

2020 Regular Session

HOUSE BILL NO. 21

BY REPRESENTATIVE BACALA

RETIREMENT/MUNICIPAL POL: Provides relative to membership and benefits of the
Municipal Police Employees' Retirement System

1 AN ACT

2 To amend and reenact R.S. 11:2213(11)(b), 2214(A)(2)(a) and (d)(ii) and (B),
3 2220(B)(1)(a)(i) and (2)(d), 2241.4, 2241.8(1)(a), and 2242.8(1)(a) and to enact R.S.
4 11:2213(12.1) and (21.1), 2214(A)(2)(d)(iv) and (v), 2220(B)(2)(e) and (6) and (J),
5 2223(G) through (I), 2224(G) and (H), 2241.8(5), and 2242.8(5), relative to the
6 Municipal Police Employees' Retirement System; to provide for payment of benefits
7 to trusts; to provide relative to age and other limitations on membership; to provide
8 relative to required physical examinations; to provide relative to survivor and
9 disability benefits and beneficiary options; to provide relative to reemployment of
10 retirees; to provide relative to collection of benefits paid in error; and to provide for
11 related matters.

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

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 11:2213(11)(b), 2214(A)(2)(a) and (d)(ii) and (B), 2220(B)(1)(a)(i)
17 and (2)(d), 2241.4, 2241.8(1)(a), and 2242.8(1)(a) are hereby amended and reenacted and
18 R.S. 11:2213(12.1) and (21.1), 2214(A)(2)(d)(iv) and (v), 2220(B)(2)(e) and (6) and (J),
19 2223(G) through (I), 2224(G) and (H), 2241.8(5), and 2242.8(5) are hereby enacted to read
20 as follows:

1 §2213. Definitions

2 The following words and phrases, as used in this Chapter, unless a different
3 meaning is plainly required by context, shall have the following meanings:

4 * * *

5 (11) "Employee" shall mean any of the following classifications:

6 * * *

7 (b) Any full-time elected chief of police whose salary is at least one hundred
8 dollars per month.

9 * * *

10 (12.1) "Full-time" shall mean employment on a permanent, regularly
11 scheduled basis for at least an average of thirty hours per week.

12 * * *

13 (21.1) "Special needs trust" shall mean a trust that is established for the sole
14 benefit of a member's child who meets the definition of an individual with a
15 disability under the federal Social Security Act, that permits such child to qualify for
16 public benefits, including but not limited to those under the federal Social Security
17 Act such as Supplemental Security Income and Medical Assistance, and that
18 terminates upon the death of the child.

19 * * *

20 §2214. Membership

21 A. The membership of the retirement system shall be composed as follows:

22 * * *

23 (2)(a) Except as provided further in this Paragraph, any person who becomes
24 an employee as defined in R.S. 11:2213 on and after September 9, 1977, shall
25 become a member as a condition of his employment, ~~provided he is~~ However, a
26 person who becomes an employee before July 1, 2021, shall become a member only
27 if he is under fifty years of age at the date of employment.

28 * * *

1 (d)

2 * * *

3 (ii) The submission to a physical examination and the execution of any
4 waivers of preexisting conditions or history shall be completed and all
5 documentation related thereto received by the system within six months after the
6 date of employment. The employee is then a member of the system from the date
7 of employment. If the documentation is not received by the system within the
8 allotted time period,the for an employee whose employment making him eligible for
9 membership in the system occurs on or before June 30, 2021, the employee shall be
10 a member for purposes of receiving regular benefits from the date of employment but
11 shall not be eligible for disability benefits until the documentation has been received
12 by the system except as provided in Item (iii) of this Subparagraph. If the system
13 does not receive the documentation within the allotted time period for an employee
14 whose employment making him eligible for membership in the system occurred after
15 June 30, 2021, the employee shall be a member eligible to begin vesting for regular
16 benefits from the date of employment but shall not be eligible to begin vesting for
17 disability benefits for an injury not incurred in the line of duty until the
18 documentation is received.

19 * * *

20 (iv) A new physical examination shall be completed for any employee who
21 has a break in service longer than one year.

22 (v) If the physical examination is not completed because the employer
23 refused to pay for the physical examination, the employer is liable for any disability
24 benefit to which the member would be entitled.

25 * * *

26 B. ~~Should any member, after becoming a member, be~~ If a member is absent
27 from service for more than five years; years on or before June 30, 2021, and is not
28 be entitled to a deferred annuity as provided in this Chapter; or should he withdraw

1 if a member withdraws his accumulated contributions, ~~or should he become~~ becomes
2 a beneficiary, ~~or die~~ dies, he shall thereupon cease to be a member.

3 * * *

4 §2220. Benefits; contribution limit

5 * * *

6 B. Benefits shall be payable to any survivor of an active contributing
7 member who dies before retirement or a disability retiree who dies after retirement
8 as specified in the following:

9 (1)(a)(i) If an active contributing member or a disability retiree dies and
10 leaves a surviving spouse, the surviving spouse shall receive a benefit equal to the
11 regular retirement formula, disregarding age, but not less than forty percent nor more
12 than sixty percent of the member's average final compensation. If the surviving
13 spouse remarries, such benefit shall cease unless remarriage occurs after age ~~sixty~~
14 fifty-five years; the benefit shall resume after a subsequent termination of the new
15 marriage and upon approval of the board of trustees. A surviving spouse under age
16 fifty-five who receives survivor benefits shall submit to the board of trustees, by
17 October first of every year beginning with the second October first following the
18 member's death, a notarized statement attesting his marital status throughout the
19 prior fiscal year. The benefit of a surviving spouse who does not timely submit such
20 a statement shall be discontinued, without retroactive reimbursement, until the
21 statement is submitted. If the spouse does not submit the statement for the remainder
22 of the calendar year, the board of trustees may revoke his rights in and to survivor
23 benefits.

24 * * *

25 (2)

26 * * *

27 (d) If at the time of a member's death a special needs trust has been created
28 by the deceased member for the benefit of such child or children, the payment shall

1 be made to any person designated as a trustee on a certified copy of a trust document
2 submitted to the system by the member.

3 (e) Qualifying survivor's benefits are payable upon application therefor and
4 become effective as of the day following the death of the member.

5 * * *

6 (6) A claim for survivor benefits or a refund of accumulated contributions
7 of a member who dies after June 30, 2021, shall be filed with the system within one
8 year from the date of death. The provisions of this Paragraph shall apply to
9 Hazardous Duty Subplan and Non-hazardous Duty Subplan members.

10 * * *

11 J.(1) The retirement benefits of a retiree who is receiving normal retirement
12 benefits, who becomes reemployed but does not meet the definition of an employee,
13 and whose monthly earnings exceed the difference between his monthly average
14 final compensation and his monthly retirement benefit shall be reduced by the
15 amount his monthly earnings exceed the difference between his monthly average
16 final compensation and his monthly retirement benefit for every month of such
17 reemployment, and he shall not be a member of the system. The retiree and his
18 employer shall make contributions to the retirement system as provided by this
19 Chapter, but the retiree shall receive no additional service credit and shall not accrue
20 any additional retirement benefit in the retirement system. Upon termination of
21 reemployment, employee contributions paid since reemployment shall, upon
22 application, be refunded to the retiree without interest. The retirement system shall
23 retain the employer contributions and interest on contributions made pursuant to this
24 Paragraph.

25 (2) The retired member and the employer shall immediately notify the board
26 of the retiree's date of employment, the amount of his monthly salary, and any
27 changes in salary, number of hours employed per week, estimated duration of
28 employment, and date of termination of employment.

1 of such fraudulent payment shall prescribe after a period of thirty years from the date
2 of payment.

3 * * *

4 §2224. Optional allowances

5 * * *

6 G.(1) A member who is married under a community property regime shall
7 provide consent of his spouse or an affidavit of unknown location, as provided in
8 Paragraph (2) of this Subsection, before he can elect any of the following retirement
9 options:

10 (a) The maximum benefit under the introductory paragraph of Subsection A
11 of this Section.

12 (b) Any other option under Subsection A of this Section naming someone
13 other than the member's spouse as the beneficiary.

14 (c) Any Deferred Retirement Option Plan benefit under the maximum plan.

15 (d) Any annuity approved by the board of trustees naming someone other
16 than the member's spouse as the beneficiary.

17 (2)(a) For purposes of this Subsection, consent of the spouse shall be in
18 writing on a form provided by the system and executed before a notary public.

19 (b) If the spouse cannot be located, the member shall submit an original
20 affidavit signed by the member before a notary public that evidences good faith
21 efforts to locate the spouse.

22 (3) The system shall establish the benefit as if the member had selected a
23 fifty percent joint and survivor annuity as provided in Subsection A of this Section
24 for a member who is married under a community property regime and who does not
25 provide spousal consent or affidavit of unknown location at the time of the member
26 retirement.

27 (4) A married member is deemed to be married under a community property
28 regime unless the member submits to the system a valid and enforceable matrimonial
29 agreement establishing a marital regime of separate property. By furnishing such

1 agreement to the system, the member agrees to indemnify and hold harmless the
 2 state and the system from any responsibility or liability based on the validity,
 3 enforceability, or effectiveness of the separate property agreement and any benefits
 4 thereafter paid to the member. If the system's reliance on an invalid or unenforceable
 5 separate property agreement causes the system to pay excess benefits, the system
 6 may reduce the future benefits payable to the member in an amount necessary to
 7 completely offset such excess benefits.

8 H. A special needs trust may be named as an optional beneficiary.

9 * * *

10 §2241.4. Eligibility for retirement

11 A. Any member of this subplan shall be eligible for retirement if he has:

- 12 (1) Twenty-five years or more of service, at any age.
- 13 (2) Twelve years or more of service, at age fifty-five or thereafter.
- 14 (3) Twenty years of service credit at any age, exclusive of unused annual and
- 15 sick leave and military service other than qualified military service as provided in 26
- 16 U.S.C. 414(u) earned on or after December 12, 1994. Any person retiring under this
- 17 Paragraph shall have his benefit, inclusive of military service credit and allowable
- 18 unused annual and sick leave, actuarially reduced. Any member retiring under this
- 19 Paragraph shall have his benefit actuarially reduced from the earliest age that he
- 20 would normally become eligible for a regular retirement benefit under Paragraph (1)
- 21 or (2) of this Section based upon his years of service as of the date of retirement.
- 22 Any employee who elects to retire under the provisions of this Paragraph shall not
- 23 be eligible to participate in the Deferred Retirement Option Plan provided by R.S.
- 24 11:2221 or the Initial Benefit Option provided by R.S. 11:2224(F).

25 B. Members of the subplan whose first employment making them eligible
 26 for membership in the subplan occurs on or after July 1, 2021, and who have service
 27 credit in more than one subplan shall meet retirement eligibility based upon the
 28 reciprocal recognition provisions of R.S. 11:142.

29 * * *

1 §2241.8. Survivor benefits

2 Benefits shall be payable to any survivor of an active contributing member
3 who dies before retirement or a disability retiree who dies after retirement as
4 specified in the following:

5 (1)(a) If an active contributing member or a disability retiree either of whom
6 has at least ten years of creditable service in the system dies and leaves a surviving
7 spouse, the surviving spouse shall receive a benefit calculated according to the
8 regular retirement formula, disregarding age, but not less than thirty-three percent
9 nor more than fifty-five percent of the member's average final compensation. If the
10 surviving spouse remarries, such benefit shall cease unless remarriage occurs after
11 age sixty years; the benefit shall resume after a subsequent termination of the new
12 marriage and upon approval of the board of trustees. A surviving spouse under age
13 fifty-five who receives survivor benefits shall submit to the board of trustees, by
14 October first of every year beginning with the second October first following the
15 member's death, a notarized statement attesting his marital status throughout the
16 prior fiscal year. The benefit of a surviving spouse who does not timely submit such
17 a statement shall be discontinued, without retroactive reimbursement, until the
18 statement is submitted. If the spouse does not submit the statement for the remainder
19 of the calendar year, the board of trustees may revoke his rights in and to survivor
20 benefits.

21 * * *

22 (5) If the board of trustees determines that an active contributing member is
23 killed as a result of injuries sustained in the line of duty, the requirement to have at
24 least ten years of creditable service in the system does not apply. Notwithstanding
25 any other provision of law to the contrary, the board of trustees shall not collect
26 overpayments of survivor benefits paid in administrative error prior to June 30, 2020,
27 except in a case of fraud, to the survivors of active contributing members with less

1 than ten years of creditable service in the system who were killed as a result of
2 injuries sustained in the line of duty.

3 * * *

4 §2242.8. Survivor benefits

5 Benefits shall be payable to any survivor of an active contributing member
6 who dies before retirement or a disability retiree who dies after retirement as
7 specified in the following:

8 (1)(a) If an active contributing member or a disability retiree either of whom
9 has at least ten years of creditable service in the system dies and leaves a surviving
10 spouse, the surviving spouse shall receive a benefit calculated according to the
11 regular retirement formula, disregarding age, but not less than twenty-five percent
12 nor more than fifty percent of the member's average final compensation. If the
13 surviving spouse remarries, such benefit shall cease unless remarriage occurs after
14 age ~~sixty~~ fifty-five years; the benefit shall resume after a subsequent termination of
15 the new marriage and upon approval of the board of trustees. A surviving spouse
16 under age fifty-five who receives survivor benefits shall submit to the board of
17 trustees, by October first of every year beginning with the second October first
18 following the member's death, a notarized statement attesting his marital status
19 throughout the prior fiscal year. The benefit of a surviving spouse who does not
20 timely submit such a statement shall be discontinued, without retroactive
21 reimbursement, until the statement is submitted. If the spouse does not submit the
22 statement for the remainder of the calendar year, the board of trustees may revoke
23 his rights in and to survivor benefits.

24 * * *

25 (5) If the board of trustees determines that an active contributing member is
26 killed as a result of injuries sustained in the line of duty, the requirement to have at
27 least ten years of creditable service in the system does not apply. Notwithstanding
28 any other provision of law to the contrary, the board of trustees shall not collect
29 overpayments of survivor benefits paid in administrative error prior to June 30, 2020,

1 except in a case of fraud, to the survivors of active contributing members with less
2 than ten years of creditable service in the system who were killed as a result of
3 injuries sustained in the line of duty.

4 Section 2. This Act shall become effective on July 1, 2020; if vetoed by the governor
5 and subsequently approved by the legislature, this Act shall become effective on July 1,
6 2020, or on the day following such approval by the legislature, whichever is later.

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 21 Original

2020 Regular Session

Bacala

Abstract: Makes various changes to provisions applicable to the Municipal Police Employees' Retirement System (MPERS).

Present law provides for membership in MPERS. Provides that a person who is 50 years old or older does not become a member upon employment. Proposed law removes the age restriction for persons hired on or after July 1, 2021.

Present law requires an employee to receive a physical examination before he becomes a member. Requires submission of the examination and waivers of preexisting conditions to the retirement system within six months after employment. Provides that a member who does not timely submit these documents is a member for purposes of receiving regular benefits but is not eligible for disability benefits until the documents are submitted.

Proposed law provides that a person hired after June 30, 2021, who has not timely submitted the documents is a member eligible to begin vesting for regular benefits but is not eligible to begin vesting for disability benefits for an injury not incurred in the line of duty.

Proposed law requires completion of a new physical examination if the employee has a break in service longer than one year. Provides that if a physical examination is not completed because the employer refused to pay for the physical examination, the employer is liable for any disability benefit to which the member would be entitled.

Present law provides that a person ceases to be a member of the system if he is absent from service for more than five years and is not entitled to a deferred annuity as provided for by present law. Proposed law limits the applicability of this provision to persons whose five-year absence is complete prior to July 1, 2021.

Present law provides for payment of retirement benefits to a surviving spouse. Provides that such benefits cease if the spouse remarries before age 60. Proposed law reduces that age to 55 and requires a surviving spouse under the age of 55 to annually document his marital status.

Proposed law provides for the payment of survivors benefits to a special needs trust created for a disabled child. Requires claims for survivor benefits to be filed within one year of the death.

Proposed law provides for a reduction in retirement benefits of certain persons hired after July 1, 2021, who retire and return to work covered by MPERS.

Proposed law provides as follows relative to disability retirements from MPERS:

- (1) Requires that claims for disability benefits be filed within one year from the date of disability.
- (2) Requires the system to pay for any medical examination that it requires to determine continued eligibility for a disability retirement benefit.
- (3) Requires the board of trustees to use all reasonable means to collect benefits paid by the system to an individual who was not due the benefit. Provides for prescriptive periods on such collections.

Proposed law limits the ability of a member who is married under a community property regime to exclude his spouse from his retirement benefits without the spouse's consent.

Present law provides for survivor benefits for a member who has at least 10 years of service credit. Proposed law provides if the member is killed in the line of duty, the 10 years of service requirement is not applicable.

Effective July 1, 2020.

(Amends R.S. 11:2213(11)(b), 2214(A)(2)(a) and (d)(ii) and (B), 2220(B)(1)(a)(i) and (2)(d), 2241.4, 2241.8(1)(a), and 2242.8(1)(a); Adds R.S. 11:2213(12.1) and (21.1), 2214(A)(2)(d)(iv) and (v), 2220(B)(2)(e) and (6) and (J), 2223(G) - (I), 2224(G) and (H), 2241.8(5), and 2242.8(5))