

SENATE BILL NO. 8

BY SENATOR PRICE AND REPRESENTATIVES ADAMS, BOYD, ILLG, LAFLEUR  
AND NELSON

1 AN ACT

2 To amend and reenact R.S. 11:1307(E), 1310(A)(2)(a), 1312.1(A)(2) and the introductory  
3 paragraph of (D)(2), 1318, 1321(A)(1), 1322(B) and (D), 1323(B)(1), (C), and  
4 (D)(1), and 1345.8(B)(1), and to enact R.S. 11:1322.1, relative to the Louisiana State  
5 Police Retirement System; to provide with respect to benefits; to provide relative to  
6 qualifications for payment; to provide for clarification of statutory language; to  
7 provide relative to payment of benefits to a trust for specific beneficiaries; to provide  
8 for an effective date; and to provide for related matters.

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 11:1307(E), 1310(A)(2)(a), 1312.1(A)(2) and the introductory  
12 paragraph of (D)(2), 1318, 1321(A)(1), 1322(B) and (D), 1323(B)(1), (C), and (D)(1), and  
13 1345.8(B)(1) are hereby amended and reenacted and R.S. 11:1322.1 is hereby enacted to  
14 read as follows:

15 §1307. Persons eligible to retire on basis of service and age; retirement benefits

16 \* \* \*

17 E. In lieu of receiving the regular retirement salary computed pursuant to  
18 Subsection A of this Section, a member of the system who does not participate in the  
19 Back-Deferred Retirement Option Program provided by the provisions of this  
20 Chapter and who is eligible for a regular retirement salary computed pursuant to  
21 Subsection A of this Section **or R.S. 11:1345.4** may elect to receive a reduced  
22 retirement salary plus an initial benefit, provided the initial benefit, together with the  
23 reduced retirement salary, shall be certified by the actuary to be actuarially  
24 equivalent to the member's regular retirement salary computed pursuant to

1 Subsection A of this Section ~~or R.S. 11:1345.4~~. The amount of the initial benefit, as  
 2 determined by the member, shall not exceed an amount equal to the member's  
 3 maximum monthly retirement salary multiplied by thirty-six. The initial benefit  
 4 shall, at the option of the member, be paid as a lump sum or placed in an interest-  
 5 earning account in accordance with R.S. 11:1312.1(D)(4). Cost-of-living adjustments  
 6 granted by the board of trustees to retirees who elect to receive a reduced retirement  
 7 salary and an initial benefit shall be based only on the reduced retirement salary and  
 8 shall not be based on the initial benefit.

9 \* \* \*

10 §1310. Average salary; method of determining

11 A. \* \* \*

12 (2)(a) With respect to persons becoming employed on and after September  
 13 8, 1978, and whose first employment making them eligible for membership in one  
 14 of the state systems occurred on or before December 31, 2010, the term "average  
 15 salary" as used in this Chapter for the purpose of determining pension payments and  
 16 retirement is the average salary including any additional pay or salary provided by  
 17 the legislature over and above that set by the Civil Service Commission, received for  
 18 the ~~thirty-six month period ending on the last day of the month immediately~~  
 19 ~~preceding the date of retirement or date of death or for any thirty-six consecutive~~  
 20 ~~months~~ **thirty-six highest months of successive employment, or for the highest**  
 21 **thirty-six successive joined months of employment where interruption of service**  
 22 **occurred**, whichever is the greatest. For the purposes of computation, "average  
 23 salary" shall not include overtime, expenses, or clothing allowances.

24 \* \* \*

25 §1312.1. Back-Deferred Retirement Option Program

26 A.(1) \* \* \*

27 (2) In lieu of receiving a normal retirement benefit pursuant to R.S. 11:1307  
 28 through 1310 ~~or R. S. 11:1345.4 and 1345.5~~, an eligible member of the system may  
 29 elect to retire and have his benefits structured, calculated, and paid as provided in  
 30 this Section.

1 \* \* \*

2 D.(1) \* \* \*

3 (2) The member's Back-DROP monthly benefit shall be calculated pursuant  
4 to the provisions applicable for service retirement set forth in R.S. 11:1307 through  
5 1310 **or R.S. 11:1345.4 and 1345.5**, subject to the following conditions:

6 \* \* \*

7 §1318. Pension of children with physical or mental disabilities of deceased  
8 employee hired on or before December 31, 2010

9 A. Any child of a deceased member whose first employment making him  
10 eligible for membership in one of the state systems occurred on or before December  
11 31, 2010, whether under or over the age of eighteen years, shall be entitled to the  
12 same benefits, payable in the same manner as provided by this Chapter for surviving  
13 spouses, if the child has a total **and permanent** physical ~~disability~~ or mental  
14 disability.

15 B. The applicant shall provide adequate proof of **total and permanent**  
16 physical or mental disability of such surviving child or children and shall notify the  
17 board of any subsequent changes in the child's condition. The board may require a  
18 certified statement of the child's eligibility status at the end of each calendar year.

19 \* \* \*

20 §1321. Surviving spouse remarrying; forfeiture of pension; employees hired on or  
21 before December 31, 2010

22 A.(1) This Section shall apply to the surviving spouse of any member whose  
23 first employment making him eligible for membership in one of the state systems  
24 occurred on or before December 31, 2010. If the surviving spouse of a deceased  
25 employee remarries while receiving the surviving spouse's pension under the  
26 provisions of this Chapter, such spouse thereupon forfeits all rights to the spouse's  
27 pension, **except as provided in R.S. 11:234.**

28 \* \* \*

29 §1322. Death of former or retired employee hired on or before December 31, 2010;  
30 pension payable to survivors

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B. The surviving spouse of a deceased retired employee shall receive a pension in an amount equal to the monthly retirement pay that was being paid to the decedent on the date of death, not to exceed one hundred percent of the member's average compensation, provided the surviving spouse was married to the decedent for at least two years prior to the decedent's death.

\* \* \*

D. Remarriage of the surviving spouse acts as a forfeiture of any rights to receive any further benefits hereunder, except as provided in R.S. 11:234 and R.S. 11:1321(B).

\* \* \*

§1322.1. Children's benefits; payment to trust

The benefits payable to a child under this Chapter shall be paid to the person having legal custody of the property of the child, unless a trust created under Louisiana law has been created by the deceased member for the benefit of the child, the terms of the instrument creating the trust so provide and the system has been provided with a certified copy of the trust document, then the survivor benefit shall be paid to the trust under the terms of the trust for addition to the trust property. In the event that the trust is contested by any party, the system shall withhold all survivor benefit payments or deposit them in the registry of the court if a concursus proceeding is filed, until there is a final binding legal agreement or judgment regarding the proper payment of the survivor benefits.

§1323. Death of employee not in performance of duty; employees hired on or after January 1, 2011

\* \* \*

B.(1) A surviving spouse with a minor child or child with a total and permanent physical or mental disability, ~~or a child with a mental disability,~~ or children shall be paid per month, for so long as one or more children remain eligible for benefits under Subsection C of this Section, fifty percent of the benefit to which

1 the member would have been entitled if he had retired on the date of his death using  
 2 the member's applicable accrual rate regardless of years of service or age, or six  
 3 hundred dollars per month, whichever is greater, provided the deceased member was  
 4 an active member at the time of death and had five or more years of service credit,  
 5 at least two years of which were earned immediately prior to death or provided the  
 6 deceased member had twenty or more years of service credit regardless of when  
 7 earned or whether the deceased member was in active service at the time of death.

8 \* \* \*

9 C.(1) In addition to the amount payable in accordance with Subsection B of  
 10 this Section, for the benefit of the surviving minor child, or children, there shall be  
 11 paid for each such child, ~~subject to a maximum of two children,~~ per month fifty  
 12 percent of the benefit to which a spouse would be entitled under Subsection B of this  
 13 Section. Benefits shall be payable to such children even if no spouse eligible for  
 14 survivor benefits is present, provided the member had at least five years of service  
 15 credit. Benefits for a child shall cease when the child is no longer a minor child as  
 16 defined by this Chapter. No surviving minor child shall receive more than one  
 17 survivor's benefit at any one time. If two benefits are applicable, only the larger shall  
 18 be paid.

19 (2)(a) In addition to the amount payable in accordance with Subsection B of  
 20 this Section, any surviving child of a deceased member, whether under or over the  
 21 age of eighteen years, shall be entitled to the same benefits, payable in the same  
 22 manner, as are provided by this Section for minor children, if the child has a total  
 23 **and permanent** physical ~~disability~~ or mental disability, and had such disability at  
 24 the time of the death of the member and is dependent upon the surviving spouse or  
 25 other legal guardian.

26 (b) The applicant shall provide adequate proof of physical or mental  
 27 disability of such surviving child or children and shall notify the board of any  
 28 subsequent changes in the child's condition to such an extent that the child is no  
 29 longer dependent upon the surviving spouse or legal guardian and any changes in the  
 30 assistance being received from other state agencies. The board may require a

certified statement of the child's eligibility status at the end of each calendar year.

**(3) In no event shall the benefits payable under this Subsection be more than the benefit payable under Subsection B of this Section. In the event that more than two children are eligible for a benefit under this Subsection, the eligible children shall share equally in the benefit.**

D.(1) A surviving spouse without a minor child or a child with a **total and permanent** physical **or mental** disability, ~~or a child with a mental disability,~~ or children shall be paid per month, for the remainder of his life, a benefit based on years of service that the member had earned to the date of his death using the applicable accrual rate, or six hundred dollars per month, whichever is greater, provided the surviving spouse had been married to the deceased member for at least one year prior to death, and provided the deceased member was an active member at the time of death and had ten or more years of service credit, at least two years of which were earned immediately prior to death or provided the deceased member had twenty or more years of service credit regardless of when earned or whether the deceased member was in active service at the time of death.

\* \* \*

§1345.8. Survivors' benefit for members killed in the line of duty; death by an intentional act of violence

\* \* \*

B.(1) If the member has a surviving spouse, a child or children who are minors, have a **total and permanent physical or mental** disability, ~~or are mentally incapacitated,~~ or both a surviving spouse and a child or children, the amount of the total benefit shall equal eighty percent of the member's average compensation. The benefit shall be shared equally by the surviving spouse and any children. When a child who ~~neither has a disability nor is mentally incapacitated~~ **does not have a total and permanent physical or mental disability** no longer meets the definition of minor child under R.S. 11:1301, his benefit shall cease, and the remaining beneficiaries shall have their shares adjusted accordingly.

\* \* \*

1           Section 2. This Act shall become effective on June 30, 2022; if vetoed by the  
2           governor and subsequently approved by the legislature, this Act shall become effective on  
3           June 30, 2022, or on the day following such approval by the legislature, whichever is earlier.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

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