difference between the member's service-related  
5 disability benefit calculated under R.S. 11:2178(B)(1) and the maximum  
6 non-service related disability benefit the member would have received had he  
7 retired under R.S. 11:2178(B)(3).

8 (3) Non-service related disability benefit. (a) The disability benefit for  
9 total disability caused by an injury other than an injury sustained in the  
10 performance of a member's official duties shall be the lesser of:

11 (i) A sum equal to the greater of forty-five percent of final average  
12 compensation or the member's accrued retirement benefit at the time of  
13 termination of employment due to disability.

14 (ii) The retirement benefit which would be payable assuming accrued  
15 creditable service plus additional continued service, if any, to the earliest  
16 possible retirement age based on final average compensation at the time of  
17 termination of employment due to disability.

18 (b)(i) For the purpose of this Subsection, for any member whose first  
19 employment making him eligible for membership in the system began prior to  
20 July 1, 2006, final compensation is defined as the member's average salary for  
21 the thirty-six highest successive months of employment, or the highest thirty-six  
22 successive joined months of employment where interruption of service occurred.  
23 If the member has been employed for a period of less than thirty-six months,  
24 final average compensation shall be based on the average monthly salary  
25 received for the time employed.

26 (ii) For the purpose of this Subsection, for any member whose first  
27 employment making him eligible for membership in the system began on or  
28 after July 1, 2006, final average compensation is defined as the member's  
29 average salary for the sixty highest successive months of employment, or the

1 highest sixty successive joined months of employment where interruption of  
 2 service occurred. If the member has been employed for a period of less than  
 3 sixty months, final average compensation shall be based on the average monthly  
 4 salary received for the time employed.

5 (iii) Upon approval for disability benefits, the member shall exercise a  
 6 retirement option as provided for service retirement under the provisions of  
 7 Subsection I of this Section and no change in the option selected shall be  
 8 permitted after it has been filed with the board. The retirement option factors  
 9 shall be the same as those utilized for regular retirement based on the age of the  
 10 retiree and spouse had the retiree continued in active service until the normal  
 11 retirement date.

12 (c) A member who is classified as totally disabled for any employment  
 13 shall be entitled to earn twenty-five percent of his disability benefit in a  
 14 calendar year before being reclassified as partially disabled.

15 (d) Upon attaining the age of fifty-five, and upon application to the board  
 16 of trustees, a member who has retired under the disability retirement provisions  
 17 of this Subsection may convert his disability retirement to regular retirement  
 18 described in R.S. 11:2178(C).

19 (4) The benefit for partial disability shall be seventy-five percent of the  
 20 amount that the member would have received for total disability.

21 \* \* \*

22 ~~G. If any sheriff or deputy dies while in the armed services of the United~~  
 23 ~~States and while the United States is actually engaged in war, his widow, child or~~  
 24 ~~children, or dependent parent or parents shall be entitled to the benefits herein~~  
 25 ~~provided for such persons when the sheriff or deputy dies while serving as sheriff or~~  
 26 ~~deputy. Effective January 1, 2007, in the case of a member who dies while on a~~  
 27 ~~leave of absence to perform qualified military service as described in IRC~~  
 28 ~~§414(u), the member's beneficiary shall be entitled to any benefits that would~~  
 29 ~~have been provided, other than benefit accruals relating to the period of~~

1 qualified military service, under the plan had the member resumed and then  
 2 terminated employment on account of death, in accordance with IRC  
 3 §401(a)(37). However, the member's beneficiary shall be entitled to benefit  
 4 accruals relating to the period of qualified military service provided the  
 5 member's beneficiary timely remits to the fund any employee contributions  
 6 which would have been required but for the member's leave of absence to  
 7 perform qualified military service, in accordance with the terms of federal law  
 8 and R.S. 11:2186.

9 \* \* \*

10 §2186. Reemployment of a member under IRC §414(u)

11 The qualified military service of a member who has been reemployed  
 12 under the terms of IRC §414(u) shall be treated, for vesting and benefit accrual  
 13 purposes, as service completed under R.S. 11:2178, provided the member timely  
 14 remits to the fund any employee contributions which would have been required  
 15 but for the member's leave of absence to perform qualified military service, in  
 16 accordance with the terms of federal law.

17 Section 2. This Act shall become effective on June 30, 2012; if vetoed by the  
 18 governor and subsequently approved by the legislature, this Act shall become effective on  
 19 June 30, 2012, or on the day following such approval by the legislature, whichever is later.

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

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DIGEST

Present law provides for benefits for members of the Sheriffs' Pension and Relief Fund including members who become disabled or who are or have been on military leave. Provides for compliance with present federal law regarding treatment of such members.

Proposed law provides for continued compliance with present federal law.

Effective June 30, 2012.

(Amends R.S. 11:207 and 2178(B) and (G); adds R.S. 11:2186)