

2018 Regular Session

HOUSE BILL NO. 25

BY REPRESENTATIVE PEARSON

RETIREMENT/TEACHERS: Provides relative to participation of charter school employees in the Teachers' Retirement System of Louisiana

1 AN ACT

2 To amend and reenact R.S. 11:701(10), (11), and (33)(a)(xiv) and (b)(i) and R.S.  
3 17:3997(A)(2) and (3) and to enact R.S. 11:701(33)(a)(xv), relative to the Teachers'  
4 Retirement System of Louisiana; to provide that membership in such system includes  
5 certain charter school employees; and to provide for related matters.

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 11:701(10), (11), and (33)(a)(xiv) and (b)(i) are hereby amended and  
11 reenacted and R.S. 11:701(33)(a)(xv) is hereby enacted to read as follows:

12 §701. Definitions

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

16 \* \* \*

17 (10) "Earnable compensation" means the compensation earned by a member  
18 during the full normal working time as a teacher. Earnable compensation shall  
19 include any differential wage payment as defined by 26 U.S.C. 3401(h)(2) that is  
20 made by an employer to any individual performing qualified military service.

1 Earnable compensation shall not include per diem, post allowances, payment in kind,  
 2 hazardous duty pay, or any other allowance for expense authorized and incurred as  
 3 an incident to employment, nor payments in lieu of unused sick or annual leave, nor  
 4 retroactive salary increases unless such an increase was granted by legislative Act  
 5 or by a city or parish systemwide salary increase, nor payment for discontinuation  
 6 of contractual services, unless the payment is made on a monthly basis. Earnable  
 7 compensation for a teacher employed by a charter school does not include  
 8 compensation that exceeds the salary that he would have received if he were  
 9 employed by the local public school system in which the charter school is located.

10 If a member is granted an official leave and he makes contributions for the period of  
 11 leave, earnable compensation shall not include compensation paid for other  
 12 employment which would not have been possible without the leave. The board of  
 13 trustees shall determine whether or not any other payments are to be classified as  
 14 earnable compensation.

15 (11) "Employer" means the state of Louisiana, any city, parish, or other local  
 16 public school board, the State Board of Elementary and Secondary Education, a  
 17 charter school, any board created by Article VIII of the Constitution of Louisiana,  
 18 or any other agency of and within the state or a political subdivision by which a  
 19 teacher is paid.

20 \* \* \*

21 (33)(a) "Teacher", except as provided in Subparagraph (b) of this Paragraph,  
 22 shall mean any of the following:

23 \* \* \*

24 (xiv) Any employee of a charter school, except that if such an employee  
 25 entered an employment contract with a charter school prior to July 1, 2018, and the  
 26 contract does not provide for membership in the system, he shall not become a  
 27 member of the system until the expiration or termination of the contract.

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

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

2 (i) Any employee of a city, parish, or other local public school board or of  
3 a charter school who is employed as a school bus driver, school janitor, school  
4 custodian, or school maintenance employee, school bus aide, monitor, or attendant,  
5 or anyone who ~~actually~~ works on a school bus helping with the transportation of  
6 school children.

7 \* \* \*

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

10 §3997. Charter school employees

11 A.

12 \* \* \*

13 (2)(a) Employment in a charter school for all employees who are not  
14 teachers as defined by R.S. 11:701 is deemed to be employment in a public  
15 elementary or secondary school in the state regarding eligibility for any or all  
16 benefits which would otherwise accrue under state law to such an employee in any  
17 other elementary or secondary school, including but not limited to membership in the  
18 school employees' retirement system. However, participation of a charter school and  
19 its employees who are not teachers in such benefit programs is contingent upon  
20 provisions contained in the school's approved charter.

21 (b) Employees Such employees employed by any charter school who,  
22 previous to employment in the charter school, were employees of a local school  
23 board shall, if such employees desire, be placed on leave of absence pursuant to  
24 Subsection B of this Section. However, for the duration of such leave each such  
25 employee shall continue to contribute to and be a member of the school employees'  
26 ~~or teachers'~~ retirement system, and earn service credit for the accrual of retirement  
27 benefits.

28 (c) However, service Service time while employed by a charter school shall  
29 not accrue toward the acquisition of permanent status.

1 (3)(a) Employment in any charter school for all employees ~~other than those~~  
2 ~~provided for in Paragraph (2) of this Subsection~~ who are teachers as defined by R.S.  
3 11:701 shall be deemed to be employment in a public elementary or secondary  
4 school in the state regarding eligibility for any or all benefits which would otherwise  
5 accrue under state law to such an employee in any other elementary or secondary  
6 school, including but not limited to membership in the ~~school employees' and~~  
7 ~~teachers' retirement systems~~ system. ~~However, participation of the charter school~~  
8 ~~and its employees in such benefit programs shall be contingent upon provisions~~  
9 ~~contained in the school's approved charter.~~

10 (b) Service time while employed by a charter school shall not accrue toward  
11 the acquisition of permanent status.

12 (b)(i) ~~The provisions of such charter may require only teachers employed by~~  
13 ~~the charter school who previous to employment in the charter school were employees~~  
14 ~~of a local school board to continue active membership in the Teachers' Retirement~~  
15 ~~System of Louisiana for the duration of their employment as charter school teachers,~~  
16 ~~regardless of their leave status.~~

17 (ii) ~~The provisions of Item (i) of this Subparagraph enacted by the Act that~~  
18 ~~originated as Senate Bill No. 31 of the 2012 Regular Session of the Legislature~~  
19 ~~shall not become effective until the Teachers' Retirement System of Louisiana is in~~  
20 ~~receipt of a private letter ruling issued by the Internal Revenue Service, pursuant to~~  
21 ~~a request by the system for such a ruling, concluding that the provisions of Item (i)~~  
22 ~~of this Subparagraph will not adversely affect the status of the system as a qualified~~  
23 ~~governmental plan under the Internal Revenue Code.~~

24 \* \* \*

## 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)]

HB 25 Original

2018 Regular Session

Pearson

**Abstract:** Provides that charter school teachers shall be members of the Teachers' Retirement System of La. (TRSL).

Present law provides that all employees of charter schools are deemed public school employees regarding eligibility for benefits that accrue under state law to such an employee including membership in TRSL or the La. School Employees' Retirement System. However, participation of a charter school and its employees in such benefit programs is contingent upon provisions contained in the school's approved charter.

Proposed law removes the contingency of TRSL membership on provisions in the charter and thereby provides that charter school teachers and other employees defined as teachers *shall be* members of TRSL. However, if a teacher entered an employment contract with a charter school prior to July 1, 2018, and the contract does not provide for membership in the system, he shall not become a member of the system until the expiration or termination of the contract.

Present law is retained with respect to charter school employees not defined as teachers, including school bus drivers, school janitors, school custodians, and school maintenance employees, and anyone who works on a school bus helping with the transportation of school children.

Previous Act of the legislature, which has never become effective, provides that a school charter may require only teachers who had been employees of a local school board to continue active membership in TRSL for the duration of their employment as charter school teachers, regardless of their leave status. Proposed law deletes present law.

(Amends R.S. 11:701(10), (11), and (33)(a)(xiv) and (b)(i) and R.S. 17:3997(A)(2) and (3); Adds R.S. 11:701(33)(a)(xv))