

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) and (12), 2214(A)(2)(a) and (d)(ii) and (B),
3 2220(B)(1)(a)(i) and (2)(d), 2223(F), 2241.4, 2241.8(1)(a), and 2242.8(1)(a), to enact
4 R.S. 11:2213(11)(h), (12.1), and (21.1), 2214(A)(2)(d)(iv) and (v), 2220(B)(2)(e) and
5 (6) and (J), (K), and (L), 2213(A)(3) and (G), 2224(G) and (H), 2241.8(5), and
6 2242.8(5), and to repeal R.S. 11:2219, relative to the Municipal Police Employees'
7 Retirement System; to provide for payment of benefits to trusts; to provide relative
8 to age and other limitations on membership; to provide relative to required physical
9 examinations; to provide relative to survivor and disability benefits and beneficiary
10 options; to provide relative to reemployment of retirees; to provide relative to
11 collection of benefits paid in error; and to provide for 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) and (12), 2214(A)(2)(a) and (d)(ii) and (B),
17 2220(B)(1)(a)(i) and (2)(d), 2223(F), 2241.4, 2241.8(1)(a), and 2242.8(1)(a) are hereby
18 amended and reenacted and R.S. 11:2213(11)(h), (12.1), and (21.1), 2214(A)(2)(d)(iv) and
19 (v), 2220(B)(2)(e) and (6) and (J), (K), and (L), 2223(A)(3) and (G), 2224(G) and (H),
20 2241.8(5), and 2242.8(5) are hereby enacted to read 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 elected chief of police whose salary is at least one ~~hundred~~ thousand
8 dollars per month.

9 * * *

10 (h) Any member who retires after June 30, 2021, and who is employed on
11 a full-time basis by a police department of any municipality in Louisiana.

12 (12) "Employer" shall mean any municipality in the state of Louisiana which
13 employs a full-time police officer, empowered to make arrests, or which has an
14 elected chief of police whose salary is at least one ~~hundred~~ thousand dollars per
15 month, and the Municipal Police Employees' Retirement System.

16 (12.1) "Full-time" shall mean employment on a permanent, regularly
17 scheduled basis for at least an average of thirty hours per week.

18 * * *

19 (21.1) "Special needs trust" shall mean a trust that is established for the sole
20 benefit of a member's child who meets the definition of an individual with a
21 disability under the federal Social Security Act, that permits such child to qualify for
22 public benefits, including but not limited to those under the federal Social Security
23 Act such as Supplemental Security Income and Medical Assistance, and that
24 terminates upon the death of the child.

25 * * *

26 §2214. Membership

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

28 * * *

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

6 * * *

7 (d)

8 * * *

9 (ii) The submission to a physical examination and the execution of any
10 waivers of preexisting conditions or history shall be completed and all
11 documentation related thereto received by the system within six months after the
12 date of employment. The employee is then a member of the system from the date
13 of employment. If the documentation for an employee whose employment making
14 him eligible for membership in the system occurs on or before June 30, 2024, is not
15 received by the system within the allotted time period, the employee shall be a
16 member for purposes of receiving regular benefits from the date of employment but
17 shall not be eligible for disability benefits until the documentation has been received
18 by the system except as provided in Item (iii) of this Subparagraph. If the system
19 does not receive the documentation within the allotted time period for an employee
20 whose employment making him eligible for membership in the system occurred after
21 June 30, 2021, the employee shall be a member eligible to begin vesting for regular
22 benefits from the date of employment but shall not be eligible to begin vesting for
23 disability benefits for an injury not incurred in the line of duty until the
24 documentation is received.

25 * * *

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

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1 (v) If the physical examination is not completed because the employer
2 refused to pay for the physical examination, the employer is liable for any disability
3 benefit to which the member becomes entitled.

4 * * *

5 B. ~~Should any member, after becoming a member, be~~ If a member is absent
6 from service for more than five ~~years,~~ years on or before June 30, 2021, and is not
7 ~~be~~ entitled to a deferred annuity as provided in this Chapter; or ~~should he withdraw~~
8 if a member withdraws his accumulated contributions, or ~~should he become~~ becomes
9 a beneficiary, or ~~die~~ dies, he shall thereupon cease to be a member.

10 * * *

11 §2220. Benefits; contribution limit

12 * * *

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

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

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1 of the calendar year, the board of trustees may revoke his rights in and to survivor
2 benefits.

3 * * *

4 (2)

5 * * *

6 (d) If at the time of a member's death a special needs trust has been created
7 by the deceased member for the benefit of such child or children, the payment shall
8 be made to any person designated as a trustee on a certified copy of a trust document
9 submitted to the system by the member.

10 (e) Qualifying survivor's benefits are payable upon application therefor and
11 become effective as of the day following the death of the member. If survivor
12 benefits are being paid on behalf of a deceased member at the time a survivor applies
13 for benefits, that survivor's benefits shall become effective and payable on the first
14 day of the next month following sixty days from the date that the system receives the
15 survivor's completed application for benefits.

16 * * *

17 (6) A claim for survivor benefits or a refund of accumulated contributions
18 shall be filed with the system by the later of June 30, 2023, or three years from the
19 date of death. The provisions of this Paragraph shall apply to Hazardous Duty
20 Subplan and Non-hazardous Duty Subplan members.

21 * * *

22 J.(1) The benefits of any retiree of this system who retires on or after July
23 1, 2021, and becomes employed by an employer but does not meet the definition of
24 an employee within the twenty-four-month period immediately following the
25 effective date of his retirement shall be suspended for the duration of such
26 employment or the lapse of twenty-four months from the effective date of retirement,
27 whichever occurs first, even if such service is part-time, based on employment by
28 contract, or in a non-qualifying position.

1 (2)(a) The retiree and his employer shall immediately notify the board of the
2 retiree's date of employment. If failure to give notice of employment results in any
3 payment being made in violation of this Section, the employer shall be liable to the
4 system for the repayment of such amounts.

5 (b) The employer shall be charged interest at the legal rate which shall be
6 due from the date of the payment to the retiree.

7 (c) Any employer that fails to pay the system for overpayments under this
8 Section within ninety days from the date that the benefit was paid shall be liable for
9 a penalty of twenty-five percent of each monthly retirement benefit payment that was
10 not repaid in full with interest.

11 (d) The employer shall also reimburse the system for any legal fees paid by
12 the system in the collection of amounts pursuant to this Subsection.

13 (3) The provisions of this Subsection shall also apply to Hazardous Duty
14 Subplan and Non-hazardous Duty Subplan retirees who retire on or after July 1,
15 2021.

16 K.(1) The board of trustees shall use all reasonable means to collect benefits
17 paid by the system to an individual who was not due the benefit. The right to collect
18 any benefit paid to a member, retiree, surviving spouse, surviving child, or optional
19 beneficiary to whom the benefit was not due shall prescribe after a period of three
20 years has elapsed from the date of the payment, except in the case of fraud. If any
21 individual receiving a payment committed a fraud against the system, the collection
22 of such fraudulent payment shall prescribe after a period of thirty years from the date
23 of payment.

24 (2) The provisions of this Subsection do not apply to payments made to a
25 retiree that were not due under Subsection J of this Section.

26 (3) Notwithstanding the provisions of 11:192, if the system pays a sum of
27 money or benefits totaling at least five thousand dollars to a retiree, beneficiary, or
28 survivor that is not due them and the retiree, beneficiary, or survivor is entitled to
29 future benefits, the board of trustees shall adjust the amount payable to the correct

1 amount and then actuarially reduce the corrected amount to account for the entire
2 amount of overpayments plus legal interest from the date of the overpayment. Unless
3 the overpayment was due to the fault of the system, the retiree, beneficiary, or
4 survivor’s benefit shall also be reduced to account for any cost incurred by the
5 system to calculate the actuarial reduction.

6 L. Notwithstanding R.S. 11:143(D)(5), any member who transferred service
7 credit from another system, fund, or plan at an accrual rate that is lower than the
8 accrual rate of the transferring system, may elect to upgrade the accrual rate of all
9 or a portion of his transferred service credit by paying an amount calculated on an
10 actuarial basis that totally offsets the increase in accrued liability of the receiving
11 system resulting from the accrual rate upgrade.

12 * * *

13 §2223. Disability retirement

14 A.

15 * * *

16 (3)(a) A member may appeal a decision made pursuant to R.S. 11:218(D)(2)
17 or (3), regarding eligibility for disability benefits, by filing a petition in the
18 Nineteenth Judicial District Court of Louisiana within thirty days after receipt of
19 written notice of the decision.

20 (b) An appeal of any other decision of the board regarding eligibility for
21 disability benefits may be instituted by the member or his beneficiary by filing a
22 petition in the Nineteenth Judicial District Court of Louisiana within thirty days after
23 receipt of written notice of the decision.

24 * * *

25 ~~F. Notwithstanding the provisions of R.S. 11:221(E), any disability benefits~~
26 ~~granted under the provisions of this Section shall not be reduced because the~~
27 ~~disability retiree is also receiving social security disability benefits. Any claim for~~
28 ~~disability benefits by a member disabled after June 30, 2021, shall be filed with the~~
29 ~~system within three years from the date of disability.~~

1 provide spousal consent or affidavit of unknown location at the time of the member
2 retirement.

3 (4) A married member is deemed to be married under a community property
4 regime unless the member submits to the system a valid and enforceable matrimonial
5 agreement establishing a marital regime of separate property. By furnishing such
6 agreement to the system, the member agrees to indemnify and hold harmless the
7 state and the system from any responsibility or liability based on the validity,
8 enforceability, or effectiveness of the separate property agreement and any benefits
9 thereafter paid to the member. If the system's reliance on an invalid or unenforceable
10 separate property agreement causes the system to pay excess benefits, the system
11 may reduce the future benefits payable to the member in an amount necessary to
12 completely offset such excess benefits.

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

14 * * *

15 §2241.4. Eligibility for retirement

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

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

1 B. Members of the subplan who have service credit in more than one subplan
 2 shall meet retirement eligibility based upon the reciprocal recognition provisions of
 3 R.S. 11:142.

* * *

5 §2241.8. Survivor benefits
 6 Benefits shall be payable to any survivor of an active contributing member
 7 who dies before retirement or a disability retiree who dies after retirement as
 8 specified in the following:

9 (1)(a) If an active contributing member or a disability retiree either of whom
 10 has at least ten years of creditable service in the system dies and leaves a surviving
 11 spouse, the surviving spouse shall receive a benefit calculated according to the
 12 regular retirement formula, disregarding age, but not less than thirty-three percent
 13 nor more than fifty-five percent of the member's average final compensation. If the
 14 surviving spouse remarries, such benefit shall cease unless remarriage occurs after
 15 age ~~sixty~~ fifty-five years; the benefit shall resume after a subsequent termination of
 16 the new marriage and upon approval of the board of trustees.

* * *

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

* * *

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 are additions.

1 §2242.8. 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 twenty-five percent
9 nor more than fifty 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~~ fifty-five years; the benefit shall resume after a subsequent termination of
12 the new marriage and upon approval of the board of trustees.

13 * * *

14 (5) If the board of trustees determines that an active contributing member is
15 killed as a result of injuries sustained in the line of duty, the requirement to have at
16 least ten years of creditable service in the system does not apply. Notwithstanding
17 any other provision of law to the contrary, the board of trustees shall not collect
18 overpayments of survivor benefits paid in administrative error prior to June 30, 2020,
19 except in a case of fraud, to the survivors of active contributing members with less
20 than ten years of creditable service in the system who were killed as a result of
21 injuries sustained in the line of duty.

22 Section 2. R.S. 11:2219 is hereby repealed in its entirety.

23 Section 3. This Act shall become effective on July 1, 2020; if vetoed by the governor
24 and subsequently approved by the legislature, this Act shall become effective on July 1,
25 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 Engrossed

2020 Regular Session

Bacala

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

Present law provides that an elected police chief is a member of the system if his salary is at least \$100 per month. Proposed law increases the salary threshold for elected police chief membership to \$1,000 per month.

Proposed law provides that a person who retires from MPERS after June 30, 2021, and then becomes a full-time employee of a police department is a member of the system.

Present law defines employer as a municipality that employs a full-time police officer at a salary of at least \$100 per month. Proposed law increases the salary threshold for this definition to \$1000 per month.

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 survivor benefits to a special needs trust created for a disabled child. Requires claims for survivor benefits or refunds of accumulated contributions to be filed within three years of the death.

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

Proposed law 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. Authorizes withholdings from future benefits to collect such overpayments.

Proposed law authorizes a member who transfers service credit from another plan to pay to upgrade such service credit.

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.

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) and (12), 2214(A)(2)(a) and (d)(ii) and (B), 2220(B)(1)(a)(i) and (2)(d), 2223(F), 2241.4, 2241.8(1)(a), and 2242.8(1)(a); Adds R.S. 11:2213(11)(h), (12.1), and (21.1), 2214(A)(2)(d)(iv) and (v), 2220(B)(2)(e) and (6) and (J), (K), and (L), 2223(A)(3) and (G), 2224(G) and (H), 2241.8(5), and 2242.8(5); Repeals R.S. 11:2219)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Retirement to the original bill:

1. Add changes to definitions of employee and employer.
2. Change deadline for application for survivor benefits from one year to three years after death.
3. Provide for suspension of retirement benefits of certain members who retire after July 1, 2021, and return to work rather than the reduction of retirement benefits for retirees who return to work.
4. Add authorization for withholdings from future benefits to recover benefits that were paid to persons to whom they were not due.
5. Add provision allowing a member who transfers service credit to pay for an upgrade in such service credit.