

SENATE BILL NO. 35

BY SENATOR GUILLORY

1 AN ACT

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

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

6 Be it enacted by the Legislature of Louisiana:

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

9 §207. Sheriffs' Pension and Relief Fund

10 A. A member who becomes disabled, and who files an application for  
11 disability benefits while in service, and who upon medical examination and  
12 certification as provided for elsewhere in this Subpart, is found to be totally disabled  
13 solely as the result of injuries sustained in the performance of his official duties, ~~or~~  
14 ~~for any cause, provided the member has at least ten years of creditable service, and~~  
15 ~~provided that the disability was incurred while the member was an active~~  
16 ~~contributing member in active service,~~ shall be entitled to disability benefits under  
17 the provisions of R.S. 11:2178(B)(1). ~~However, if the application for disability~~  
18 ~~benefits is not filed while the member is in service, it shall be presumed that the~~  
19 ~~disability was not incurred while the member was an active contributing member in~~  
20 ~~active service. Such presumption may be overcome only by clear, competent, and~~  
21 ~~convincing evidence that the disability was incurred while the member was an active~~  
22 ~~contributing member in active service.~~

23 B. A member who becomes disabled, and who files for disability benefits  
24 while in service, and who upon medical examination and certification as  
25 provided for elsewhere in this Subpart, is found to be totally disabled for any  
26 cause other than injuries sustained in the performance of his official duties,

1 provided the member has at least ten years of creditable service, and provided  
2 that the disability was incurred while the member was an active contributing  
3 member in active service, shall be entitled to disability benefits under the  
4 provisions of R.S. 11:2178(B)(3).

5 C. If the application for disability benefits is not filed while the member  
6 is in service, it shall be presumed that the disability was not incurred while the  
7 member was an active contributing member in active service. Such presumption  
8 may be overcome only by clear, competent, and convincing evidence that the  
9 disability was incurred while the member was an active contributing member  
10 in active service.

11 \* \* \*

12 §2178. Disability benefits; retirement benefits; death benefits

13 \* \* \*

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

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

19 ~~(i) A sum equal to the greater of forty-five percent of final average~~  
20 ~~compensation or the member's accrued retirement benefit at the time of termination~~  
21 ~~of employment due to disability, or~~

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

26 ~~(b)(i) For the purpose of this Subsection, for any member whose first~~  
27 ~~employment making him eligible for membership in the system began prior to July~~  
28 ~~1, 2006, final average compensation is defined as the member's average salary for~~  
29 ~~the thirty-six highest successive months of employment, or the highest thirty-six~~  
30 ~~successive joined months of employment where interruption of service occurred. If~~

1 the member has been employed for a period of less than thirty-six months, final  
 2 average compensation shall be based on the average monthly salary received for the  
 3 time employed.

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

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

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

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

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

27 **(b)(i) For the purpose of this Subsection, for any member whose first**  
 28 **employment making him eligible for membership in the system began prior to**  
 29 **July 1, 2006, final average compensation is defined as the member's average**  
 30 **salary for the thirty-six highest successive months of employment, or the highest**

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

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

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

16 (2) Supplemental service related disability benefit. (a) A member who  
17 is eligible for a service related disability under R.S. 11:207(A) shall be entitled  
18 to a supplemental service related disability benefit if the benefit to which he is  
19 entitled under R.S. 11:207(A) is less than the benefit the member would have  
20 received had he retired under R.S. 11:207(B).

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

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

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

1 termination of employment due to disability.

2 (ii) The retirement benefit which would be payable assuming accrued  
3 creditable service plus additional continued service, if any, to the earliest  
4 possible retirement age based on final average compensation at the time of  
5 termination of 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  
8 July 1, 2006, final 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.  
11 If the member has been employed for a period of less than thirty-six months,  
12 final average compensation shall be based on the average monthly salary  
13 received for the 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  
16 after July 1, 2006, final average compensation is defined as the member's  
17 average salary for the sixty highest successive months of employment, or the  
18 highest sixty successive joined months of employment where interruption of  
19 service occurred. If the member has been employed for a period of less than  
20 sixty months, final average compensation shall be based on the average monthly  
21 salary received for the time 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  
25 permitted after it has been filed with the board. The retirement option factors  
26 shall be the same as those utilized for regular retirement based on the age of the  
27 retiree and spouse had the retiree continued in active service until the normal  
28 retirement date.

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

1 calendar year before being reclassified as partially disabled.

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

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

8 \* \* \*

9 ~~G. If any sheriff or deputy dies while in the armed services of the United~~  
 10 ~~States and while the United States is actually engaged in war, his widow, child or~~  
 11 ~~children, or dependent parent or parents shall be entitled to the benefits herein~~  
 12 ~~provided for such persons when the sheriff or deputy dies while serving as sheriff or~~  
 13 ~~deputy. Effective January 1, 2007, in the case of a member who dies while on a~~  
 14 ~~leave of absence to perform qualified military service as described in Section~~  
 15 ~~414(u) of the Internal Revenue Code, the member's beneficiary shall be entitled~~  
 16 ~~to any benefits that would have been provided, other than benefit accruals~~  
 17 ~~relating to the period of qualified military service, under the plan had the~~  
 18 ~~member resumed and then terminated employment on account of death, in~~  
 19 ~~accordance with Section 401(a)(37) of the Internal Revenue Code. However, the~~  
 20 ~~member's beneficiary shall be entitled to benefit accruals relating to the period~~  
 21 ~~of qualified military service provided the member's beneficiary timely remits~~  
 22 ~~to the fund any employee contributions which would have been required but for~~  
 23 ~~the member's leave of absence to perform qualified military service, in~~  
 24 ~~accordance with the terms of federal law and R.S. 11:2186.~~

25 \* \* \*

26 §2186. Reemployment of a member under Section 414(u) of the Internal  
 27 Revenue Code

28 The qualified military service of a member who has been reemployed  
 29 under the terms of Section 414(u) of the Internal Revenue Code shall be treated,  
 30 for vesting and benefit accrual purposes, as service completed under R.S.

1           11:2178, provided the member timely remits to the fund any employee  
 2           contributions which would have been required but for the member's leave of  
 3           absence to perform qualified military service, in accordance with the terms of  
 4           federal law.

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

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 PRESIDENT OF THE SENATE

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 SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_