

Regular Session, 2011

HOUSE BILL NO. 569

BY REPRESENTATIVE ARNOLD

RETIREMENT/LOCAL: Relative to the Harbor Police Retirement System for the port of New Orleans, makes comprehensive changes to the provisions of such system

1 AN ACT

2 To amend and reenact R.S. 11:141, 142(A), 143(A)(1), 144(A), 144.1, 145(A), 148(A)(1)  
3 and (B), 155, 171, 185(C), 3682, 3683, 3684, 3685, 3685.1(A)(2) and (B)(2)(a),  
4 3685.2(B) and (C), 3686, 3687, 3688(A)(8), (9), (10), and (11), (B), (C), and (D),  
5 3689, 3690, 3690.2, 3691, 3692, 3693, and 3695, to enact R.S. 11:158(B)(15),  
6 173(A)(14), 174(B)(18), 185(D), 3684.1, 3685.2(D) and (E), 3688(A)(12) and (E),  
7 3696, 3697, and 3698, and to repeal R.S. 11:3694, relative to the Harbor Police  
8 Retirement System for the Port of New Orleans; to provide with respect to transfers,  
9 reciprocal recognition of service, contributions, service credit, membership,  
10 benefits, purchase of service credit, reporting requirements, the board of trustees,  
11 definitions, disability benefits, governance, administration, and unfunded liability;  
12 to provide an effective date; and to provide for related matters.

13 Notice of intention to introduce this Act has been published  
14 as provided by Article III, Section 13 and Article X, Section  
15 29(C) of the Constitution of Louisiana.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 11:141, 142(A), 143(A)(1), 144(A), 144.1, 145(A), 148(A)(1) and  
18 (B), 155, 171, 185(C), 3682, 3683, 3684, 3685, 3685.1(A)(2) and (B)(2)(a), 3685.2(B) and  
19 (C), 3686, 3687, 3688(A)(8), (9), (10), and (11), (B), (C), and (D), 3689, 3690, 3690.2, 3691,  
20 3692, 3693, and 3695 are hereby amended and reenacted and R.S. 11:158(B)(15),  
21 173(A)(14), 174(B)(18), 185(D), 3684.1, 3685.2(D) and (E), 3688(A)(12) and (E), 3696,  
22 3697, and 3698 are hereby enacted to read as follows:

1 §141. Retention of credits

2 Any person who is a member of any actuarially funded system paid for in  
3 whole or part from public funds, other than the State Employees' Retirement System  
4 of Louisiana, the Louisiana School Employees' Retirement System of Louisiana, ~~and~~  
5 the Teachers' Retirement System of Louisiana, and the Harbor Police Retirement  
6 System, and who transfers to other public employment where he is no longer eligible  
7 for membership in the original retirement system but becomes a member of another  
8 actuarially funded system paid for in whole or part from public funds and who has  
9 creditable service in the first system for at least ten years, shall have the right to  
10 retain membership in the first system, and in the event he becomes eligible for  
11 retirement under this second system he shall be entitled to receive a pro rata benefit  
12 from each system, each such benefit to be calculated on the years of creditable  
13 service and the formula in use in the system from which the benefit is paid.

14 §142. Reciprocal recognition of credited service in state, parochial, and municipal  
15 systems, and the Harbor Police Retirement System

16 A. A member of any state, municipal, or parochial retirement system, or the  
17 Harbor Police Retirement System with membership service credit in any other state,  
18 municipal, or parochial retirement system, or the Harbor Police Retirement System,  
19 or an eligible survivor of a member, shall have the option of combining all service  
20 for which the member has credit in every such retirement system in order that  
21 eligibility for regular retirement, disability retirement, and survivor's benefits may  
22 be acquired, subject to the limitations of this Section; however, such other credited  
23 service shall not be recognized until and unless the member has earned at least six  
24 months service credit in the member's current system.

25 \* \* \*

26 §143. Transfers between systems

27 A.(1) As provided in Subsection F of this Section, any person who is in  
28 active service and is a member of any public retirement or pension system, fund, or  
29 plan maintained primarily for officers and employees of the state of Louisiana or of

1 any political subdivision thereof, or of any district, board, commission, or other  
 2 agency of either, or of any other such public entity, including the Harbor Police  
 3 Retirement System, who has been a member of such system, fund, or plan for at least  
 4 six months and who has membership credit in or who transferred service credit from  
 5 any other such system, fund, or plan shall have the option of transferring all of his  
 6 credit from every such system, fund, or plan to the system, fund, or plan he is  
 7 currently contributing to or to the system to which he last contributed.

8 \* \* \*

9 §144. Repayment of refunded contributions

10 A. For purposes of R.S. 11:142 and 143, a member of any state, parochial,  
 11 or municipal retirement system, or the Harbor Police Retirement System, having  
 12 credit for at least six months in any such system may repay refunded contributions,  
 13 plus compounded interest at the board-approved actuarial valuation rate thereon from  
 14 date of refund until paid, to any other state, parochial, or municipal retirement  
 15 system in order to reestablish such credited service.

16 \* \* \*

17 §144.1. Repayment of refunded contributions; merged retirement systems

18 Any person who: (1) was a member of a public retirement system, including  
 19 the Harbor Police Retirement System, and (2) who terminated his membership in  
 20 such system and received a refund of contributions, and (3) who thereafter becomes  
 21 a member of a state or statewide public retirement system shall be eligible to repay  
 22 the refunded contributions to the system in which he is an active contributing  
 23 member, provided the system from which the member received the refund has been  
 24 merged into his current system and the former system is not in existence with respect  
 25 to receiving the repayment of refunds. Any such repayment of refunds, and the  
 26 credit granted relative thereto, shall be on an actuarial basis and in compliance with  
 27 all other pertinent laws governing the repayment of refunds to the extent that such  
 28 laws do not conflict with the provisions set forth in this Section.

1 §145. Creditable service of certain elected officials

2 A. Notwithstanding any other provision of law to the contrary, any person  
3 who is now or who hereafter is elected to public office and who is now or hereafter  
4 becomes a member of the Louisiana State Employees' Retirement System or any  
5 other retirement system for public employees which is supported in whole or in part  
6 out of funds of the state of Louisiana or of any parish, municipality, or other political  
7 subdivision thereof, including the Harbor Police Retirement System, and who loses  
8 any one or more months of creditable service in such system or systems by reason  
9 of the adoption of Act 569 of 1966 or any other legislation heretofore or hereafter  
10 enacted which shortens or has the effect of shortening a term of office to which such  
11 person is elected shall be granted a credit in such retirement system or systems equal  
12 to the creditable service lost for such cause. In order to obtain such credit the  
13 member shall make application therefor to the board of trustees of the retirement  
14 system of which he is a member and shall submit evidence of the period for which  
15 he seeks credit and the reason or reasons therefor. In addition, the member shall pay  
16 into the system employee and employer contributions equal to the amount of such  
17 contributions that would have been paid had he not lost ~~said~~ the period of service in  
18 the manner hereinabove specified.

19 \* \* \*

20 §148. Membership age limitations

21 A.(1)(a) The purpose of this Section is to provide uniform membership age  
22 limitations for public retirement systems and pension funds.

23 (b) The provisions of this Section are applicable with respect to all  
24 retirement systems and pension funds maintained basically for public officers and  
25 employees of the state, its agencies, and political subdivisions, including the Harbor  
26 Police Retirement System.

27 \* \* \*

28 B. The provisions of Subsection A hereof shall be inapplicable with respect  
29 to any employee whose retirement would be governed by the State Police Pension

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 and Retirement System, the Harbor Police Retirement System, the Municipal Police  
 2 Employees' Retirement System, or any other public retirement system or plan  
 3 maintained for law enforcement personnel or firefighters, the Sheriffs' Pension and  
 4 Relief Fund, the provisions within the Louisiana State Employees' Retirement  
 5 System governing employees of the Department of Public Safety and Corrections,  
 6 R.S. 11:531(2)(a), or the provisions within the Louisiana Employees' Retirement  
 7 System governing wildlife and fisheries agents, R.S. 11:581 et seq.

8 \* \* \*

9 §155. Receipt of benefits

10 Notwithstanding any other provisions of law to the contrary and specifically  
 11 the laws governing all public, state, municipal, or parochial retirement systems, and  
 12 the Harbor Police Retirement System, allowing "optional allowances", no member,  
 13 retiree, beneficiary, or survivor shall be entitled to receive his benefit in a lump sum,  
 14 or actuarial equivalent lump sum, or a lump sum of equivalent actuarial value and  
 15 shall only receive his benefit in equal monthly benefits payable throughout life or the  
 16 legally allowed time if a shorter time is specified by the laws governing the specific  
 17 retirement system, except as provided in R.S. 11:446, 783, 1150, ~~or~~ 1307, or 3685.  
 18 This Section shall not apply to the return of accumulated contributions without  
 19 interest if a person terminates employment and requests such a refund under the laws  
 20 applicable to the systems.

21 \* \* \*

22 §158. Purchase of service credit in public retirement systems; price

23 \* \* \*

24 B. The provisions of this Section are applicable to the following public  
 25 retirement or pension systems, funds, and plans:

- 26 (1) Assessors Retirement Fund.
- 27 (2) Clerks' of Court Retirement and Relief Fund.
- 28 (3) District Attorneys' Retirement System.
- 29 (4) Firefighters' Pension and Relief Fund ~~in~~ of the City of New Orleans.

- 1 (5) Firefighters' Retirement System.
- 2 (6) Louisiana School Employees' Retirement System.
- 3 (7) Louisiana State Employees' Retirement System.
- 4 (8) Municipal Employees' Retirement System of Louisiana.
- 5 (9) Municipal Police Employees' Retirement System.
- 6 (10) Parochial Employees' Retirement System of Louisiana.
- 7 (11) Registrars of Voters Employees' Retirement System.
- 8 (12) Sheriffs' Pension and Relief Fund.
- 9 (13) State Police Pension and Retirement System.
- 10 (14) Teachers' Retirement System of Louisiana.
- 11 (15) Harbor Police Retirement System.

\* \* \*

§171. Submission of reports to legislature

A. Each actuarially funded state, municipal, parochial, or other retirement system as supported in whole or in part by public funds, and the Harbor Police Retirement System, shall submit to the chairmen of the standing committees on retirement of the House of Representatives and the Senate, at least thirty days prior to the beginning of each regular session of the legislature, a copy of the most recent official actuarial report prepared by the system's fully accredited actuarial firm, together with a financial statement of the system for the fiscal year immediately preceding each such session of the legislature. The actuarial report shall include but not be limited to an actuarial evaluation of the assets and liabilities of the system; actuarial assumptions and considerations; cost of living adjustment evaluations, where applicable; and a five-year projection of cash flow requirements, with the number of retirees and amounts of benefits based on an annual basis.

B. Each state, municipal, parochial, and other retirement system supported in whole or in part by public funds, including the Harbor Police Retirement System, which is not actuarially funded shall submit to the chairman of the standing committees on retirement of the House of Representatives and the Senate, at least

1 thirty days prior to the beginning of each regular session of the legislature, a certified  
2 statement of the condition of the system for the fiscal year immediately preceding  
3 each session of the legislature. The certified statement of condition shall include but  
4 not be limited to a statement of the assets and liabilities of the retirement system;  
5 cost of living adjustments, where applicable; and an estimated five-year projection  
6 of cash flow requirements with the number of retirees and amounts of benefits listed  
7 on an annual basis.

8 \* \* \*

9 §173. Audit reports; certified public accountants

10 A. This Section shall be applicable to the following public retirement  
11 systems:

- 12 (1) Louisiana State Employees' Retirement System.
- 13 (2) State Police Pension and Relief Fund.
- 14 (3) Louisiana School Employees' Retirement System.
- 15 (4) Teachers' Retirement System of Louisiana.
- 16 (5) Assessors' Retirement Fund.
- 17 (6) Clerks' of Court Retirement and Relief Fund.
- 18 (7) District Attorneys' Retirement System.
- 19 (8) Municipal Employees' Retirement System of Louisiana.
- 20 (9) Parochial Employees' Retirement System of Louisiana.
- 21 (10) Registrar of Voters Employees' Retirement System.
- 22 (11) Sheriffs' Pension and Relief Fund.
- 23 (12) Municipal Police Employees' Retirement System.
- 24 (13) Firefighters' Retirement System.
- 25 (14) Harbor Police Retirement System.

26 \* \* \*

27 §174. Death reports

28 \* \* \*



1 to make those future payments, to determine the effects of asset and liability  
2 experience on pension fund costs, and to study the demographics of plan members,  
3 particularly in relation to long-term risk assessments, mortality, and morbidity.

4 (2) For each system to which the provisions of this Section apply, every  
5 member of the board of trustees shall complete continuing education or professional  
6 development training during each twelve-month period from September first to  
7 August thirty-first as provided in this Subsection. By October fifteenth of each year,  
8 the board of trustees of each state and statewide retirement system shall submit to the  
9 House and Senate committees on retirement a letter stating whether or not each  
10 member of that board has met the requirements of this Section in the previous  
11 twelve-month period and ~~giving~~ give the date or dates upon which the required  
12 training hours were completed by each member.

13 (3) Each year, any member to whom this Section applies shall attend at least  
14 eight hours of investment training, two hours of actuarial science information  
15 education, one hour of education regarding the laws, rules, and regulations applicable  
16 to his system, and one hour of instruction on fiduciary duty and ethics. These  
17 training hours may be conducted by the staff of the respective retirement systems or  
18 by outside experts. Two or more systems may combine any such training. Any  
19 member who is elected or appointed to the board for the first time on or after June  
20 first shall only be required to comply with the provisions of Paragraph (4) of this  
21 Subsection.

22 (4) Except as otherwise provided by the constitution or in R.S. 42:3.1, no  
23 board member to whom this Section applies shall receive per diem during any  
24 calendar year unless and until he has completed the fiduciary and ethics requirement  
25 and at least one hour each of investment, actuarial science, and legal education in the  
26 current twelve-month cycle. The system shall submit evidence of training in  
27 compliance with this Paragraph to the speaker of the House of Representatives and  
28 the president of the Senate within fourteen days after the completion thereof.

1 (5) Additionally, no new board member to whom this Section applies shall  
2 be permitted to vote on any matter until he has completed one hour of education in  
3 each of the four required areas.

4 \* \* \*

5 §3682. Definitions

6 The following words and phrases, as used in this Subpart, unless expressly  
7 indicated to the contrary or unless a different meaning is plainly required by context,  
8 shall have the following meanings:

9 (1) "Accumulated contribution" means the sum of all the amounts deducted  
10 from the compensation of a member and credited to his individual account ~~in the~~  
11 ~~Annuity Savings Fund together with regular interest thereon as provided in R.S.~~  
12 ~~11:3688~~ without any interest.

13 (2) "Active member" means a member currently employed as a Harbor  
14 Police Department officer and either contributing to the Harbor Police Retirement  
15 System, in the Deferred Retirement Option Plan, employed after pre-2011 Deferred  
16 Retirement Option Plan and not contributing to the Harbor Police Retirement  
17 System, or employed after 2011 Deferred Retirement Option Plan and contributing  
18 to the Harbor Police Retirement System.

19 (3) "Active service" means employed as a current Harbor Police Department  
20 officer.

21 ~~(2)~~(4) "Actuarial equivalent" means a benefit of equivalent value to the  
22 accumulated contributions, annuity, or benefits, as the case may be, computed upon  
23 the basis of such interest and mortality assumptions as are adopted in accordance  
24 with the provisions of R.S. 11:3688(D).

25 ~~(3)~~ "Annuity reserve" means ~~the present value of all payments to be made~~  
26 ~~on account of any annuity, or benefit in lieu of any annuity, computed upon the basis~~  
27 ~~of such mortality tables as shall be adopted by the Board of Trustees, and regular~~  
28 ~~interest.~~

1           (5) "Aggregate compensation" means total income on which retirement  
2           contributions are paid.

3           ~~(4)(6)~~(a) "Average compensation" for the limited purpose of applying  
4           Section 415(b) of the Internal Revenue Code, means the average compensation  
5           earned by a member for the period of three consecutive years during which the  
6           member was an active member of the retirement system and had the greatest  
7           aggregate compensation from the employer. For members hired on or after July 1,  
8           2011, "average compensation" for the limited purpose of applying Section 415(b) of  
9           the Internal Revenue Code, means the average compensation earned by a member  
10           for the period of five consecutive years during which the member was an active  
11           member of the retirement system and had the greatest aggregate compensation from  
12           the employer.

13           (b) "Compensation" for purposes of this Paragraph, means the total  
14           compensation reportable by the state of Louisiana, its agencies, or its political  
15           subdivisions as income to the member for the reported year. However, for the  
16           limited purpose of this Paragraph, "compensation" shall specifically exclude amounts  
17           not includable or reported in the member's gross income for federal tax purposes  
18           pursuant to the provisions of Sections 125 and 414(h) of the Internal Revenue Code  
19           or any other provision of federal law, such as deferred compensation contributions.

20           (c) Notwithstanding any other provision to the contrary, "average  
21           compensation" shall not include any amount in excess of the limitations provided in  
22           R.S. 11:3685.3.

23           ~~(5)(7)~~ "Average final compensation" means the average annual earned  
24           compensation of an employee for any period of thirty-six successive or joined  
25           months of service as an employee during which the ~~said~~ earned compensation was  
26           the highest. In case of interruption of employment, the thirty-six-month period shall  
27           be computed by joining employment periods immediately preceding and succeeding  
28           the interruption. For members hired on or after July 1, 2011, the average final  
29           compensation computation period will be sixty months.

1           For members hired on or after July 1, 2011, the earnings to be considered for  
2           the thirteenth through the twenty-fourth month shall not exceed one hundred fifteen  
3           percent of the earnings of the first through the twelfth month. The earnings to be  
4           considered for the twenty-fifth through the thirty-sixth month shall not exceed one  
5           hundred fifteen percent of the earnings of the thirteenth through the twenty-fourth  
6           month. The earnings to be considered for the thirty-seventh through the forty-eighth  
7           month shall not exceed one hundred fifteen percent of the earnings of the  
8           twenty-fifth through the thirty-sixth month. The earnings for the final twelve months  
9           shall not exceed one hundred fifteen percent of the earnings of the thirty-seventh  
10           through the forty-eighth month. The limitations on the computation of average  
11           compensation contained in this Paragraph shall not apply to any twelve-month period  
12           during which compensation increased by more than fifteen percent over the previous  
13           twelve-month period solely because of an increase in compensation by a uniform  
14           systemwide increase adopted by the state department of Civil Service and approved  
15           by the governor or because of a pay adjustment enacted by the legislature.

16           ~~(6)~~(8) "Beneficiary" means any person designated to receive a pension, an  
17           annuity, a retirement allowance, or other benefit as provided by this Subpart.

18           ~~(7)~~(9) "Board of trustees" means the board provided for in R.S. 11:3688 to  
19           administer the retirement system.

20           (10) "Contractually agree" means to acknowledge agreement to abide by a  
21           specified set of terms as evidenced by a signed, written document.

22           ~~(8)~~(11) "Creditable service" means service for which credit is allowable as  
23           provided in R.S. 11:3684.

24           (12) "Deferred inactive" means a member with twelve or more years of  
25           service who is no longer working. The member will be eligible for retirement upon  
26           reaching the retirement age for such length of service.

27           ~~(9)~~(13) "Defined benefit plan" means a pension plan established and  
28           maintained by an employer primarily to provide systematically for the payment of  
29           definitely determinable benefits to employees over a period of years after retirement

1 based upon factors such as years of service and compensation received by  
2 employees.

3 ~~(10)~~(14) "Defined contribution plan" means a pension plan established and  
4 maintained by an employer which provides benefits based upon amounts contributed  
5 to an employee's individual account, plus any earnings allocated to the account, for  
6 distribution to the employee or his beneficiary either at retirement, after a fixed  
7 number of years, or upon the occurrence of some special event.

8 (15) "Dependent" as it relates to a totally physically handicapped or mentally  
9 disabled child or children of a deceased member means a child or children who are  
10 totally dependent upon a legal guardian for both their care and financial support,  
11 except as provided in R.S. 11:3685(A)(2)(c).

12 ~~(11)~~(16) "Direct rollover" means a payment by the system to the eligible  
13 retirement plan specified by the distributee.

14 ~~(12)~~(17) "Distributee" means a member or former member. In addition, the  
15 member's or former member's surviving spouse, or the member's or former member's  
16 spouse or former spouse with whom a benefit or a return of employee contributions  
17 is to be divided pursuant to R.S. 11:291(B), are distributees with reference to an  
18 interest of the member or former member.

19 ~~(13)~~(18) "Earned compensation" means the full amount of compensation  
20 earned by an employee for a given month upon which retirement contributions are  
21 calculated, but shall not include overtime.

22 ~~(14)~~(19) "Eligible retirement plan" means an individual retirement account  
23 described in Section 408(a), an individual retirement annuity described in Section  
24 408(b), an annuity plan described in Section 403(a), or a qualified trust described in  
25 Section 401(a), all of the Internal Revenue Code, that accepts the member's eligible  
26 rollover distribution. However, in the case of an eligible rollover distribution to the  
27 surviving spouse, an eligible retirement plan is an individual retirement account or  
28 individual retirement annuity.

1           ~~(15)~~(20) "Eligible rollover distribution" means any distribution of all or any  
2           portion of the balance to the credit of a member, except that an eligible rollover  
3           distribution does not include any distribution that is one of a series of substantially  
4           equal periodic payments not less frequently than annually, made for the life or life  
5           expectancy of the member or the joint lives or joint life expectancies of the member  
6           and the member's designated beneficiary, or for a specified period of ten years or  
7           more, or any distribution to the extent such distribution is required under Section  
8           401(a)(9) of the Internal Revenue Code, or the portion of any distribution that is not  
9           includable in gross income.

10           ~~(16)~~(21) "Employee" means any commissioned member or employee of the  
11           Harbor Police Department of the Port of New Orleans prior to July 1, 2004, or any  
12           commissioned member of the Harbor Police Department of the Port of New Orleans  
13           on or after July 1, 2004.

14           ~~(17)~~(22) "Employer" means the Board of Commissioners of the Port of New  
15           Orleans.

16           (23) "Inactive member" means a member who continues to work after  
17           participation in the Deferred Retirement Option Plan under the Deferred Retirement  
18           Option Plan provisions applicable to members hired before June 30, 2011.

19           (24) "Inactive membership" means service after participation in the Deferred  
20           Retirement Option Plan under the Deferred Retirement Option Plan provisions  
21           applicable to members hired on or after July 1, 2011.

22           ~~(18)~~(25) "Medical board" means the board of physicians provided for in R.S.  
23           11:3688.

24           ~~(19)~~(26) "Member" includes any employees, as defined in Paragraph ~~(16)~~  
25           (21) of this Section, included in the membership of this system as provided in R.S.  
26           11:3683.

27           ~~(20)~~(27) "Membership service" means service as an employee while a  
28           member of this system.

1           ~~(21)~~(28) "Port commission" means the Board of Commissioners of the Port  
2 of New Orleans.

3           ~~(22)~~ "Prior service" means service rendered prior to August 1, 1971 for  
4 which credit is allowable as provided in R.S. 11:3684.

5           ~~(23)~~(29) "Qualified participant" means a member of the system who first  
6 became a member before January 1, 1990.

7           ~~(24)~~(30) "Retirement" means withdrawal from active service with a  
8 retirement allowance granted under the provisions of this Subpart.

9           ~~(25)~~(31) "Retirement allowance" means any benefit paid to a member under  
10 R.S. 11:3685(A) or any optional benefit payable in lieu thereof.

11           ~~(26)~~(32) "Retirement system" means the Harbor Police Retirement System  
12 as established in R.S. 11:3681.

13           ~~(27)~~(33) "Section 401(a)(17) employee" means an employee whose current  
14 accrued benefit as of a date on or after the first day of the first plan year beginning  
15 on or after January 1, 1996, is based on compensation for a year beginning prior to  
16 the first day of the first plan year beginning on or after January 1, 1996, that  
17 exceeded one hundred fifty thousand dollars.

18           ~~(28)~~(34) "Service" means service rendered as an employee as described in  
19 Paragraph ~~(16)~~(21) of this Section.

20           ~~(29)~~(35) "Social security retirement age" means the age used as the  
21 retirement age under Title 42, Section 416(l) of the United States Code, except that  
22 Section 416(l) shall be applied without regard to the age increase factor and shall be  
23 applied as if the early retirement age under Section 216(l)(2) of the Social Security  
24 Act was sixty-two.

25           ~~(30)~~(36) "Spouse" means that person who is legally married to the member  
26 on the member's effective date of retirement or effective date of participation in the  
27 Deferred Retirement Option Plan, whichever is earlier.

28           ~~(31)~~(37) "Successive or joined months" means successive or joined months in  
29 which there were earnings. Months without any earnings are ignored and the month

1 immediately previous to and the month immediately after a month without any  
2 earnings are joined and considered as successive months.

3 ~~(31)~~(38) "Survivor's benefit" means any benefit paid to a survivor of a  
4 member who died while employed under this Subpart.

5 (39) "Vested" means being eligible for a disability, retirement, or survivor  
6 benefit.

7 §3683. Membership

8 The membership of the retirement system shall be composed as follows:

9 (1) All persons who ~~shall~~ become employees as defined in R.S. 11:3682~~(16)~~  
10 ~~(21)~~ after August 1, 1971, except those specifically excluded under Paragraph (3) of  
11 ~~this Section~~, shall become members as a condition of their employment, provided  
12 they are under fifty years of age at the date of employment.

13 ~~(2) All persons who are employees as the term is defined in R.S. 11:3682(16)~~  
14 ~~on August 1, 1971, shall become members as of that date unless within a period of~~  
15 ~~thirty days next following, any such employee shall file with the Board of Trustees~~  
16 ~~on a form prescribed by such board a notice of his election not to be covered in the~~  
17 ~~membership of the system and a duly executed waiver of all present and prospective~~  
18 ~~benefits which would otherwise inure to him on account of his participation in the~~  
19 ~~retirement system.~~

20 ~~(3)(a) All persons who are employees as the term is defined in R.S.~~  
21 ~~11:3682(16) who are members of any fund or who are eligible for membership in~~  
22 ~~any fund operated for the retirement of employees by the state of Louisiana, or by~~  
23 ~~a city, parish, or other political subdivision of the state of Louisiana on August 1,~~  
24 ~~1971, shall cease to be members of such fund upon that date and all contributions~~  
25 ~~made by these employees to the retirement system of which they are members before~~  
26 ~~August 1, 1971, shall be transferred to the Harbor Police Retirement System and~~  
27 ~~shall be accompanied by the transfer of all employer contributions previously made~~  
28 ~~for their account to such retirement system. All such employees shall then become~~  
29 ~~members of the Harbor Police Retirement System with full credit for all such service~~

1       ~~prior to August 1, 1971. Provided, however, that the provisions of this Paragraph~~  
2       ~~shall not apply to any person electing not to become a member of this system.~~

3           ~~(b)(2)~~ Any employee who is employed on or after July 7, 2003, who has  
4       retired from service under any retirement system of this state partly or wholly  
5       financed by public funds, who is receiving retirement benefits therefrom, and who  
6       was prohibited from becoming a member of this system upon his initial employment  
7       solely on this basis shall become a member of this system from the date of his initial  
8       employment provided he meets ~~met~~ all other eligibility requirements; ~~however, any~~  
9       such employee may purchase credit for previous service only in compliance with the  
10      ~~provisions of R.S. 11:158 relating to actuarial calculation of purchase price.~~

11           ~~(4)(3)~~ Should any member, ~~after becoming a member,~~ be refunded his  
12      employee contributions, or be absent from service for more than five years and not  
13      be entitled to a deferred annuity as provided in R.S. 11:3685(A) hereof, or ~~should he~~  
14      ~~become a beneficiary or die,~~ he shall thereupon cease to be a member.

15      §3684. Creditable service

16           ~~A. Immediately after the establishment of the system the board of trustees~~  
17      ~~shall request all information regarding members from the retirement system in which~~  
18      ~~they have previously held membership. Upon verification of the statements of~~  
19      ~~service the board shall issue a prior service certificate certifying to each member the~~  
20      ~~length of prior service for which credit shall have been allowed on the basis of these~~  
21      ~~certified statements of service. So long as membership continues a prior service~~  
22      ~~certificate shall be final and conclusive for retirement purposes as to such service,~~  
23      ~~provided that any member may, within one year from the date of issuance or~~  
24      ~~modification of such certificate, request the board of trustees to modify or correct his~~  
25      ~~prior service certificate.~~

26           ~~B. When membership ceases, such prior service certificate shall become null~~  
27      ~~and void. Should the employee again become a member of the system, he shall enter~~  
28      ~~the system as an employee not entitled to prior service credit, unless he is granted a~~  
29      ~~disability allowance and returns to employment upon recovery. In such case he shall~~

1 ~~be given credit for all previous service including the time he draws disability~~  
2 ~~benefits.~~

3 € A.(1) Creditable service at retirement on which the retirement allowance  
4 of a member shall be based shall consist of the membership service rendered by him  
5 since he last became a member, and, also, if he has a prior service certificate which  
6 is in full force and effect, the amount of service certified on his prior service  
7 certificate.

8 (2) Unused sick and annual leave do not count toward retirement eligibility  
9 but are included in the calculation of retirement benefits.

10 (3) Purchased military service credit only counts toward eligibility for the  
11 twenty-five year regular retirement option but is included in the calculation of  
12 retirement benefits under the twelve-year, twenty-year, and twenty-five year  
13 retirement options.

14 (4) Creditable service will be earned in tenths of a year according to the  
15 following schedule:

	<u>Last Day Worked</u>	<u>Service Credit</u>
16	<u>January 1</u>	<u>.1</u>
17	<u>February 14</u>	<u>.2</u>
18	<u>March 31</u>	<u>.3</u>
19	<u>April 30</u>	<u>.4</u>
20	<u>May 31</u>	<u>.5</u>
21	<u>July 14</u>	<u>.6</u>
22	<u>August 14</u>	<u>.7</u>
23	<u>September 29</u>	<u>.8</u>
24	<u>October 29</u>	<u>.9</u>
25	<u>November 30</u>	<u>1 Year</u>

26 ~~D. Anything in this Subpart to the contrary notwithstanding, any person who~~  
27 ~~shall have been an employee as defined in R.S. 11:3682(16) any time subsequent to~~  
28 ~~September 16, 1940, who shall have entered the armed forces of the United States~~  
29

1 ~~during time of war or have been inducted into said forces in time of peace~~  
2 ~~subsequent to said date, shall be entitled to prior service credit for the period that he~~  
3 ~~served in the armed forces of the United States, not to exceed four years, provided~~  
4 ~~he is not granted credit for such service in any other retirement system, and provided~~  
5 ~~he becomes a member of this system on the date of its establishment.~~

6 E B. Conversion of annual and sick leave to retirement credit. As used in  
7 this Subsection, the term "unused sick leave and unused annual leave" shall mean  
8 that portion of accrued leave which exceeds the maximum amount of accrued leave  
9 payable in accordance with state civil service provisions.

10 (1) At the time of ~~regular~~ retirement of any member, after having been paid  
11 for the number of hours of annual leave payable in accordance with state civil service  
12 provisions, ~~he~~ members shall be given credit for all unused sick and unused annual  
13 leave as creditable service to be used in computing ~~his~~ their retirement benefits,  
14 subject to the limitation provided in R.S. 11:3685(A)(1)(a). Hours of leave will be  
15 converted into eight-hour days. Fractional days of four hours or more will be  
16 granted as one day; less than four hours will be disregarded. Leave will be converted  
17 using the following table:

	<u>Days of Unused Leave</u>	<u>Service Credit</u>
18		
19	<u>1-26</u>	<u>.1</u>
20	<u>27-52</u>	<u>.2</u>
21	<u>53-78</u>	<u>.3</u>
22	<u>79-104</u>	<u>.4</u>
23	<u>105-130</u>	<u>.5</u>
24	<u>131-156</u>	<u>.6</u>
25	<u>157-182</u>	<u>.7</u>
26	<u>183-208</u>	<u>.8</u>
27	<u>209-234</u>	<u>.9</u>
28	<u>235-260</u>	<u>1 Year</u>

1           (2) Any member employed prior to July 1, 2011, participating in the deferred  
2 retirement option plan as provided in R.S. 11:3685(B) on or after July 1, 2008, ~~or~~  
3 ~~any member thereafter choosing to enter the deferred retirement option plan~~ shall  
4 have the following options:

5           (a) Elect to use all unused sick leave and unused annual leave as creditable  
6 service in computing his deferred retirement option plan benefit.

7           (b) Elect to specify a portion of unused sick leave and unused annual leave  
8 to be used as creditable service in computing his deferred retirement option plan  
9 benefit.

10          (c) Elect to use none of his unused sick leave and unused annual leave as  
11 creditable service in computing his deferred retirement option plan benefit.

12          ~~(3) Upon completion of the term of the deferred retirement option plan and~~  
13 ~~termination of employment, after having been paid for the number of hours of annual~~  
14 ~~leave payable in accordance with state civil service provisions, such member shall~~  
15 ~~have the following options:~~

16          ~~(a) Be given credit for all unused sick leave and unused annual leave as~~  
17 ~~creditable service to be used in computing an additional benefit to be added to the~~  
18 ~~original deferred retirement option plan benefit.~~

19          ~~(b) Request in writing that in lieu of the foregoing conversion of unused sick~~  
20 ~~leave and unused annual leave to retirement credit, he be paid for such leave in a~~  
21 ~~lump sum for the amount of leave that could otherwise be converted to retirement~~  
22 ~~credit. Alternatively, such member who has unused sick leave or unused annual~~  
23 ~~leave that if converted to retirement credit would exceed one hundred percent of the~~  
24 ~~member's average compensation shall be entitled to be paid for such leave in excess~~  
25 ~~of one hundred percent of average compensation at its actuarial value as if it were~~  
26 ~~converted to retirement credit without regard to the one hundred percent cap. Under~~  
27 ~~either of the two options authorized by this Subparagraph, the amount paid shall be~~  
28 ~~the actuarial value of such leave if converted to retirement credit as determined by~~

1 the retirement system's actuary. ~~The cost for such actuarial determination shall be~~  
2 ~~paid by the member. Payment shall be made only upon retirement.~~

3 ~~(4) The provisions of Paragraphs (2) and (3) of this Subsection shall be~~  
4 ~~applicable to any person who participates in the deferred retirement option plan on~~  
5 ~~or after July 1, 2008.~~

6 (d) Upon completion of the term of the deferred retirement option plan and  
7 termination of employment, after having been paid for the number of hours of annual  
8 leave payable in accordance with state civil service rules, members may request in  
9 writing that in lieu of the foregoing conversion of unused sick leave and unused  
10 annual leave to retirement credit, they wish to be paid for such leave in a lump sum  
11 for the amount of leave that could otherwise be converted to retirement credit.  
12 Alternatively, such member who has unused sick leave or unused annual leave that  
13 if converted to retirement credit would exceed one hundred percent of the member's  
14 average compensation shall be entitled to be paid for such leave in excess of one  
15 hundred percent of average compensation at its actuarial value as if it were converted  
16 to retirement credit without regard to the one hundred percent cap. Under either of  
17 the two options authorized by this Subparagraph, the amount paid shall be the  
18 actuarial value of such leave if converted to retirement credit as determined by the  
19 retirement system's actuary. The cost for such actuarial determination shall be paid  
20 by the member. Payment shall be made only upon retirement.

21 (3) For members hired on or after July 1, 2011, unused sick and annual leave  
22 will be converted to service credit and the conversion will take place only upon  
23 termination of employment.

24 ~~(5)(4)~~ The provisions of this Subsection shall not be applicable to a member  
25 requesting retirement pursuant to the disability retirement provisions of this Subpart.

26 FC. Any member who has terminated membership in the system for any  
27 reason and has withdrawn his contributions and who later is reemployed and  
28 becomes a member of the system; shall, after eighteen months of additional service  
29 and membership, be eligible to obtain credit for his prior service in the system,

1 provided that he pay back into the system the amount of the contributions which had  
2 been refunded to him plus compound interest from the date of the refund until the  
3 date of repurchase. The compound interest rate to be used in the computation of the  
4 amount the member must pay back into the system shall be ~~the actuarially assumed~~  
5 ~~interest rate in the most recent actuarial valuation~~ as provided in R.S. 11:3688.

6 D. Credit for military service.

7 Credit for military service may be accrued in accordance with the Military  
8 Service Relief Act contained in R.S. 29:401 through 426.

9 §3684.1. Purchase of service credit; trustee-to-trustee transfer

10 Payment for service credit under this Part shall be allowed by a trustee-to-  
11 trustee transfer of funds from an annuity under Section 403(b) or a plan under  
12 Section 457 of the Internal Revenue Code to the system.

13 §3685. Benefits

14 ~~A.(1)(a) Any member of this system who has completed at least twenty years~~  
15 ~~of creditable service and attained the age of forty-five years, or any member who has~~  
16 ~~completed at least twenty-five years of creditable service regardless of age, or any~~  
17 ~~member who has completed at least ten years of service and attained the age of sixty~~  
18 ~~years, or any member who has completed at least twelve years of creditable service~~  
19 ~~and has attained the age of fifty-five years, shall be entitled to retire from service and~~  
20 ~~upon such retirement shall be paid a retirement allowance equal to three and~~  
21 ~~one-third percent of his average final compensation multiplied by his years of~~  
22 ~~creditable service, not to exceed one hundred percent of his final salary. Members~~  
23 ~~of this system shall be entitled to retire from service and upon such retirement shall~~  
24 ~~be paid a retirement allowance equal to three and one-third percent, or the applicable~~  
25 ~~accrual rate when earned, if different, of their average final compensation multiplied~~  
26 ~~by their years of creditable service, not to exceed one hundred percent of their final~~  
27 ~~salary, if they meet one of the following retirement eligibility options:~~

28 (i) Twenty years at age forty-five.

1           For members hired prior to July 1, 2011, who complete at least twenty years  
2           of creditable service and attain the age of forty-five years.

3           (ii) Actuarially reduced twenty years at any age.

4           For members hired on or after July 1, 2011, who complete at least twenty  
5           years of creditable service at any age, exclusive of purchased military service and  
6           unused annual and sick leave, but any person retiring under this Paragraph shall have  
7           his benefit, inclusive of purchased military service credit and allowable unused  
8           annual and sick leave, actuarially reduced. Any member retiring under this  
9           Paragraph who is in covered service at the time of his retirement shall have his  
10           benefit actuarially reduced from the earliest age that he would normally become  
11           eligible for a regular retirement benefit under Item (iii) or (v) of this Subparagraph  
12           if he had continued in service to that age. Any member retiring under this Paragraph  
13           who is out of covered service at the time of his retirement shall have his benefit  
14           actuarially reduced from the earliest age that he would normally become eligible for  
15           a regular retirement benefit under Item (iii) or (v) of this Subparagraph based upon  
16           his years of service as of the date of retirement. Any employee who elects to retire  
17           under the provisions of this Paragraph shall not be eligible to participate in the  
18           Deferred Retirement Option Plan or the Initial Benefit Option.

19           (iii) Twenty-five years at any age.

20           For members who complete at least twenty-five years of creditable service  
21           regardless of age, inclusive of purchased military service but exclusive of unused  
22           sick leave and unused annual leave.

23           (iv) Ten years at age sixty.

24           For members hired prior to July 1, 2011, who complete at least ten years of  
25           service and attain the age of sixty years.

26           (v) Twelve years at age fifty-five.

27           For members who complete at least twelve years of creditable service and  
28           attain the age of fifty-five years exclusive of purchased military service and  
29           exclusive of unused sick leave and unused annual leave.

1            (vi) Early Retirement.

2            Members hired on or after July 1, 2011, who retire before reaching the age  
3            of fifty will have their retirement actuarially reduced by the number of years needed  
4            to reach age fifty.

5            (b) Any member hired before July 1, 2011, who has completed ten or more  
6            years of creditable service or any member hired on or after July 1, 2011, who has  
7            completed twelve or more years of creditable service, with less than thirty years of  
8            creditable service, shall be entitled to leave his contributions in the retirement system  
9            and remain a member, and shall be entitled to a retirement benefit beginning at the  
10           age for which he qualified based on his years of creditable service. Any member  
11           who leaves with less than the prescribed number of years of service as set out in this  
12           Subpart shall be paid the balance of his employee contributions upon termination.

13           (2) Survivor benefits.

14           Benefits shall be payable to survivors of a deceased member, with at least  
15           five years of creditable service, who dies before retirement as specified in the  
16           following:

17           (a) If a member with twelve or more years of creditable service dies while  
18           employed and leaves a surviving spouse he will be deemed to have exercised  
19           retirement Option 2 on the date of death. The benefit is payable for the life of the  
20           surviving spouse, regardless of remarriage. This Subparagraph shall be effective on  
21           July 1, 2011, and thereafter.

22           (b) If a member dies with ten or more years of service but less than twelve  
23           years of service, the benefit is paid as follows:

24           ~~(a)~~(i) The surviving eligible ~~widow~~ spouse without children shall be paid  
25           monthly benefits equal to forty percent of the average final compensation of the  
26           member prior to his death; however, if the surviving spouse remarries, such benefits  
27           shall cease.

28           ~~(b)~~(ii) The surviving eligible ~~widow~~ spouse of a deceased member who dies  
29           leaving one or more children under eighteen years of age shall be paid monthly

1 benefits equal to forty percent of the average final compensation of the member prior  
2 to his death plus the greater of two hundred dollars per month per child or ten percent  
3 of the average final compensation of the member prior to his death per child up to  
4 a combined maximum of sixty percent of the average final compensation of the  
5 member prior to his death; however, if the surviving spouse remarries or the  
6 surviving children reach the age of eighteen, such benefits shall cease. If the benefits  
7 cease due to the latter cause the surviving widow shall thereafter receive the benefits  
8 specified in Subparagraph (a) of Paragraph (2) of this Subsection.

9 ~~(e)~~(iii) If the deceased member was married and leaves surviving children  
10 under eighteen years of age but no surviving ~~widow spouse~~, the surviving children  
11 shall be paid monthly benefits equal to forty percent of the final average  
12 compensation of the member prior to his death for one child and sixty percent of the  
13 ~~average~~ final average compensation of the member prior to his death; for two or  
14 more children, with a benefit to be paid until such time as the youngest child reaches  
15 the age of eighteen years. Benefits shall cease for children as they reach age  
16 eighteen. When there is only one surviving minor child remaining, the benefit will  
17 be reduced to forty percent of the final average compensation, as adjusted for any  
18 cost-of-living adjustments granted, of the member prior to his death, to be paid until  
19 such time as the child reaches the age of eighteen years.

20 (c)(i) The surviving totally physically handicapped or mentally disabled  
21 child or children of a deceased member, whether under or over the age of eighteen  
22 years, shall be entitled to the same benefits, payable in the same manner as are  
23 provided by this Part for minor children, if the totally physically handicapped or  
24 mentally disabled child is totally dependent upon the surviving spouse or other legal  
25 guardian and is not receiving state or federal assistance. Should it be determined that  
26 the totally physically handicapped or mentally disabled child is receiving state or  
27 federal assistance, then his benefit shall be reduced to an amount which, when added  
28 to the state or federal assistance being received, does not exceed the maximum  
29 survivor benefit payable under R.S. 11:3685(A)(2)(b).

1           (ii) The applicant shall provide adequate medical proof of handicap or  
2           mental disability of such surviving child or children and shall notify the board of any  
3           subsequent changes in the child's condition to such an extent that the child is no  
4           longer totally dependent upon the surviving spouse or legal guardian, and any  
5           changes in the assistance being received from state or federal agencies. The  
6           surviving spouse or other legal guardian shall provide by May first of each calendar  
7           year, a certified and notarized statement of each child's eligibility status and a report  
8           of all other assistance each child receives; as soon as the child's condition or  
9           assistance received changes. Should the surviving spouse or other legal guardian not  
10           submit such a statement for any totally physically handicapped or mentally disabled  
11           child over the age of eighteen by May first, the allowance shall be discontinued,  
12           without retroactive reimbursement, until the statement is filed. Should the  
13           nonsubmittal continue for the remainder of the calendar year, all rights in and to the  
14           allowance shall be revoked by the board of trustees.

15           ~~(d) If a member dies leaving no surviving spouse or children, his mother~~  
16           ~~and/or his father who were dependent upon him as their sole means of support shall~~  
17           ~~be paid monthly benefits equal to forty percent of the average final compensation of~~  
18           ~~the member prior to his death.~~

19           ~~(e)~~(d) Provided that in the case of death of any member resulting from injury  
20           received in line of duty, survivors' benefits shall be paid regardless of number of  
21           years of service and shall be sixty percent of his final salary payable to his widow  
22           until she remarries or to his surviving children under eighteen years of age if there  
23           is no eligible surviving widow; or to his surviving parents if there is no eligible  
24           surviving widow or child.

25           ~~(f) Whenever a disability retiree dies, his or her survivor shall be paid a~~  
26           ~~one-time lump sum benefit equal to six times the value of the monthly benefit~~  
27           ~~payments being received by the retiree at the time of death.~~

28           (3)(a) Should a member cease to be an employee except by death or  
29           retirement under the provisions of this Subpart, he shall be paid the amount of the

1 accumulated contributions standing to the credit of his individual account. Should  
2 a member die before retirement and not be entitled to survivors' benefits, the amount  
3 of his accumulated contributions standing to the credit of his individual account shall  
4 be paid to his estate or to such person as he shall have nominated by written  
5 designation, duly executed and filed with the Board of Trustees.

6 (b) Should a retired member die, without having received in retirement  
7 benefits an amount equal to his accumulated contributions standing to his credit at  
8 the date of his retirement, and leave no eligible survivors, any balance remaining to  
9 his credit shall be paid to his designated beneficiary or, if none, his estate.

10 ~~B. The provisions of this Subsection shall apply to those persons enrolled in~~  
11 ~~the deferred retirement option plan prior to July 1, 1995.~~

12 ~~(1) In lieu of terminating employment and accepting a service retirement~~  
13 ~~under this Subpart, any member of this system who has not less than twenty years~~  
14 ~~of creditable service and who is eligible to receive a service retirement allowance~~  
15 ~~may elect to participate in a deferred retirement option plan as provided for below~~  
16 ~~and defer the receipt of benefits in accordance with the provisions of this Section.~~

17 ~~(2) For purposes of this Section, creditable service shall not include service~~  
18 ~~credit reciprocally recognized under R.S. 11:142.~~

19 ~~(3) The duration of participation in the plan shall be specified and shall not~~  
20 ~~exceed five years.~~

21 ~~(4) A member may participate in the plan only once.~~

22 ~~(5) Upon the effective date of the commencement of participation in the~~  
23 ~~plan, active membership in the system shall terminate. Employer contributions shall~~  
24 ~~continue to be payable by the employer during the member's participation in the~~  
25 ~~plan, but payment of employee contributions shall cease upon the effective date of~~  
26 ~~the member's commencement of participation in the plan. For purposes of this~~  
27 ~~Section, compensation and creditable service shall remain as they existed on the~~  
28 ~~effective date of commencement of participation in the plan. The monthly retirement~~  
29 ~~benefits that would have been payable, had the member elected to cease employment~~

1 and receive a service retirement allowance, shall be paid into the deferred retirement  
2 option plan account. Upon termination of employment, deferred benefits shall be  
3 payable as provided by Paragraph (B)(8):

4 (6) ~~The deferred retirement option plan account shall earn interest not to~~  
5 ~~exceed two percent less than the realized rate of investment return earned by the fund~~  
6 ~~for that year. A person who participates in this program shall have credited to his~~  
7 ~~DROP account the same annual cost of living increase that he would have received~~  
8 ~~had the member been a retiree in the system as provided in Subsection C of this~~  
9 ~~Section.~~

10 (7) ~~The deferred retirement option plan account shall not be subject to any~~  
11 ~~fees or charges of any kind for any purpose.~~

12 (8) ~~Upon termination of employment at the end of the specified period of~~  
13 ~~participation, a participant in the program shall receive, at his option, a lump sum~~  
14 ~~payment from the account equal to the payment to the account; or a true annuity~~  
15 ~~based upon his account; or he may elect any other method of payment if approved~~  
16 ~~by the board of trustees. In the event a member elects to receive a true annuity, or~~  
17 ~~any other method of payment approved by the board of trustees, funds will be~~  
18 ~~transferred from the DROP account into the Annuity Reserve Account to provide for~~  
19 ~~the annuity payments.~~

20 (9) ~~If a participant dies during the period of participation in the program, a~~  
21 ~~lump sum payment equal to his account balance shall be paid to his named~~  
22 ~~beneficiary, or if none, to his estate.~~

23 (10)(a) ~~If employment is not terminated at the end of the period specified for~~  
24 ~~participation, payments into the account shall cease.~~

25 (b) ~~Payments from the account shall not be made until employment is~~  
26 ~~terminated, nor shall the monthly benefits being paid into the fund during the period~~  
27 ~~of participation be payable to the individual until he terminates employment.~~

28 (11)(a) ~~If employment is not terminated at the end of the period specified for~~  
29 ~~participation, he shall resume active contributing membership in the system.~~

1 (b) Upon termination of employment, the monthly benefits which were being  
2 paid to the fund shall begin to be paid to him.

3 ~~(c) Upon termination of employment, he shall receive an additional~~  
4 ~~retirement benefit based on his additional service rendered since termination of~~  
5 ~~participation in the fund, using the normal method of computation of benefit, subject~~  
6 ~~to the following:~~

7 ~~(i) If his period of additional service is less than thirty-six months, the~~  
8 ~~average compensation figure used to calculate the additional benefit shall be that~~  
9 ~~used to calculate his original benefit.~~

10 ~~(ii) If his period of additional service is thirty-six months or more, the~~  
11 ~~average compensation figure used to calculate the additional benefit shall be based~~  
12 ~~on his compensation during the period of additional service.~~

13 ~~(iii) The option used shall be that applicable to the original benefit.~~

14 ~~(iv) In no event shall the additional benefit exceed an amount which, when~~  
15 ~~combined with the original benefit, equals one hundred percent of the average~~  
16 ~~compensation figure used to compute the additional benefit.~~

17 € B. The provisions of this Subsection shall apply to those persons who  
18 enrolled in the Deferred Retirement Option Plan on or after July 1, 1995, and who  
19 were hired before July 1, 2011.

20 (1) As governed by the provisions of this Subsection, there exists as a part  
21 of this retirement system, an optional account known as the Deferred Retirement  
22 Option Plan, which may be cited as the "DROP".

23 (2) The provisions of this Subsection are applicable with respect to those  
24 otherwise eligible members of the retirement system whose election to participate  
25 in the DROP occurs on or after July 1, 1995, and who were hired before July 1, 2011.

26 (3) The purpose of the DROP is to allow, contractually, in lieu of immediate  
27 termination of employment and receipt of a service retirement allowance, continued  
28 employment for a ~~specified~~ period of time, coupled with the deferral of receipt of

1 retirement benefits until the end of such period of participation, at which time  
2 employment is to cease.

3 (4)(a) Participation in the DROP is an option available to any member of this  
4 retirement system who is eligible to retire immediately with a service retirement  
5 allowance from this retirement system and has either of the following:

6 (i) Twelve years of creditable service, excluding unused sick leave, ~~and~~  
7 unused annual leave, and purchased military service credit and has attained the age  
8 of fifty-five.

9 (ii) At least ~~twenty-five~~ but not more than thirty years of creditable service  
10 in this retirement system, including purchased military service credit and excluding  
11 unused sick and annual leave, ~~in this retirement system.~~

12 (b) For purposes of this Subsection, creditable service shall not include  
13 service in another retirement system which is reciprocally recognized by this  
14 retirement system under authority of R.S. 11:142.

15 (5) The election to participate in the DROP shall be exercised on or before  
16 the applicant's attaining thirty years of creditable service, or the option to so  
17 participate is forfeited.

18 (6) A member shall participate in the Harbor Police Retirement System  
19 DROP only once.

20 (7) The duration of participation in the DROP shall be for a ~~specified~~ period  
21 of time, ~~which~~ that shall not exceed either of the following:

22 (a) Five years.

23 (b) A number of years which, when added to the number of years of  
24 creditable service for which the member has credit in this retirement system, equals  
25 thirty-five.

26 (8) Should the participation period be interrupted by any of the following:

27 (a) ~~interruption~~ Interruption through no-fault dismissal

28 (b) ~~reduction~~ Reduction in work force

29 (c) ~~job~~ Job related disability

1           ~~upon~~ Upon re-establishment of membership, provided member has not  
2 received any distributions from the DROP account, member shall be immediately  
3 eligible for resumption of participation for the balance of the five-year maximum or  
4 the balance of his original DROP participation period, if any.

5           (9) ~~The~~ Upon entering the DROP the member shall contractually agree with  
6 the retirement system to be bound by the provisions of this Subsection. The member  
7 shall therein specifically agree to cease employment at the end of the ~~specified~~  
8 period of participation, and specifically agrees to the results stipulated for failure to  
9 abide by such terms of the contract.

10           (10) Prior to sixty days before the end of the ~~specified~~ period of  
11 participation, the board of trustees shall give notice of same, by certified mail, return  
12 receipt requested, to the member.

13           (11) Upon commencement of participation in the DROP, although the  
14 participant shall remain an active member of this retirement system, neither  
15 employee nor employer contributions shall be payable to the retirement system.  
16 Such contributions shall not be payable even if the member violates the terms of this  
17 contract and does not cease employment at the end of the period of participation as  
18 agreed, thereby assuming inactive membership status. No additional service or  
19 additional benefits, other than service credit or benefits attributable to sick leave and  
20 annual leave, shall be earned.

21           (12) Upon commencement of participation, the service retirement allowance  
22 that would have been payable to the member had the member elected to cease  
23 employment and receive a service retirement allowance, shall be paid into the  
24 Deferred Retirement Option Plan Account in lieu of being paid to the member.

25           (13) The Deferred Retirement Option Plan Account shall ~~not~~ earn interest  
26 during the period of participation. ~~However, the~~ The board of trustees shall annually  
27 set a percentage rate, and its manner of compounding, ~~to represent the interest rate~~  
28 ~~that would be earned thereby if same did earn interest. If the member ceases~~  
29 ~~employment at the end of the specified period of participation as contractually~~

1 ~~agreed, or dies during or at the end of the specified period of participation as~~  
2 ~~contractually agreed, a sum equal to the amount the individual account would have~~  
3 ~~earned, if the representative interest rate, as compounded, had been applicable to~~  
4 ~~such account, shall be added to this account. Thereafter, the account, if maintained~~  
5 ~~as otherwise authorized by this Subsection, shall earn interest at a rate compounded,~~  
6 ~~as set annually by the board of trustees. Such such actual rate of interest and manner~~  
7 ~~of compounding shall be equal to the representative rate and compounding in effect~~  
8 ~~actuarial rate of return earned on the system's portfolio for the same period of time~~  
9 ~~for each fiscal year as certified by the system's actuary in the actuarial report, less~~  
10 ~~one-half of one percent. If the member does not abide by the terms of the contract~~  
11 ~~and ~~cease~~ ceases employment at the end of the period of participation as~~  
12 ~~contractually agreed, payments into the Deferred Retirement Option Plan Account~~  
13 ~~shall immediately cease and the member shall ~~immediately be paid a lump sum~~~~  
14 ~~~~payment from the member's individual account balance in the Deferred Retirement~~~~  
15 ~~~~Option Plan Account equal to its balance, without the addition of any sum~~~~  
16 ~~~~representing interest~~ receive, at the member's option, any one of the following~~  
17 ~~payment options, and such member's DROP account shall be terminated.~~

18 (a) A lump sum payment from the retiree's individual account balance in the  
19 DROP account equal to its balance.

20 (b) A life annuity based upon the account balance.

21 (c) Any other method of payment if approved by the board of trustees.

22 Such member shall not be considered as retired, but shall remain as a member  
23 of the retirement system, in an inactive status. Only upon actual cessation of  
24 employment shall the member be considered as a retiree and entitled to the receipt  
25 of retirement benefits. ~~This~~ The DROP account shall not be subject to any fees or  
26 charges of any kind for any purpose, except as otherwise provided herein.

27 (14) If the member remains an employee for ~~a specified~~ the period of  
28 participation in the DROP and then immediately thereafter terminates employment,

1 the member shall become a retiree and shall receive, at the retiree's option, any one  
2 of the following:

3 (a) A lump sum payment from the retiree's individual account balance in the  
4 Deferred Retirement Option Plan Account equal to its balance.

5 (b) A life annuity based upon the account balance.

6 (c) Any other method of payment if approved by the board of trustees.

7 The payments that were being made into the Deferred Retirement Option  
8 Plan Account in lieu of a retirement allowance shall thereafter be paid to the retiree.

9 (15) If the member terminates employment prior to the end of the specified  
10 period of participation, the member shall immediately become a retiree and shall  
11 receive, at the retiree's option, any one of the following:

12 (a) A lump sum payment from the retiree's individual account balance in the  
13 Deferred Retirement Option Plan Account equal to its balance.

14 (b) A life annuity based upon the account balance.

15 (c) Any other method of payment if approved by the board of trustees.

16 The payments that were being made into the Deferred Retirement Option  
17 Plan Account in lieu of a retirement allowance shall thereafter be paid to the retiree.

18 (16) If the member dies during the period of participation and the member's  
19 named beneficiary is the member's surviving spouse with whom the member was  
20 legally married at the time of the member's death, the named beneficiary shall  
21 receive, at the beneficiaries option, any one of the following:

22 (a) A lump sum payment from the retiree's individual account balance in the  
23 Deferred Retirement Option Plan Account equal to its balance.

24 (b) A life annuity based upon the account balance.

25 (c) Any other method of payment if approved by the board of trustees.

26 ~~Normal survivor~~ Retirement benefits are payable to ~~survivors of retirees shall~~  
27 ~~be payable~~ the beneficiary, if any, in accordance with the retirement option selected.

28 (17) If the member dies during the period of participation and the member's  
29 named beneficiary is someone other than the member's surviving spouse to whom

1 the member was legally married at the time of the member's death, the named  
2 beneficiary shall receive a lump sum payment equal to the member's individual  
3 account balance in the Deferred Retirement Option Plan Account. ~~Normal survivor~~  
4 Retirement benefits are payable to survivors of retirees shall be payable the  
5 beneficiary, if any, in accordance with the retirement option selected.

6 (18) If the member dies during the period of participation and a beneficiary  
7 was not named, the member's estate shall receive a lump sum payment equal to the  
8 member's individual account balance in the Deferred Retirement Option Plan  
9 Account. ~~Normal survivor~~ Retirement benefits are payable to survivors of retirees  
10 shall be payable the beneficiary, if any, in accordance with the retirement option  
11 selected.

12 C. The provisions of this Subsection shall apply to members hired on or after  
13 July 1, 2011.

14 (1)(a) In lieu of terminating employment and accepting a retirement  
15 allowance, any member of this system who is eligible for regular retirement may  
16 elect to participate in the DROP. For purposes of participation in the DROP,  
17 "regular retirement" shall mean retirement under R.S. 11:3685(A)(1)(a)(iii) or (v).

18 (b) An election to participate in the DROP may be made only once and must  
19 be for a specified period not to exceed three years. The three-year period begins  
20 within sixty calendar days after the member first becomes eligible for regular  
21 retirement under the retirement provisions applicable to the member. The  
22 participation period shall end not more than three years from the date the member  
23 first becomes eligible for regular retirement, and in no case shall the actual  
24 participation in the plan exceed three years. Once specified, the period of  
25 participation shall not be extended. A member participating in the DROP shall not  
26 terminate participation in the DROP prior to the end of the selected duration without  
27 terminating employment.

28 (c) For purposes of this plan, sick and annual leave shall not be converted for  
29 purposes of establishing eligibility.

1           (2)(a) Upon the effective date of commencement of participation in the  
2           DROP and during the period of participation in the DROP, neither the employee nor  
3           the employer contributions shall be payable.

4           (b) For purposes of this Section, final average compensation and creditable  
5           service shall remain fixed as they existed on the date of commencement of  
6           participation in the DROP. Creditable service shall not include conversion of sick  
7           and annual leave. Purchased military service credit shall apply as provided in R.S.  
8           11:3685(A)(1)(a)(iii) and (v).

9           (c) Retirement benefits based on final average compensation and creditable  
10          service as established under Subparagraph (b) of this Paragraph and which otherwise  
11          would have been due the participant shall, during the period of participation in  
12          DROP, be credited to the participant's DROP subaccount.

13          (d) Individuals who participate in the plan shall not receive the benefit of any  
14          cost-of-living adjustments granted while employed and for a period of one year  
15          following termination of employment and then such cost-of-living adjustment shall  
16          only be granted in accordance with R.S. 11:3685(D).

17          (3)(a) The DROP shall be a part of the system fund.

18          (i) The contributing period shall mean that time period during DROP  
19          participation when retirement funds are being credited to the participant's DROP  
20          subaccount maintained by the system.

21          (ii) The investment period shall mean the period of time after the  
22          contributing period ends through the end of employment.

23          (b)(i) Management of the DROP funds shall be by the system during the  
24          contributing period.

25          (ii) At the end of the contributing period, the balance of the subaccount shall,  
26          at the election of the participant prior to participation in the plan, be transferred to  
27          either the self-directed subaccount or to a system subaccount, maintained and  
28          managed by the system, in accordance with the terms in this Section. The

1 participant's election shall be irrevocable. If no election is made, the participant shall  
2 be deemed to have elected to enter the self-directed portion of the plan.

3 (iii) Both subaccounts shall be within the DROP established pursuant to this  
4 Section. If the funds are transferred to the self-directed subaccount for the  
5 investment period, the system is authorized to hire a third-party provider who shall  
6 be an agent of the system for purposes of investing balances in the self-directed  
7 subaccounts of the participants.

8 (c) The system or the third-party provider shall maintain the DROP  
9 subaccounts within this plan reflecting the credits attributed to each participant in the  
10 plan during the contributing and investment periods as applicable. All monies in the  
11 DROP subaccounts, while the participant is employed, shall remain a part of the  
12 fund, regardless of in which subaccount the monies are maintained, until disbursed  
13 to a participant in accordance with the plan provisions upon termination of  
14 employment.

15 (d) Interest shall not be credited to a participant's DROP subaccount during  
16 the contributing period. All amounts which remain credited to the individual's  
17 DROP subaccount after termination of participation in the plan and employment  
18 shall be disbursed as provided in R.S. 11:3685(C)(a)(i).

19 (4)(a) Upon termination of participation in both the DROP and employment,  
20 a participant shall:

21 (i) At the participant's option, receive either a lump sum payment equal to  
22 the amount then credited to his individual DROP subaccount, or a life annuity based  
23 on his individual DROP subaccount balance, or any other method of payment that  
24 is approved by the board, and

25 (ii) Begin to receive regular monthly retirement benefits based on the  
26 retirement option selected at the time of election to participate in the DROP, as  
27 adjusted pursuant to Subparagraph (d) of this Paragraph.

28 (b) Upon termination of participation in the DROP but not employment,  
29 credits to the DROP subaccount shall cease and no retirement benefits shall be paid

1        to the participant until employment is terminated. If the participant chooses to enter  
2        the self-directed portion of the plan the balance in the participant's DROP subaccount  
3        shall be placed in a self-directed subaccount in the name of the participant as  
4        provided for in R.S. 11:3685(H), and the participant shall then be bound by the  
5        provisions of such Subsection. If the participant chooses not to enter the  
6        self-directed portion of the plan, the balance in the participant's subaccount shall be  
7        maintained and managed by the system in a separate subaccount in his name, subject  
8        to the provisions of R.S. 11:3685(C)(4)(b)(i) through (iii). No payment shall be  
9        made based on credits in either subaccount until employment is terminated as  
10       defined in this Section. The participant may continue employment after termination  
11       of participation in DROP for the sole purpose of accruing a supplemental benefit,  
12       and employer and employee contributions shall be made during this period of  
13       continued employment after DROP.

14            (i) Any individual who becomes eligible to participate in DROP may make  
15        an irrevocable written election to waive his rights as set forth in Article X, Section  
16        29 of the Constitution of Louisiana, relative to the interest earned by his DROP  
17        subaccount. For any such person who has made such irrevocable election and who  
18        continues employment after DROP, upon termination of participation in the DROP,  
19        his individual DROP subaccount balance in the plan, if managed by the system, shall  
20        earn interest on those funds at a rate equal to the actuarial rate of return on the  
21        system's portfolio for each fiscal year as certified by the system's actuary in the  
22        actuarial report, less one-half of one percent. However, by making such an election,  
23        the person shall expressly acknowledge that his account shall be debited in the event  
24        the system's investment portfolio experiences a negative earnings rate. The member  
25        shall further expressly acknowledge his consent to having the value of his account  
26        balance permanently reduced as a result of the devaluation of system assets caused  
27        by such a negative earnings rate. As a precondition of making this election, the  
28        member shall expressly acknowledge his understanding of the possibility of such  
29        account reductions.

1           (ii) Any individual who does not elect to waive his rights pursuant to  
2           Subparagraph (a) of this Paragraph shall have the funds in his DROP account  
3           governed by the provisions applicable to participants in the self-directed portion of  
4           the plan.

5           (iii) The board of trustees may make, alter, amend, and promulgate rules  
6           necessary for the implementation and administration of this Paragraph.

7           (c) If the participant dies, whether still participating in DROP or after  
8           participation but while still employed, his credits and benefits, if any, that are due to  
9           his beneficiaries shall be payable as if he had retired immediately prior to death and  
10          his retirement was in accordance with the R.S. 11:3687 option selected.

11          (d) Monthly retirement benefits payable to a participant after termination of  
12          participation in DROP and termination of employment shall be calculated as follows:

13           (i) There shall be a "base benefit" which shall equal the participant's monthly  
14           credit to the DROP subaccount as calculated at the time of the participant's entry into  
15           DROP.

16           (ii) If the participant does not continue employment after termination of  
17           participation in DROP, his monthly retirement benefit shall equal his base benefit.

18           (iii) If the participant continues employment after termination of  
19           participation in the DROP for a period of less than sixty months, his monthly  
20           retirement benefit shall equal his base benefit plus a supplemental benefit based upon  
21           the service credit for the additional employment, and based upon the final average  
22           compensation used to calculate the monthly credit to the DROP subaccount.

23           (iv) If the participant continues employment after termination of  
24           participation in the DROP for a period of sixty months or more, his monthly  
25           retirement benefit shall equal his base benefit plus a supplemental benefit based upon  
26           the service credit for the additional employment, and based upon the final average  
27           compensation for the period of employment after termination of participation in the  
28           DROP.

1           (v) The amount of unused sick and annual leave at the time of termination  
2           may be converted to retirement credit under the provisions of R.S. 11:3684(B)(1).  
3           If a participant continues employment for less than five years after termination of  
4           participation in the DROP, then unused sick and annual leave shall be used to  
5           compute a supplemental benefit using the member's final average compensation as  
6           provided in Item (i) of this Section. If a participant continues employment for more  
7           than five years after termination of participation in the DROP, then unused sick and  
8           annual leave shall be used to compute a supplemental benefit using the member's  
9           final average compensation as provided in Paragraph (C)(d)(d)(iv) of this Section.

10           (vi) In no instance shall a supplemental benefit and a base benefit, added  
11           together, exceed one hundred percent of the applicable final average compensation.

12           (5) Once participation in the DROP commences, the election to participate  
13           is irrevocable and the term of participation may not be extended. Once participation  
14           in the DROP commences, transfers of service, reciprocal service agreements,  
15           repaying previously refunded contributions, and purchasing service credit are not  
16           permitted. Only one period of participation is permitted. Final average  
17           compensation and election of retirement option are fixed upon commencement of  
18           participation and may not be changed after entering the DROP.

19           D.(1) The board of trustees is authorized to provide a cost-of-living increase  
20           in any year when either:

21           (a) The realized investment return on ~~reserves allocated to retirees~~ assets as  
22           of the most recent actuarial valuation exceeds the actuarial requirements, provided  
23           that the actuarial present value of the cost-of-living benefits granted that year, valued  
24           over the future lifetimes of such retirees' retirement annuities, shall not exceed the  
25           aforementioned excess investment return and, effective July 1, 2011, further  
26           provided that the funded ratio of the plan equals or exceeds sixty-five percent.

27           (b) The funded ratio equals or exceeds ninety percent. The "funded ratio"  
28           is the funded ratio as determined under the Projected Unit Credit Actuarial Cost

1 Method within the meaning of Statement 27 of the Governmental Accounting  
2 Standards Board.

3 (2) Any such cost-of-living benefits granted to a retiree shall not ~~in total~~  
4 exceed three percent of the current benefit being received at the time of the granting  
5 of the increase for ~~each year of retirement before the year such retiree attains~~ retirees  
6 under age sixty-five on the date of the increase, and five percent for ~~each year of~~  
7 ~~retirement thereafter~~ retirees aged sixty-five or older on the date of the increase.  
8 ~~Such benefits shall be paid only when funds are available from this source, and~~  
9 ~~payments shall be made in such manner and in such amount as may be determined~~  
10 ~~by the board of trustees based on the funds available.~~

11 (3) Any adjustment to benefits for cost-of-living changes made by formal  
12 action of the board of trustees as provided by this Subsection shall be considered  
13 amendments to the provisions of the retirement system. If made by formal action of  
14 the board of trustees, such changes must be disclosed to members of the retirement  
15 system.

16 (4) Cost-of-living adjustments may be granted each January first after at  
17 least a full year has elapsed after the member has terminated employment and  
18 benefits began, subject to the limitations contained herein.

19 (5) All members hired on or after July 1, 2011, must also be age sixty or  
20 older on June thirtieth of the year that a cost-of-living adjustment is approved by the  
21 trustees in order to qualify for the cost-of-living adjustment.

22 E. The benefits provided in this Section shall not be retroactive to any  
23 period. ~~Further adjustments in benefits may be made each January first after at least~~  
24 ~~a full year has elapsed after benefits began, subject to the limitations contained~~  
25 ~~herein.~~ Effective July 1, 2011, all increases in benefits affecting this system will be  
26 applied only to years of service subsequent to the effective date of the increase unless  
27 stated otherwise in the Act. Statutory changes in benefits do not apply to members  
28 who have already retired.

1           F. Automatic cost-of-living adjustments. This provision is effective July 1,  
2           2011.

3           (1)(a) Upon application for retirement or participation in the DROP, any  
4           member may elect to receive an actuarially reduced retirement allowance plus an  
5           annual two and one-half percent cost-of-living adjustment. Such an election shall  
6           be irrevocable after the effective date of retirement or after the beginning date of  
7           participation in the DROP. The retirement allowance together with the cost-of-living  
8           adjustment shall be certified by the system actuary to be actuarially equivalent to the  
9           member's maximum or optional retirement allowance and shall be approved by the  
10          system's board of trustees.

11          (b) The annual cost-of-living adjustment of such retirees shall be based on  
12          the retirement allowance received pursuant to the retirement plan option selected by  
13          the member and the monthly benefit being paid pursuant thereto on the effective date  
14          of the increase, inclusive of cost-of-living adjustments paid pursuant to this Section,  
15          but exclusive of cost-of-living adjustments or permanent benefit increases paid  
16          pursuant to any other provision of law. Cost-of-living adjustments granted under  
17          Subsection D of this Section are not to be included in the calculation of the annual  
18          cost-of-living adjustment.

19          (c)(i) The annual cost-of-living adjustment of any DROP participant shall  
20          be credited to the participant's DROP subaccount during the participation period.

21          (ii) Following participation in the DROP, the annual cost-of-living  
22          adjustment shall be applied to the monthly benefit allowance amount determined by  
23          the retirement plan option selected, inclusive of cost-of-living adjustments paid  
24          pursuant to this Section, but exclusive of cost-of-living adjustments or permanent  
25          benefit increases paid pursuant to any other provision of law. Cost-of-living  
26          adjustments granted under Subsection D of this Section are not to be included in the  
27          calculation of the annual cost-of-living adjustment. The monthly benefit allowance  
28          upon retirement shall reflect the annual benefit adjustments set forth in this  
29          Paragraph.

1            (iii) Upon retirement of a DROP participant, the annual cost-of-living  
2            adjustment shall also be applied to any supplemental benefit earned after the  
3            participation period in accordance with applicable law.

4            (d) If a retiree or DROP participant has chosen an optional retirement  
5            allowance wherein a spouse who has been designated as beneficiary will receive a  
6            continuing benefit upon the retiree's or DROP participant's death, the spouse's annual  
7            cost-of-living adjustment shall be payable based on the spouse's allowance on the  
8            effective date of the increase. A non-spouse beneficiary will not receive the annual  
9            cost-of-living adjustments.

10           (2) The annual cost-of-living adjustment authorized by Subparagraph (1)(a)  
11           of this Subsection shall be effective annually on the retirement anniversary date of  
12           the retiree and shall be payable to any retiree who is age fifty-five or older on the  
13           anniversary date and not before the retiree would have attained such age on his  
14           retirement anniversary date if his spouse is receiving the retirement allowance as his  
15           designated beneficiary.

16           (3) Additional cost-of-living adjustments or permanent benefit increases  
17           granted by the system's board of trustees, as otherwise provided by law, shall be  
18           computed on the basis of the retiree's benefit amount on the date such cost-of-living  
19           adjustment or permanent benefit increase is granted. If an additional cost-of-living  
20           adjustment or permanent benefit increase is scheduled to be effective on the same  
21           day as the annual cost-of-living adjustment, the annual cost-of-living adjustment  
22           shall be calculated first.

23           (4) Upon application for retirement or participation in the DROP and upon  
24           certifying that he is contemplating availing himself of the provisions of this Section,  
25           a member may request that the system provide actuarial estimates of the benefits that  
26           such member would receive pursuant to this Subsection of this Section for the fifth,  
27           tenth, and fifteenth year following the member's anticipated retirement date. The  
28           system shall provide such actuarial estimates to the member upon request.

1           G. Initial benefit option.

2           This provision is effective July 1, 2011.

3           (1) The initial benefit option provided in this Subsection is available to a  
4           member who has not participated in the DROP provided in this Chapter and who  
5           selects the maximum benefit or one of the options in R.S. 11:3687(A)(2), (3), (4),  
6           (5), (6), or (7) and, if this initial benefit option is selected, the person shall thereafter  
7           be ineligible to participate in the DROP.

8           (2) If a member selects the initial benefit option provided in this Subsection,  
9           the member shall receive an initial benefit plus a reduced monthly retirement  
10          allowance, provided the initial benefit together with the reduced monthly retirement  
11          allowance shall be actuarially equivalent to his maximum retirement allowance.

12          (3) The amount of the initial benefit, as determined by the member, shall not  
13          exceed an amount equal to thirty-six payments of the member's maximum retirement  
14          allowance.

15          (4) The initial benefit shall, at the option of the member, be paid as a  
16          lump-sum payment or shall be placed in an account in accordance with R.S.  
17          11:3685(H).

18          (5) The monthly retirement benefit received by the retiree and the  
19          beneficiary or survivor shall be based on the amount otherwise payable under the  
20          retirement option selected that is actuarially reduced by an amount calculated to  
21          offset the cost of the initial benefit.

22          (6) If a change in option selection is allowed under the provisions of R.S.  
23          11:3687(A)(3), (5), or (6) with a similar pop-up provision, or R.S. 11:3687(F), the  
24          monthly benefit payable under those provisions shall be actuarially reduced in  
25          accordance with the provisions of this Paragraph.

26          (7) A person who retires under the provisions of disability retirement may  
27          not select the initial benefit option.

28          (8) Cost-of-living adjustments or permanent benefit increases granted by the  
29          board of trustees to retirees who select the initial benefit option shall be computed

1 on the basis of each retiree's regular monthly retirement benefit or on the basis of  
2 each beneficiary/survivor's benefit based on the option selected as reduced and shall  
3 not be computed on the initial benefit received.

4 H. Self-directed DROP participants' subaccounts.

5 This provision is effective for members hired on or after July 1, 2011.

6 (1) Each participant who at his option continues employment after  
7 participation in the contribution period of the DROP may have the balance of his  
8 subaccount as of the end of the contribution period transferred to a subaccount to be  
9 managed by a third-party provider selected in accordance with R.S. 11:3685(H)(5)  
10 in accordance with the agreement entered into by the system and the third-party  
11 provider. Each participant who terminates employment, as defined herein, after the  
12 contribution period may at his option participate in the self-directed plan under the  
13 same conditions.

14 (2) Each participant in the self-directed portion of this plan agrees that the  
15 benefits payable to participants are not the obligations of the state of Louisiana, the  
16 Harbor Police Retirement System, or the Board of Commissioners of the Port of New  
17 Orleans and that any returns and other rights of the plan are the sole liability and  
18 responsibility of the participant and the designated provider to which contributions  
19 have been made. Furthermore, each such participant, in accordance with this  
20 provision, shall expressly waive his rights set forth in Article X, Section 29(A) and  
21 (B) of the Louisiana Constitution as it relates to his subaccount in the self-directed  
22 portion of the plan.

23 (3) By participating in the self-directed portion of the plan, the participant  
24 agrees that he and the provider shall be responsible for complying with all applicable  
25 provisions of the Internal Revenue Code, and if any violation of that code occurs as  
26 a result of the participant's participation in this portion of the plan, it will be the  
27 responsibility and liability of the participant and the provider and not the state of  
28 Louisiana, the Harbor Police Retirement System, or the Board of Commissioners of  
29 the Port of New Orleans.

1           (4) There shall be no liability on the part of, and no cause of action of any  
2           nature shall arise against, the state of Louisiana, the Harbor Police Retirement  
3           System, the Board of Commissioners of the Port of New Orleans, or their agents or  
4           employees, for any action taken by the participants for choices the participants make  
5           in relationship to the funds they choose to place in their subaccount balance.

6           (5) Selection of providers

7           The Board of Trustees of the Harbor Police Retirement System shall select  
8           a provider which will be authorized to place the DROP participant's subaccount  
9           balance, after the DROP participation ends, in products that shall be selected by the  
10          participant. In selecting a provider, the board shall consider, among other things, the  
11          following:

12           (a) The tax status of the products.

13           (b) The portability of the products offered by the provider.

14           (c) The types and diversity of products offered by the provider.

15           (d) The ability of the designated provider to provide the rights and benefits  
16          under the products.

17           (e) At a minimum, one short-term fixed income option.

18           (f) At least one of the fund providers shall maintain an office in the state of  
19          Louisiana.

20           (6) Rules and regulations.

21           The system is authorized to adopt regulations under the Administrative  
22          Procedure Act to implement this plan.

23           (7) Renunciation; retirement benefit or allowance.

24           The Harbor Police Retirement System is hereby authorized to promulgate  
25          rules and regulations in accordance with the Administrative Procedure Act to permit  
26          the irrevocable renunciation of a retirement benefit or allowance. If such rules and  
27          regulations are adopted, any renunciation thereunder shall be deemed to be made  
28          pursuant to this Section.

1 §3685.1. Limitations on payment of benefits

2 A.

3 \* \* \*

4 (2) If the member is married and his spouse survives him, the designated  
5 beneficiary for at least a qualified joint and survivor annuity and fifty percent of the  
6 Deferred Retirement Option Plan Account shall be his spouse, unless such spouse  
7 has consented to the contrary in writing before a notary public. For purposes of this  
8 Paragraph, "spouse" shall mean that person who is married to the member under a  
9 legal regime of community of acquets and gains on his effective date of retirement  
10 or effective date of participation in the DROP, whichever is earlier.

11 \* \* \*

12 B.

13 \* \* \*

14 (2) However, the provisions of Paragraph (1) of this Subsection shall not  
15 apply:

16 (a) To any portion of a member's benefit which is payable to or for the  
17 benefit of a designated beneficiary, over the life of or over the life expectancy of  
18 such beneficiary, provided that such distributions begin no later than one year after  
19 the date of the member's death, or in the case of the member's surviving spouse, the  
20 member would have attained the age of seventy years and six months. ~~If the~~  
21 ~~designated beneficiary is the member's surviving spouse and if the surviving spouse~~  
22 ~~dies before the distribution of benefits commences, then Paragraph (1) of this~~  
23 ~~Subsection shall be applied as if the surviving spouse were the member.~~ If the  
24 designated beneficiary is a child of the member, for purposes of satisfying the  
25 requirement of Paragraph (1) of this Subsection, any amount paid to such child shall  
26 be treated as if paid to the member's surviving spouse if such amount would become  
27 payable to such surviving spouse, if alive, upon the child's reaching age eighteen or,  
28 if later, upon the child's completing a designated event. For purposes of this  
29 Subparagraph, a designated event shall be the later of the date the child is no longer

1 disabled or the date the child ceases to be a full-time student or attains age  
2 twenty-three, if earlier.

3 \* \* \*

4 §3685.2. Computation of retirement benefits

5 \* \* \*

6 ~~B.(1) If a member is a member or participant in more than one defined~~  
7 ~~benefit pension plan maintained by the state, its agencies, or its political~~  
8 ~~subdivisions, then such member's benefit, considered in the aggregate after taking~~  
9 ~~into account the benefits provided by all such retirement plans, shall not exceed the~~  
10 ~~limitations provided in this Subsection.~~

11 ~~(2) The benefits payable with respect to a participant under any defined~~  
12 ~~benefit plan shall be deemed not to exceed the limitations of Section 415(b) of the~~  
13 ~~Internal Revenue Code if:~~

14 ~~(a) The retirement benefits payable with respect to such participant under~~  
15 ~~such plan and under all other defined benefit plans of the employer do not exceed ten~~  
16 ~~thousand dollars for the plan year or for any prior plan years.~~

17 ~~(b) The employer has not at any time maintained a defined contribution plan~~  
18 ~~in which the participant participated.~~

19 The annual retirement benefit of any member of the retirement system who  
20 is not a qualified participant, as defined by Paragraph (2) of Subsection A of this  
21 Section, and which is not attributable to the member's after-tax employee  
22 contribution, cannot exceed the lesser of ninety thousand dollars or one hundred  
23 percent of such member's average compensation. For purposes of determining  
24 whether a member's benefit exceeds those limitations, the following shall apply:

25 (1) Adjustment if benefit not single life annuity.

26 (a) If the normal form of benefit is other than a single life annuity, such form  
27 shall be adjusted actuarially to the equivalent of a single life annuity. This single life  
28 annuity shall not exceed the maximum dollar or percent limitations outlined in this  
29 Section.

1           (b) No adjustment is required for the following:

2           (i) Qualified joint and survivor annuity benefits.

3           (ii) Pre-retirement disability benefits.

4           (iii) Pre-retirement death benefits.

5           (iv) Post-retirement medical benefits.

6           (2) Adjustment if benefit commences before social security retirement age.

7           If benefit distribution commences before social security retirement age, the actual  
8           retirement benefit shall not exceed the lesser of one hundred percent of the member's  
9           average compensation or the adjusted dollar limitation. The adjusted dollar  
10           limitation shall be the equivalent, determined in a manner consistent with reduction  
11           of benefits for early retirement under the Social Security Act, of ninety thousand  
12           dollars commencing at social security retirement age. For purposes of this  
13           adjustment, survivor benefits, that portion of a joint and survivor annuity which is  
14           the survivor annuity which is the survivor benefit, and any other ancillary benefits  
15           shall not be taken into account.

16           (3) Adjustment if benefit commences after social security retirement age.

17           If benefit distribution commences after social security retirement age, the dollar  
18           limitation shall be increased to the equivalent of ninety thousand dollars  
19           commencing at social security retirement age.

20           (4) Social security retirement age defined. For purposes of this Subsection,  
21           the term "social security retirement age" means the age used as the retirement age  
22           under 42 U.S.C. §416(1) of the Social Security Act, except that such Section shall  
23           be applied:

24           (a) Without regard to the age increase factor.

25           (b) As if the early retirement age under 42 U.S.C. 216(1)(2) were sixty-two.

26           ~~(3)~~(5) The interest rate used for adjusting the maximum limitations of  
27           Section 415(b) of the Internal Revenue Code shall be as follows:

1           (a) For benefits commencing before social security retirement age and for  
2           forms of benefits other than straight life annuity, the greater of five percent or the  
3           rate used to determine the actuarial equivalent.

4           (b) For benefits commencing after social security retirement age, the lesser  
5           of five percent or the rate used to determine actuarial equivalent.

6           (6) Adjustment for less than ten years of participation or service.

7           (a) If retirement system benefits are payable under this retirement system to  
8           a member who has less than ten years of participation in the retirement system, the  
9           dollar limitation referred to in the Introductory Paragraph of this Subsection will be  
10          multiplied by a fraction, the numerator of which is the member's number of years of  
11          participation in the system, not greater than ten, and the denominator of which is ten.

12          (b) If retirement benefits are payable under this retirement system to a  
13          member who has less than ten years of service with the employer, the percentage  
14          limitation referred to in the Introductory Paragraph of this Subsection and the dollar  
15          limitation referred to in Paragraph (9) of this Subsection will be multiplied by a  
16          fraction, the numerator of which is the member's number of years of service with the  
17          employer, not greater than ten, and the denominator of which is ten.

18          (7) Annual adjustment. The ninety thousand dollar limitation provided in  
19          this Subsection shall be adjusted annually to the maximum dollar limits allowable  
20          by the secretary of the Treasury of the United States under Section 415(d) of the  
21          Internal Revenue Code, such adjustments to take effect on the first day of each fiscal  
22          year following December 31, 1987. The adjustment shall not exceed the adjustment  
23          in effect for the calendar year in which the fiscal year of the system begins. The  
24          adjusted earlier limitation is applicable to employees who are members of the system  
25          and to members who have retired or otherwise terminated their service under the  
26          system with a nonforfeitable right to accrued benefits, regardless of whether they  
27          have actually begun to receive benefits. This system shall be considered specifically  
28          to provide for such post-retirement adjustments. For any limitation year beginning  
29          after separation from service occurs, the annual adjustment factor is a fraction, the

1 numerator of which is the adjusted dollar limitation for the limitation year in which  
2 the compensation limitation is being adjusted and the denominator of which is the  
3 adjusted dollar limitation for the limitation year in which the member separated from  
4 service. No adjustment shall be permitted with respect to post October 14, 1987  
5 limitations.

6 (8) If a member is a member or participant in more than one defined benefit  
7 pension plan maintained by the state, its agencies, or its political subdivisions, then  
8 such member's benefit, considered in the aggregate after taking into account the  
9 benefits provided by all such retirement plans, shall not exceed the limitations  
10 provided in this Subsection.

11 (9) The benefits payable with respect to a participant under any defined  
12 benefit plan shall be deemed not to exceed the limitations of Section 415(b) of the  
13 Internal Revenue Code if:

14 (a) The retirement benefits payable with respect to such participant under  
15 such plan and under all other defined benefit plans of the employer do not exceed ten  
16 thousand dollars for the plan year or for any prior plan years.

17 (b) The employer has not at any time maintained a defined contribution plan  
18 in which the participant participated.

19 ~~(4)~~(10) No benefit shall be considered to have exceeded the limitation  
20 provisions of this Section if the amount of the initial benefits did not exceed the  
21 limitations of Section 415(b) of the Internal Revenue Code, nor exceed any  
22 comparable provision in effect at the time of the initial payment, and the amount of  
23 any subsequent benefits payable in any year did not exceed the amount of the initial  
24 benefits, except for allowable cost-of-living adjustments.

25 C. The board of trustees shall make no actuarial adjustment under this  
26 Section by reason of the member's retirement after normal retirement age.

27 D. The board of trustees shall adopt rules for the administration of the limits  
28 provided in this Section and the limitations under Section 415 of the Internal



1           mentally or physically incapacitated for the further performance of duty, that such  
2           incapacity is likely to be permanent, and that he should be retired.

3                   (2) Any disability claimed by a member must have been incurred after  
4                   commencement of service in the system. Disability claims shall not be honored in  
5                   the case of preexisting conditions.

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

11                  (4) If a member is eligible for a regular retirement, other than the  
12                  twenty-year actuarially reduced retirement, he is not eligible for disability retirement.

13                  B. Process for applying for disability retirement.

14                   (1) Any eligible member who becomes disabled may apply for disability  
15                   benefits to the board of trustees of the retirement system. The board of trustees shall  
16                   require the supervisor of the applicant to submit to the board a report which shall  
17                   include a brief history of the case and the supervisor's opinion as to the applicant's  
18                   present ability to perform the normal duties required of him.

19                    (a) The applicant shall accompany his application with certificates from at  
20                    least three physicians certifying that he is unable to perform the duties required of  
21                    him by the head of the division.

22                    (b) The disability retirement must be recommended by the superintendent  
23                    of the harbor police.

24                    (2) The applicant's disability case history shall be examined by a physician  
25                    designated by the board whose area of specialty most closely relates to the nature of  
26                    the claimed disability. The examining physician shall either conduct a medical  
27                    examination of the applicant, or waive the medical examination if obvious and  
28                    overwhelming medical evidence of disability exists to his satisfaction. The cost of

1 the examination, including costs of laboratory tests, X-rays, and other such direct  
2 examination procedures shall be borne by the retirement system.

3 (3) The examining physician shall submit to the board of trustees an in-depth  
4 report which shall include a medical evaluation and his conclusions as to the  
5 applicant's claimed disability. Any board designated physician shall have full  
6 authority to certify total disability in those applicants whom he examines. An  
7 applicant shall be considered as certified totally disabled if in the in-depth report  
8 submitted by the examining physician to the board of trustees, the physician declares  
9 the applicant to be totally incapacitated for the further performance of his normal  
10 duties and states that such incapacity is likely to be permanent. In the case of partial  
11 disability, the physician shall indicate the degree of incapacity.

12 (4)(a) Should the examining physician's final certification decision be  
13 contested by either the applicant or the board of trustees, the contesting party shall  
14 have the right to a second medical examination if a written appeal is filed with the  
15 Board of Trustees within thirty days of notification of the certification decision. This  
16 second examination shall be performed by a board designated physician and shall be  
17 at the expense of the requesting party. The second physician shall also submit an  
18 in-depth report to the board of trustees which shall include his medical evaluation  
19 and conclusions as to the applicant's claimed disability.

20 (b) If the second examining physician concurs in the findings and  
21 recommendations of the first physician, the first physician's original decision on  
22 certification shall stand as final and binding and shall not be subject to further appeal  
23 other than through the courts.

24 (c) If the second examining physician disagrees with the findings and  
25 recommendations of the first physician, the two physicians shall select a third  
26 specialist to conduct another examination and prepare and file a third report in the  
27 same manner as provided for above. The majority opinion of the three examining  
28 physicians shall be final and binding and not subject to further appeal other than  
29 through the courts. The cost of the third medical examination shall be borne by the

1 retirement system if the applicant is certified as disabled, or by the applicant if his  
2 disability claim is denied.

3 (5) The board of trustees shall review all pertinent information including the  
4 disability application, the report from the applicant's supervisor, the three physicians'  
5 statements, the recommendation from the superintendent of the harbor police, and  
6 the final and binding disability certifications and, if the board of trustees determines  
7 that all requirements for a disability retirement are met, shall retire an eligible  
8 disability applicant. Disability benefits shall accrue from the filing date of the  
9 application for disability retirement, or from the day following the exhaustion of all  
10 sick leave or annual leave claimed by the applicant, whichever is the later.

11 B: C. Benefit amount.

12 Any member who has twelve years of creditable service, and who has  
13 withdrawn from active service prior to the age at which he is eligible to begin  
14 receiving retirement benefits, shall be eligible in the event of total and permanent  
15 disability, for the lesser of all non-service related disability benefits, or the normal  
16 vested retirement benefit for time served. If a member has completed twelve years  
17 of creditable service, upon attaining the normal vested retirement age, he shall be  
18 eligible for full normal retirement benefits. To receive such benefits, the member  
19 shall file an application with the board of trustees of the retirement system. Upon  
20 commencement of regular retirement benefits, disability benefits shall cease. Any  
21 member of the system who has become disabled or incapacitated because of  
22 continued illness or as a result of any injury received, even though not in the line of  
23 duty, and who has been a member of the system for at least five years but is not  
24 eligible for retirement under the provisions of R.S. 11:3685 may apply for retirement  
25 under the provisions of this Section.

26 ~~(1) Upon retirement for disability, a member shall receive a retirement~~  
27 ~~allowance if he has attained the age of fifty-five years; otherwise, he shall receive a~~  
28 ~~disability benefit which shall be computed as follows:~~

1           ~~(a) In case of total disability of any harbor member resulting from injury~~  
2           ~~received in line of duty, a monthly pension of sixty percent of his average salary~~  
3           ~~shall be paid to the disabled employee.~~

4           ~~(b) Any member of the system who has become disabled or incapacitated~~  
5           ~~because of continued illness or as a result of any injury received, even though not in~~  
6           ~~the line of duty, and who has been a member of the system for at least five years but~~  
7           ~~is not eligible for retirement under the provisions of R.S. 11:3685 may apply for~~  
8           ~~retirement under the provisions of this Section.~~

9           (1) Any member who becomes totally disabled, and who files for disability  
10          benefits while in service, who upon medical examination and certification is found  
11          to be totally disabled solely as the result of injuries sustained in the performance of  
12          his official duties shall, upon approval of the board of trustees, receive the greater  
13          of a monthly pension of sixty percent of his average salary or the normal vested  
14          retirement benefit for time served, with no required minimum number of years of  
15          credible service.

16          (2) Any disability retiree of the Harbor Police Retirement System who is  
17          receiving disability benefits as a result of an injury sustained in the line of duty, and  
18          who, as a result of the disability, is permanently and completely confined to a  
19          wheelchair for movement of person, is permanently and legally blind as a result of  
20          an injury suffered in the line of duty, or as a result of his injury is an amputee to such  
21          a degree as would prevent him from serving as a law enforcement officer, shall be  
22          exempt from any provision of this Subpart or any other provision of law which  
23          provides for reduction of benefits if the recipient, subsequent to his disability,  
24          becomes gainfully employed.

25          ~~(c) Any disability beneficiary of the Harbor Police Retirement System who~~  
26          ~~is receiving disability benefits as a result of an injury sustained in the line of duty,~~  
27          ~~and who, as a result of the disability, is permanently and completely confined to a~~  
28          ~~wheelchair for movement of person, is permanently and legally blind as a result of~~  
29          ~~an injury suffered in the line of duty, or as a result of his injury is an amputee to such~~

1 a degree as would prevent him from serving as a law enforcement officer, shall be  
2 exempt from any provision of this Subpart or any other provision of law which  
3 provides for reduction of benefits if the recipient, subsequent to his disability,  
4 becomes gainfully employed.

5 (2) The applicant shall accompany his application with certificates from at  
6 least three physicians certifying that he is unable to perform the duties required of  
7 him by the head of the division.

8 (3) Thereafter, upon the recommendation of the head of the division and the  
9 approval of the board the employee shall be retired on forty percent of his average  
10 salary.

11 ~~€.~~(3) Any amount received as a compensable wage or lump sum settlement  
12 under the provisions of the Worker's Compensation Laws or the Federal Social  
13 Security Act shall be applied as an offset against benefits received under the  
14 provisions of this Section, under rules prescribed by the Board. The Board shall  
15 have complete discretion and authority to determine the extent and application of the  
16 provisions of this Subparagraph.

17 (4) Every disability retiree shall submit to the board of trustees by May first  
18 of every year a notarized annual earnings statement detailing his earned income from  
19 employment in the previous tax year as well as any Workers Compensation or Social  
20 Security benefits received in the previous tax year. Should a beneficiary not submit  
21 such an earnings statement by May first, his allowance shall be discontinued, without  
22 retroactive reimbursement, until the statement is filed. Should his non-submittal  
23 continue for the remainder of the calendar year, all his rights in and to his disability  
24 pension shall be revoked by the board of trustees. Individual private insurance  
25 settlements, separate retirement accounts, and other similar non-system resources  
26 except as noted herein shall be specifically exempted from listing on the annual  
27 earnings statement and from consideration in any of the calculations in R.S.  
28 11:3685.(5) below.

1           (5) If the notarized earnings statement shows earnings or income of more  
2           than the difference between his retirement allowance and his average final  
3           compensation, then the amount of his pension shall be reduced to an amount, which,  
4           together with his earnings statement income, shall equal the amount of his average  
5           final compensation. If his earnings change, the amount of his pension shall be  
6           further modified; however, the new pension shall not exceed the amount of the  
7           pension originally granted nor an amount, which, when his earnings statement  
8           income and annuity are added together, equals the amount of his average final  
9           compensation.

10           (6) If the board of trustees determines that a disability retiree is able to  
11           engage in a gainful occupation paying more than the difference between his  
12           retirement allowance and the final average compensation then the amount of his  
13           pension shall be reduced to an amount, which together with his annuity and the  
14           amount earnable by him, shall equal the amount of his final average compensation.  
15           If his earning capacity changes again, the amount of his pension may be further  
16           modified; provided that the new pension shall not exceed the amount of the pension  
17           originally granted nor an amount, which when added to the amount earnable by the  
18           beneficiary together with his annuity equals the amount of his final average  
19           compensation.

20           (7) For the purposes of this Section, there shall be an annual cost-of-living  
21           adjustment to the average final compensation figure used in the modification  
22           computations in Paragraph (6) of this Subsection. This cost-of-living adjustment  
23           shall be based upon and directly reflect the annual percentage increase or decrease  
24           in the Consumer Price Index CPI-U for All Urban Consumers for the preceding  
25           calendar year. The CPI increase or decrease shall be limited to three percent in any  
26           one year.

27           (8) A disability retiree restored to active service at a salary less than his final  
28           average compensation shall not become a member of the retirement system.

1 D. Certification of continuing eligibility for disability benefits.

2 (1) Once each year during the first five years following retirement of a  
3 member on a disability retirement allowance, and once in every three year period  
4 thereafter, the ~~Board of Trustees may, and upon his application shall,~~ board of  
5 trustees shall require any each disability beneficiary retiree who has not yet attained  
6 the equivalent age of sixty years regular retirement or the age of sixty if the member  
7 does not have the required number of years of creditable service for a vested regular  
8 retirement to undergo a medical examination at the retiree's expense, such  
9 examination to be made at the place of residence of said beneficiary if he is not  
10 ambulatory or other place mutually agreed upon, by a ~~physician or physicians~~  
11 ~~designated by the Board of Trustees~~ board designated specialist. The examining  
12 physician shall submit a report to the board of trustees certifying that the disability  
13 retiree is or is not still totally mentally or physically incapacitated for the further  
14 performance of duty, that such incapacity is or is not likely to be permanent, and  
15 recommending either the continuation or cessation of the retiree's disability status.  
16 A contested decision shall be appealed as set out in Paragraph (B)(4) of this Section.

17 (2) Should any disability ~~beneficiary retiree~~ who has not yet attained the  
18 equivalent age of sixty regular retirement or the age of sixty if the member does not  
19 have the required number of years of creditable service for a vested regular  
20 retirement refuse to submit to at least one medical examination in any such year by  
21 a physician or physicians designated by the Board of Trustees, his allowance ~~may~~  
22 shall be discontinued until his withdrawal of such refusal, and should his refusal  
23 continue for one year all his rights in and to his disability pensions ~~may shall~~ be  
24 revoked by the Board of Trustees.

25 (2) ~~Should the Medical Board report and certify to the Board of Trustees that~~  
26 ~~such disability beneficiary is engaged in or is able to engage in a gainful occupation~~  
27 ~~paying more than the difference between his retirement allowance and the average~~  
28 ~~final compensation, and should the Board of Trustees concur in such report, then the~~  
29 ~~amount of his pension shall be reduced to an amount, which, together with his~~

1 annuity and the amount earnable by him, shall equal the amount of his average final  
2 compensation. ~~Should his earning capacity be later changed, the amount of his~~  
3 ~~pension may be further modified; provided, that the new pension shall not exceed the~~  
4 ~~amount of the pension originally granted nor an amount, which, when added to the~~  
5 ~~amount earnable by the beneficiary together with his annuity, equals the amount of~~  
6 ~~his average final compensation. A beneficiary restored to active service at a salary~~  
7 ~~less than the average final compensation shall not become a member of the~~  
8 ~~retirement system.~~

9 (3) The board of trustees, upon receipt of a final binding report from a  
10 physician or specialist declaring a retiree's total disability to have ceased, shall order  
11 the discontinuance of the disability allowance.

12 (4) Neither the former receipt of nor the involuntary termination of disability  
13 benefits shall affect the right of any member to any regular retirement benefits based  
14 upon age or service to which he is eligible.

15 ~~(3)(5) Should a disability beneficiary retiree under the age of fifty-five be~~  
16 ~~restored to active service at a compensation not less than his average final average~~  
17 ~~compensation, his retirement allowance shall cease, he shall again become a member~~  
18 ~~of the retirement system, and he shall contribute thereafter at the same rate he paid~~  
19 ~~prior to disability. Any such prior service certificate on the basis of which his~~  
20 ~~service was computed at the time of his retirement shall be restored to full force and~~  
21 ~~effect, and in addition, upon his subsequent retirement he shall be credited with all~~  
22 ~~his service as a member but employer and employee contributions to the retirement~~  
23 ~~system shall resume. However, should he be restored to active service on or after the~~  
24 ~~attainment of the age of fifty years his pension upon subsequent retirement shall not~~  
25 ~~exceed the sum of the pension which he was receiving immediately prior to his last~~  
26 ~~restoration and the pension that he would have received on account of his service~~  
27 ~~since his last restoration had he entered service at the time as a new entrant.~~

28 ~~E. Should a member cease to be an employee except by death or retirement~~  
29 ~~under the provisions of this Subpart, he shall be paid such part of the amount of the~~

1       ~~accumulated contributions standing to the credit of his individual account in the~~  
2       ~~Annuity Savings Fund as he shall demand. Should a member die before retirement~~  
3       ~~and not be entitled to survivors' benefits, the amount of his accumulated~~  
4       ~~contributions standing to the credit of his individual account shall be paid to his~~  
5       ~~estate or to such person as he shall have nominated by written designation, duly~~  
6       ~~executed and filed with the Board of Trustees.~~

7               E. When a disability retiree dies, his survivor shall be paid a one-time lump  
8       sum benefit equal to six times the value of the monthly benefit payment being  
9       received by the retiree at the time of death. Payment will not be made if there are no  
10       survivors pursuant to R.S. 11:3685.

11       §3687. Optional allowance for superannuation retirement

12               A. With the provisions that no optional selection shall be effective in case  
13       a retiree dies within thirty days after retirement, and that such a retiree shall be  
14       considered as an active member at the time of death; ~~until the first payment on~~  
15       ~~account of any benefit becomes normally due~~, any member may elect to receive his  
16       benefit in an equal monthly retirement allowance payable throughout life, or he may  
17       elect to receive the actuarial equivalent at the time, of his retirement in a one of the  
18       reduced equal monthly retirement ~~allowance~~ allowances payable throughout life,  
19       Options 2 through 5 with the provision that:

20               (1) Option 1. If he dies before he has received in annuity payments the  
21       present value of his member's annuity as it was at the time of his retirement, the  
22       balance shall be paid to his legal representatives or to such person as he shall  
23       nominate by written designation duly acknowledged and filed with the Board of  
24       Trustees.

25               (2) Option 2 - Joint with 100% percent to beneficiary for life.

26               Upon his death, his reduced retirement allowance shall be continued  
27       throughout the life and paid to such person as he shall nominate by written  
28       designation duly acknowledged and filed with the Board of Trustees at the time of  
29       his retirement.

1           (3) Option 2A - Joint with 100% to beneficiary for life with pop-up.

2           Upon his death, his reduced retirement allowance shall be continued  
3 throughout the life of, and paid to such person as he shall nominate by written  
4 designation duly acknowledged and filed with the Board of Trustees at the time of  
5 his retirement, provided that if the designated beneficiary predeceases the retiree, the  
6 retiree's reduced benefit shall change to the maximum benefit effective on the first  
7 day of the next month following the notification of the death of the designated  
8 beneficiary.

9           (4) Option 3 - Joint with 50% to beneficiary for life.

10          Upon his death, one-half of his reduced retirement allowance shall be  
11 continued throughout the life of, and paid to such person as he shall nominate by  
12 written designation duly acknowledged and filed with the Board of Trustees at the  
13 time of his retirement.

14          (5) Option 3A - Joint with 50% to beneficiary for life with pop-up.

15          Upon his death, one-half of the reduced retirement allowance shall be  
16 continued throughout the life of and paid to such person as he shall nominate by  
17 written designation duly acknowledged and filed with the Board of Trustees at the  
18 time of his retirement, provided that if the designated beneficiary predeceases the  
19 retiree, the retiree's reduced benefit shall change to the maximum benefit effective  
20 on the first day of the next month following the notification of the death of the  
21 designated beneficiary.

22          (6) Option 4 - Alternate actuarially equivalent benefit.

23          Some other benefit or benefits shall be paid either to the member or to such  
24 person or persons as he shall nominate provided, such other benefit or benefits,  
25 together with the reduced retirement allowance shall be certified by the actuary to  
26 be of equivalent actuarial value to his retirement allowance, and approved by the  
27 Board of Trustees.

28          ~~(7) Option 4A. Some other benefit or benefits shall be paid either to the~~  
29 ~~member or to such person or persons as he shall nominate provided, such other~~

1 benefit or benefits, together with the reduced retirement allowance, shall be certified  
2 by the actuary to be of equivalent actuarial value to his retirement allowance, and  
3 approved by the Board of Trustees, provided that if the designated beneficiary  
4 predeceases the retiree, the retiree's reduced benefit shall change to the maximum  
5 benefit effective on the first day of the next month following the notification of the  
6 death of the designated beneficiary.

7 B. A retiree cannot change the designation of designated beneficiary unless  
8 the retirement was approved under Option 1.

9 C. No change in the option elected by the member, other than to correct  
10 administrative error, shall be permitted after the application has been officially filed  
11 with the Board of Trustees.

12 D. ~~The~~ For members electing Options 2A or 3A, the retiree shall be  
13 responsible for notifying the retirement system of the death of the beneficiary, to  
14 furnish the beneficiary's death certificate, and to request the recomputation of  
15 benefits. Adjustment of benefits under this Subsection shall not be retroactive, and  
16 shall be effective on the first day of the next month following official approval of the  
17 application for recomputation of benefits.

18 §3688. Administration

19 A. Board of Trustees.

20 \* \* \*

21 (8) The Board of Trustees shall elect from its membership a Chairman and  
22 shall by a unanimous vote appoint a Secretary who shall be one of its members. ~~The~~  
23 ~~Board of Trustees shall engage such actuarial and other services as shall be required~~  
24 ~~to transact the business of the retirement system. The compensation of all persons~~  
25 ~~engaged by the Board of Trustees, and all other expenses of the Board necessary for~~  
26 ~~the operation of the retirement system shall be paid at such rates and in such amounts~~  
27 ~~as the Board of Trustees shall approve.~~

28 (9) The Board of Trustees shall engage such actuarial and other services as  
29 shall be required to transact the business of the retirement system. The

1 compensation of all persons engaged by the Board of Trustees, and all other  
2 expenses of the board necessary for the operation of the retirement system shall be  
3 paid at such rates and in such amounts as the Board of Trustees shall approve.

4 ~~(9)~~(10) The Board of Trustees shall keep in convenient form such data as  
5 shall be necessary for actuarial valuation of the various funds of the retirement  
6 system, and for checking the experience of the system.

7 ~~(10)~~(11) The Board of Trustees shall keep a record of all of its proceedings  
8 which shall be open to public inspection. It shall publish annually a report showing  
9 the fiscal transactions of the retirement system for the preceding fiscal year, the  
10 amount of the accumulated cash and securities of the system, and the last balance  
11 sheet showing the financial condition of the system by means of an actuarial  
12 valuation of the assets and liabilities of the retirement system.

13 ~~(11)~~(12)(a) ~~Notwithstanding any other provisions of law to the contrary, the~~  
14 The members of the board of trustees of the Harbor Police Retirement System shall  
15 receive for attendance at meetings of the board a per diem of seventy-five dollars per  
16 meeting, provided funds are available for this purpose and Civil Service rules are  
17 followed.

18 (b) The members of the board of trustees shall receive a per diem for each  
19 meeting of the board. However, no member of the board shall be eligible for a per  
20 diem for more than six board meetings in any year.

21 B. Legal advisor. The Attorney General shall be the legal advisor of the  
22 Board of Trustees.

23 C. Medical ~~board~~ advisor. The Board of Trustees ~~shall~~ may designate a  
24 ~~Medical Board to be composed of three~~ a group of licensed medical professionals to  
25 provide medical advice to the trustees related to disability and other medical  
26 determinations. The trustees will obtain the advice of physicians not eligible to  
27 participate in the retirement system to provide such advice. If required, other  
28 physicians may be employed to report on special cases. The board of trustees may  
29 use ~~Medical Board shall~~ the medical advisor firm to provide physicians to arrange

1 for and pass upon all medical examinations required under the provisions of this  
2 Subpart, and the physicians approved by the trustees shall investigate all essential  
3 statements and certificates by or on behalf of a member in connection with an  
4 application for disability retirement, and shall report in writing to the Board of  
5 Trustees its conclusion and recommendations upon the matters referred to it.

6 D. Actuary; duties and actuarial assumptions. (1) The Board of Trustees  
7 and the Board of Commissioners of the Port of New Orleans shall jointly designate  
8 an actuary who shall be the technical advisor of the Board of Trustees on actuarial  
9 matters regarding the operation of the fund created by the provisions of this Subpart,  
10 and shall perform such other duties as are required in connection therewith.

11 (2) ~~Immediately after the establishment of the retirement system, the actuary~~  
12 ~~shall make such investigation of the mortality, service and compensation experience~~  
13 ~~of the members of the system as he shall recommend and the Board of Trustees shall~~  
14 ~~authorize, and on the basis of such investigation he shall recommend for adoption by~~  
15 ~~the Board of Trustees such tables and such rates as are required in Subparagraphs~~  
16 ~~(3)(a) and (b) of this Section.~~ The Board of Trustees shall adopt all actuarial tables,  
17 assumptions, and certify rates, ~~and as soon as practicable thereafter~~ the. The actuary  
18 shall make ~~a valuation~~ valuations and determinations based on such tables,  
19 assumptions, and rates ~~of the assets and liabilities of the funds created by this~~  
20 Subpart.

21 (3) ~~In the year of nineteen hundred seventy-two, and at~~ At least once in each  
22 five-year period ~~thereafter, and upon approval of the Board of Trustees,~~ the actuary  
23 shall make an actuarial investigation into the mortality, service and compensation  
24 experience of the members and beneficiaries of the retirement ~~system,~~ system, and  
25 ~~shall make a valuation of the assets and liabilities of the funds of the system, and~~  
26 ~~taking into account the result of such investigation and valuation, the~~ The Board of  
27 Trustees shall:

28 (a) ~~Adopt~~ adopt for the retirement system such mortality, service, and other  
29 tables and actuarial assumptions as shall be deemed necessary.



1 §3689. Management of funds

2 A. The ~~Board of Trustees~~ board of trustees shall have full power to invest  
3 and reinvest such funds, subject to the prudent-man rule limitations regarding  
4 investments set forth in ~~Subtitle I, Chapter 4, Part II, Subpart I of this Title~~ Subpart  
5 I, Part II, Chapter 4, Subtitle I of this Title and shall have full power to hold,  
6 purchase, sell, assign, transfer, and dispose of any of the securities and investments  
7 in which any of the funds created herein shall have been invested, as well as the  
8 proceeds of said investments and any monies belonging to said funds.

9 B. All expense vouchers and pension payrolls shall be certified by the  
10 ~~Secretary~~ plan administrator. The ~~Secretary~~ plan administrator shall furnish the  
11 ~~Board of Trustees~~ board of trustees a surety bond in a company authorized to do  
12 business in Louisiana and in such an amount as shall be required by the ~~Board~~ board,  
13 the premium to be paid from the ~~Expense~~ Fund.

14 C. For the purpose of meeting disbursements for pensions, annuities, and  
15 other payments there may be kept available cash, not exceeding ten percent of the  
16 total amount in the several funds of the retirement system, on deposit in one or more  
17 banks or trust companies of the state of Louisiana organized under the laws of the  
18 state of Louisiana or of the United States, provided, that the sum of deposit in any  
19 one bank or trust company shall not exceed twenty-five percent of the paid-up capital  
20 and surplus of such bank or trust company.

21 D. The ~~Board of Trustees~~ board of trustees shall approve the ~~Fiscal Agency~~  
22 ~~Bank~~ bank or banks selected for the deposit of the funds and securities of this  
23 retirement system, ~~provided that no bank shall be selected unless the bank is a fiscal~~  
24 ~~agent of the State~~. The funds and properties of the system held in any bank of the  
25 State shall be safeguarded by bonds or other securities acceptable for the protection  
26 of State deposits, the amount to be determined by the ~~Board of Trustees~~ board of  
27 trustees.

28 E. Except as otherwise herein provided, no trustee and no employee of the  
29 ~~Board of Trustees~~ board of trustees shall have any direct interest in the gains or

1 profits of any investment made by the ~~Board of Trustees~~ board, nor as such receive  
2 any pay or emolument for his service. No trustee or employee of the ~~Board~~ board  
3 of trustees shall, directly or indirectly, for himself or as an agent in any manner use  
4 the same, except to make such current and necessary payments as are authorized by  
5 the ~~Board of Trustees~~ board; nor shall any trustee or employee of the ~~Board of~~  
6 ~~Trustees~~ board become an endorser or surety or in any manner as obligor for moneys  
7 loaned or borrowed from the ~~Board of Trustees~~ board.

8 §3690. Method of financing

9 ~~A. All of the assets of the retirement system shall be credited according to~~  
10 ~~the purpose for which they are held to one of four funds, namely, the Annuity~~  
11 ~~Savings Fund, the Annuity Reserve Fund, the Pension Accumulation Fund, and the~~  
12 ~~Expense Fund.~~

13 ~~B. Annuity savings fund. The Annuity Savings Fund shall be the fund in~~  
14 ~~which shall be accumulated contributions from the compensation of members to~~  
15 ~~provide for their annuities. Contributions to the Annuity Savings Fund shall be made~~  
16 ~~as follows:~~

17 A. Employee contributions.

18 (1) The port commission shall make deductions from any salary or wages  
19 paid by them to any member of this fund equal to ~~seven~~ nine percent of the  
20 compensation paid him in each and every payroll ~~after August 1, 1971.~~

21 (2) The deductions provided for herein shall be made notwithstanding that  
22 the minimum compensation provided for by law for any member shall be reduced  
23 thereby. Every member shall be deemed to consent and agree to the deductions  
24 made and provided for herein and shall receipt for his full salary or compensation,  
25 and payment of salary or compensation less said deductions shall be a full and  
26 complete discharge and acquittance of all claims and demands whatsoever for the  
27 services rendered by such person during the period covered by such payment, except  
28 as to the benefits provided under this Subpart. The employer shall certify to the  
29 ~~Board of Trustees~~ board of trustees on each and every payroll or in such other

1 manner as the ~~Board of Trustees~~ board may prescribe, the amounts to be deducted;  
2 and each of said amounts shall be deducted, and when deducted shall be paid into  
3 said Annuity Savings Fund, and shall be credited to the individual account of the  
4 member from whose compensation said deduction was made.

5 ~~C. Annuity reserve fund. The Annuity Reserve Fund shall be the fund in~~  
6 ~~which shall be held the reserves on all annuities in force and from which shall be~~  
7 ~~paid all annuities and all benefits in lieu of annuities, payable as provided in this~~  
8 ~~Subpart. Should a beneficiary retired on account of disability be restored to active~~  
9 ~~service with a compensation not less than his average final compensation at the time~~  
10 ~~of his last retirement, his annuity reserve shall be transferred from the Annuity~~  
11 ~~Reserve Fund to the Annuity Savings Fund and credited to his individual account~~  
12 ~~therein.~~

13 ~~D. Pension accumulation fund. The Pension Accumulation Fund shall be the~~  
14 ~~fund in which shall be accumulated all reserves for the payment of all pensions and~~  
15 ~~other benefits payable from contributions made by employers. Contributions to and~~  
16 ~~payments from the Pension Accumulation Fund shall be made as follows:~~

17 ~~(1) On account of each member there shall be paid annually into the Pension~~  
18 ~~Accumulation Fund for the preceding fiscal year an amount equal to a certain~~  
19 ~~percentage of the earnable compensation of each member to be known as the~~  
20 ~~"Normal Contribution", and an additional amount equal to a percentage of his~~  
21 ~~earnable compensation to be known as the "Accrued Liability Contribution". The~~  
22 ~~rate per centum of such contributions shall be fixed on the basis of the liabilities of~~  
23 ~~the retirement system as shown by actuarial valuation; subject to the limitation of~~  
24 ~~Paragraph D(8).~~

25 ~~(2) The total amount that shall be contributed annually to the pension~~  
26 ~~accumulation fund shall be equal to the amount obtained by applying the total rate~~  
27 ~~("normal contribution" plus "accrued liability contribution") to the earnable~~  
28 ~~compensation of all members. This amount shall be paid as provided in Paragraphs~~  
29 ~~D(3) and (4).~~

1            B. Employer contributions.

2            ~~(3)(1)~~ The Port Commission shall annually contribute an amount equal to the  
3            rate per centum determined herein in accordance with Paragraphs ~~D(4) and (8)~~ (2)  
4            and (3) of this Subsection. ~~The first contribution under this Subpart shall begin with~~  
5            ~~the fiscal year beginning July 1, 1971 and shall be made annually thereafter.~~  
6            Contributions shall be made monthly based on the same salary or wages used to  
7            calculate the members' contributions.

8            ~~(4)(2)~~ ~~On the basis of regular interest and of such mortality and other tables~~  
9            ~~as shall be adopted by the Board of Trustees, the actuary engaged by the Board to~~  
10           ~~make each valuation required by this Subpart during the period over which the~~  
11           ~~accrued liability contribution is payable, immediately after making such valuation,~~  
12           ~~shall determine the uniform and constant percentage of the compensation of the~~  
13           ~~average new entrant, which if contributed on the basis of compensation of such new~~  
14           ~~entrant throughout the entire period of active service would be sufficient to provide~~  
15           ~~for the payment of any pension payable on his account. The rate per centum so~~  
16           ~~determined shall be known as the "normal contribution" rate. After the accrued~~  
17           ~~liability contribution has ceased to be payable, the~~ The normal contribution rate shall  
18           be the rate per centum of the earned salary of all members obtained by deducting  
19           from the total liabilities of the ~~Pension Accumulation Fund~~ fund the amount of the  
20           funds in hand to the credit of ~~that~~ the fund and dividing the remainder by one  
21           percentum of the present value of the prospective future salaries of all members as  
22           computed on the basis of the mortality and service tables adopted by the ~~Board of~~  
23           ~~Trustees~~ board of trustees and ~~regular~~ interest as set forth in R.S.  
24           11:3688(D)(5)(a)(i). The normal rate of contributions shall be determined by the  
25           actuary after each valuation.

26           ~~(5)~~ ~~Immediately succeeding the first valuation the actuary engaged by the~~  
27           ~~Board of Trustees shall compute the rate per centum of the total annual~~  
28           ~~compensation of all members which is necessary to liquidate the amount of the total~~  
29           ~~pension liability on account of all members and beneficiaries which is not~~

1 dischargeable by the aforesaid normal contribution made on account of such  
2 members during the remainder of the active service. The rate per centum originally  
3 so determined shall be known as the "Accrued Liability Contribution" rate.

4 (6) The total amount payable in each year to the Pension Accumulation Fund  
5 shall be not less than the sum of the rate per centum known as the "Normal  
6 Contribution Rate" and the "Accrued Liability Contribution Rate" of the total  
7 compensation earned by all members during the preceding year and shall not exceed  
8 the limitation set forth in Paragraph D(8).

9 (7) The accrued liability contributions shall be discontinued as soon as the  
10 accumulated reserve in the Pension Accumulation Fund shall equal the present value,  
11 as actuarially computed and approved by the Board of Trustees, of the total liability  
12 of such fund less the present value, computed on the basis of the normal contribution  
13 rate then in force, of the prospective normal contributions to be received on account  
14 of all persons who are at that time members.

15 (8)(3) The maximum contribution by the employer, Board of Commissioners  
16 of the Port of New Orleans, shall not exceed ~~thirteen~~ twenty percent of the earned  
17 compensation of the members in any one year. There shall be no contribution by  
18 employer other than the percentage of earned compensation of the members as  
19 provided in this Subpart, and subject to the maximum stated above, even in the event  
20 that the payment by employer should not be sufficient, when combined with the  
21 amount in the fund, to provide the retirement allowances and other benefits payable  
22 out of the fund.

23 (9) C. Court fines.

24 All fines collected by any court, official or agency from violators of  
25 ordinances of the City of New Orleans applicable to the wharves, landings and river  
26 front of the city or ordinances of the Board of Commissioners of the Port of New  
27 Orleans, as provided for in R.S. 34:25, shall be transmitted to the board of trustees  
28 of this system. Such funds shall be used by the board solely for the payment of the  
29 retirement allowances provided for in Subsections B, C, and D of this Section, and

1 such funds shall be supplemented by such other funds as are now or may be hereafter  
2 paid into the system on account of members of the harbor police department of the  
3 Port of New Orleans.

4 ~~(10) All pensions, and benefits in lieu thereof, with the exception of those~~  
5 ~~payable on account of members who receive no prior service allowance, payable~~  
6 ~~from contributions of employees, shall be paid from the Pension Accumulation Fund~~  
7 ~~to the Annuity Reserve Fund.~~

8 ~~(11) Upon the retirement of a member not entitled to credit for prior service,~~  
9 ~~an amount equal to his pension reserve shall be transferred from the Pension~~  
10 ~~Accumulation Fund to the Annuity Reserve Fund.~~

11 ~~(12) D. Annual expenses.~~

12 ~~The Board of Trustees~~ board of trustees ~~may transfer annually from the~~  
13 ~~Pension Accumulation Fund to the Expense Fund~~ incur annual expenses up to a sum  
14 not to exceed one and one-half percent of the total assets of the system as shown by  
15 the balance sheet at the end of the last fiscal year.

16 ~~E. Expense fund. The Expense Fund shall be the fund from which the~~  
17 ~~expenses of the retirement system shall be paid, exclusive of amount payable as~~  
18 ~~retirement allowances and other benefits provided therein. Contributions shall be~~  
19 ~~made to the Expense Fund as follows. The Board of Trustees shall determine~~  
20 ~~annually the amount required to defray such expenses for the ensuing fiscal year and~~  
21 ~~shall have the right to transfer the amount required to defray the cost of expenses of~~  
22 ~~administration from the amount transferred from the Pension Accumulation Fund.~~

23 ~~F E.~~ E. Collections of contributions.

24 ~~(1) The collection of members' contributions shall be as follows:~~

25 ~~(a) The Port Commission shall cause to be deducted on each and every~~  
26 ~~payroll of a member for each and every payroll period subsequent to the date of~~  
27 ~~establishment of the retirement system the contributions payable by such member as~~  
28 provided in this Subpart.



1       ~~Subpart~~, are hereby exempt from any state or municipal tax, and exempt from levy  
2       and sale, garnishment, attachment, or any other process whatsoever, except as  
3       provided in R.S. 11:292, and shall be unassignable ~~except as in this Subpart~~  
4       ~~specifically otherwise provided.~~ except as specifically otherwise provided for in this  
5       Subpart.

6       §3692. Protection against fraud

7             ~~A.~~ Any persons who shall knowingly make any false statement or shall  
8       falsify or permit to be falsified any record or records of this retirement system in any  
9       attempt to defraud such system as a result of such act shall be ~~guilty of a~~  
10      ~~misdemeanor, and on conviction thereof by any court of competent jurisdiction shall~~  
11      ~~be punished by a fine not exceeding five hundred dollars or imprisonment in the~~  
12      ~~parish jail not exceeding twelve months, or both such fine and imprisonment at the~~  
13      ~~discretion of the court~~ subject to criminal prosecution.

14            ~~B.~~ ~~Should any change or error in the records result in any member or~~  
15      ~~beneficiary receiving from the retirement system more or less than he would have~~  
16      ~~been entitled to receive had the records been correct, the Board of Trustees shall~~  
17      ~~correct such error, and as far as practicable, shall adjust the payment in such a~~  
18      ~~manner that the actuarial equivalent of the benefit to which such member or~~  
19      ~~beneficiary was correctly entitled shall be paid.~~

20      §3693. ~~Limitation of membership~~ Laws applicable to the Harbor Police Retirement  
21             System

22            No other provisions of law in any other statute which provided wholly or  
23      partly at the expense of the ~~State~~ state of Louisiana for pensions or retirement  
24      benefits for employees of the several parishes or any parish of the ~~State~~ state of  
25      Louisiana, their widows, or other dependents, shall apply to members or  
26      beneficiaries of the retirement system established by this Subpart, their widows or  
27      other dependents: unless created subsequent to the effective date of this Act and only



1           (5) An eligible deferred compensation plan described in Section 457(b) of  
2           the Internal Revenue Code that is maintained by an eligible governmental employer,  
3           provided the plan contains provisions to account separately for amounts transferred  
4           into such plan.

5           (6) An annuity contract described in Section 403(b) of the Internal Revenue  
6           Code.

7           D. A "distributee" as provided for in this Section shall include:

8           (1) A member or former member.

9           (2) The member's or former member's surviving spouse, or the member's or  
10          former member's former spouse with whom a benefit or a return of employee  
11          contributions is to be divided pursuant to R.S. 11:291(B), with reference to an  
12          interest of the member or former spouse.

13          (3) The member's or former member's non-spouse beneficiary, provided the  
14          specified distribution is to an eligible retirement plan as defined in Subparagraphs  
15          Subsection C of this Section.

16          §3696. Errors and omissions

17          Should any change or error in the records result in any member or beneficiary  
18          receiving from the retirement system more or less than he would have been entitled  
19          to receive had the records been correct, the board of trustees shall correct such error,  
20          and as far as practicable, shall adjust the payment in such a manner that the actuarial  
21          equivalent of the benefit to which such member or beneficiary was correctly entitled  
22          shall be paid.

23          The corrected benefit amount shall be paid prospectively. When considering  
24          corrections to the account of members for past erroneous benefit payments, the  
25          collection of overpayments or payment of underpayments may be waived if (1) it is  
26          deemed by the trustees to not be cost-effective for the system, in relation to the  
27          amount of the overpayment or underpayment, to attempt to locate the beneficiary or  
28          estate of such members and collect the overpayment or pay the underpayment or (2)

1 if it is deemed by the trustees to cause an extreme hardship on the member or  
2 beneficiary.

3 §3697. Effective dates

4 All benefit changes shall be prospective only unless stated otherwise in the  
5 Act. Statutory benefit changes shall not apply to members who have already retired.

6 §3698. Unusual Benefit Adjustments

7 A. Should it be discovered through an audit or review for statutory  
8 compliance and benefit payment calculations to be concluded in 2011, that unusual  
9 errors in benefit determinations and calculations were made, such errors shall be  
10 adjusted pursuant to the requirements of R.S. 11:3683 and 3685 and the following  
11 provisions:

12 (1) For members who were hired on 9/23/70, 6/21/69, 7/9/57, 1/3/59, and  
13 6/28/61 and whose retirement eligibility determination erroneously included unused  
14 annual leave and unused sick leave as creditable service in determining eligibility for  
15 retirement, the use of such leave shall be allowed. This adjustment shall be effective  
16 for the designated members only and only in determining the amount of the correct  
17 benefit payments going forward.

18 (2) For members hired on 8/29/1990 and 4/4/1994 who were over the age of  
19 eligibility for membership and erroneously allowed to become a member and for  
20 whom all normal member and employer contributions have been made, whether the  
21 member is still employed or retired from the system, the member shall be considered  
22 as a fully qualified member of the system. This adjustment shall be effective for the  
23 designated members only and only in determining the amount of the correct benefit  
24 payments going forward.

25 (3) For members hired on 7/1/47, 11/8/56, 7/9/57, 1/3/59, 6/28/61, 2/20/67,  
26 7/3/68, 12/2/68, 1/2/69, 3/25/69, 4/21/69, 6/21/69, 10/4/69, 11/15/69, and 9/23/70  
27 who were granted military credit eligibility in accordance with R.S. 11:3684 but who  
28 did not purchase such eligible military credit in accordance with R.S. 29:251.2(B)  
29 and such unpurchased credit was erroneously used in determining their eligibility for

1 retirement and/or erroneously used in their retirement benefit calculation, the use of  
2 such military credit shall be allowed. When a member hired on 9/22/48 who had  
3 been granted military credit eligibility by another retirement system in accordance  
4 with R.S. 11:143 but who did not purchase such eligible credit in the Harbor Police  
5 Retirement System as required by R.S. 11:143 and such unpaid credit was  
6 erroneously used in determining his eligibility for retirement and/or was erroneously  
7 used in his benefit calculation, the use of such military credit shall be allowed.  
8 When a member who was hired on 9/23/70 and who resigned on 7/31/71 and was  
9 rehired on 9/23/71, and who therefore was not a member on 8/1/71 and therefore not  
10 eligible for military service credit in accordance with R.S. 11:3684, but who was  
11 erroneously granted eligibility for such military credit and who did not purchase such  
12 eligible military credit in accordance with R.S. 29:251.2(B) and such unpurchased  
13 credit was erroneously used in determining eligibility for retirement and/or  
14 erroneously used in the retirement benefit calculation, the use of such military credit  
15 shall be allowed. This adjustment shall be effective for the designated members only  
16 and only in determining the amount of the correct benefit payments going forward.

17 (4) Act 474 of the 1985 Regular Session of the Legislature increased the  
18 service benefit of three percent per year of service to three and one-third percent per  
19 year of service and stipulated that "This Act shall become effective upon approval  
20 of the Board of Commissioners of the Port of New Orleans." Although no formal  
21 approval was given by the Board of Commissioners of the Port of New Orleans, the  
22 increase was implemented by the Harbor Police Retirement System upon the Act's  
23 signature by the governor. The benefits shall be calculated as if the required Board  
24 of Commissioners of the Port of New Orleans approval had been given on the  
25 effective date of the Act. This Act applies to all members who retired after the date  
26 of the act and the increased rate applies to all years of service credit. This  
27 adjustment shall be effective only for members currently employed on July 1, 2011,  
28 and retired as of July 1, 2011, and only in determining the amount of the correct

1 benefit payments already paid to retirees and the correct benefit payments going  
2 forward.

3 (5) The increase in service benefit in Act 474 of the 1985 Regular Session  
4 of the Legislature from three percent to three and one-third percent, as well as the  
5 increase from two and one-half percent to three percent in 1975, were implemented  
6 without containing language that stipulated for what years the increase was to apply,  
7 such as for all past years of service for active members, or for all future years of  
8 service for all active members, or for all past and future years of service for all active  
9 members. Instead of a "blended rate" wherein the rates in effect when the service  
10 credit was earned are used in the retirement benefit calculation, the increases were  
11 implemented as if each increase applied to all past and future years of service for all  
12 active members and such implementation shall apply for these adjustments. This  
13 adjustment shall be effective only for members currently employed on July 1, 2011,  
14 and retired members and only in determining the amount of the correct benefit  
15 payments already paid to retirees and the correct benefit payments going forward  
16 relative to the herein specified percentage changes.

17 (6) Any member hired on 11/8/1976 who completed a period of DROP  
18 participation prior to July 1, 2008, and who is still employed on July 1, 2008, shall  
19 be subject to R.S. 11:3684(B)(2). This adjustment shall be effective for the  
20 designated member only and only in determining the amount of the correct benefit  
21 payment going forward.

22 (7) Any cumulative net overpayment error will be forgiven in its entirety and  
23 any cumulative net underpayment error will be paid in its entirety in a lump sum.

24 (8) For members hired on 3/27/68, 7/3/68, 12/3/68, 6/28/61, 3/30/71, 4/5/67,  
25 3/25/60, 9/29/66, 9/23/70, 12/2/68, 7/28/69, 7/8/71, 6/21/69, 11/8/56, and 10/4/69  
26 who transferred into the Harbor Police Retirement System when the system was  
27 started on 8/1/71 thereby transferring service credit from LASERS which was earned  
28 at a benefit factor of two and one-half percent per year and for a member hired on  
29 5/3/83 who transferred prior service credit from LASERS which was earned at a

1        benefit factor of two and one-half percent per year, all of whom retired from the  
 2        Harbor Police Retirement System and were paid benefits at the higher benefit factor  
 3        of three percent per year or three and one-third percent per year for all years of  
 4        service, including the transferred years, instead of the benefit factor from the  
 5        transferring system of two and one half percent as specified in R.S. 11:1423, the  
 6        higher percentage factor shall be allowed. This adjustment shall be effective for the  
 7        designated members only and only in determining the amount of the correct benefit  
 8        payments going forward.

9                B. The adjustments authorized by this Section are not to be considered a  
 10              waiver of any statute provision governing this system. R.S. 11:3699 will be null and  
 11              void and removed from the statute on 7/1/2012.

12        Section 2. R.S. 11:3694 is hereby repealed in its entirety.

13        Section 3. This Act shall become effective on July 1, 2011; if vetoed by the governor  
 14        and subsequently approved by the legislature, this Act shall become effective on July 1,  
 15        2011, or on the day following such approval by the legislature, whichever is later.

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#### 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)]

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Arnold

HB No. 569

**Abstract:** Relative to the Harbor Police Retirement System (HPRS) for the Port of New Orleans, provides with respect to transfers, reciprocal recognition of service, contributions, service credit, membership, benefits, reporting requirements, the board of trustees, definitions, disability benefits, governance, administration, and correction of calculation errors.

#### Retention of Credits (R.S. 11:141)

Present law provides that a member of an actuarially funded retirement system, except for the Louisiana State Employees' Retirement System (LASERS), the Teachers' Retirement System of Louisiana (TRSL), and the Louisiana School Employees' Retirement System (LSERS), who transfers to another retirement system but who has at least 10 years of service in the transferring system may retain membership in the transferring system.

Proposed law excepts members of HPRS from present law.

## Reciprocal Recognition of Service (R.S. 11:142)

Present law provides that members of certain retirement systems who have service credit in certain other such systems may combine service credit in all such systems, subject to certain conditions.

Proposed law adds HPRS to the list of such systems.

## Transfers Between Systems (R.S. 11:143)

Present law allows members of certain public retirement systems to transfer service credit among such other retirement systems if they have at least 6 months of service credit in such a system.

Proposed law adds HPRS to the list of such systems.

## Repayment of Refunded Contributions (R.S. 11:144 and 144.1)

Present law allows members of certain retirement systems with at least 6 months of service credit to repay to any such system employee contributions refunded to such members if they avail themselves of present law (R.S. 11:142 and 143).

Present law allows a member of a public retirement system who has terminated membership in such system and who has received a refund of employee contributions to repay such contributions if he regains membership in a system into which his original system has been merged.

Proposed law adds HPRS to the list of such systems.

## Service Credit of Certain Elected Officials (R.S. 11:145)

Present law provides that any member of a retirement system who loses service credit by virtue of legislation shortening his term of office shall be granted any service credit lost for such cause.

Proposed law clarifies that HPRS shall be one of such systems.

## Membership Age Limitations (R.S. 11:148)

Proposed law provides that membership in a public retirement system for any person under the age of 60 who is otherwise eligible for such membership shall be mandatory. Present law exempts membership in certain systems from such rule: the State Police Pension and Retirement System (STPOL), the Municipal Police Employees' Retirement System (MPERS), the Sheriff's Pension and Relief Fund (SPRF), and certain other hazardous duty plans.

Proposed law provides that HPRS shall be one of such systems exempted from present law.

## Receipt of Lump Sum Benefits (R.S. 11:155)

Present law provides that in any public retirement system which provides "optional allowances", no member, retiree, or beneficiary shall be allowed to receive a benefit in a lump-sum, except in the case of certain systems' Deferred Retirement Option Plans (DROP).

Proposed law provides that such provisions of present law shall not apply to retirement benefits provided by HPRS under present law (R.S. 11:3685) and proposed law.

## Purchase of Service Credit (R.S. 11:158)

Present law allows members of certain retirement systems to purchase service credit under the individual provisions applicable to such systems by paying certain actuarial costs. Applies only if such systems otherwise provide for the purchase of service credit.

Proposed law adds HPRS to the list of such systems.

## Submission of Reports to the Legislature (R.S. 11:171 and 173)

Present law requires certain retirement systems to submit annual actuarial valuations, financial statements, and audit reports to the House and Senate committee on retirement by certain dates. Furthermore, present law requires the secretary of the Dept. of Health and Hospitals to submit to certain retirement systems, on a monthly basis, a list of all individuals who have died within the state.

Proposed law adds HPRS to the list of such systems.

## Education Requirements for Boards of Trustees (R.S. 11:185)

Present law requires the members of boards of trustees of state and statewide retirement systems to receive a certain number of hours of education every year.

Proposed law provides that such education requirements shall apply to members of the HPRS board.

## Definitions (R.S. 11:3682)

Present law defines “average final compensation” (FAC) for a member of HPRS as the average of the highest 3 years of a member’s compensation.

Proposed law retains present law but provides that the FAC for a member hired on or after July 1, 2011, shall mean the average of the highest 5 years of a member’s compensation. Further provides that for members hired on or after July 1, 2011, the earnings within the FAC period shall not increase by more than 15% each year (“anti-spiking”).

Proposed law defines “contractually agree” to mean to abide by a specified set of terms as evidenced by written contract.

Proposed law defines “vested” as being eligible for a retirement, disability, or survivor benefit.

## Membership

Present law (R.S. 11:3683) provides for membership in HPRS for certain employees of the Harbor Police Department of the Port of New Orleans. Provides that membership shall be mandatory for individuals hired after August 1, 1971. Provides for the ability to opt in or opt out of HPRS for individuals hired before such date. Furthermore, provides for mandatory transfer to HPRS for an individual hired before such date who is a member of another public retirement system.

Proposed law removes the August 1, 1971, distinction, therefore removing the optional membership and mandatory transfer for members hired before such date.

Present law provides further that any employee who is employed on July 7, 2003, who was unable to join HPRS because he is a retiree of another system, may become a member of HPRS from his first date of hire. Further provides that he may purchase retroactive service credit.

Proposed law removes language relating to the purchase of such service credit for such individual.

Present law provides relative to termination of membership in HPRS. Provides that termination shall occur, for persons absent from service for more than 5 years.

Proposed law provides that termination of service shall also occur if such a member has taken a refund of employee contributions.

#### Creditable Service

Present law provides mechanisms whereby immediately after the establishment of the HPRS system, HPRS shall verify all prior service credit for all of its members in all previous systems. Requires the board to issue a “prior service certificate”.

Proposed law removes such mechanisms and removes the ability for a member to receive service credit pursuant to a “prior service certificate”. Clarifies that service credit shall *only* be credited for service rendered since a member’s last becoming a member.

Proposed law clarifies the manner in which service credit shall accrue: in increments of 1/10th of a month.

Present law provides the manner in which annual leave and sick leave are to be converted to service credit.

Proposed law clarifies the manner in which annual leave and sick leave shall be converted to service credit. Unused annual and sick leave shall not be used toward attaining eligibility, but may be used for benefit calculation purposes. Establishes a leave conversion table.

Proposed law clarifies that military service may only be accrued or purchased as provided in the Military Service Relief Act pursuant to present law (R.S. 29:401 through 426).

#### Retirement Eligibility (R.S. 11:3685)

Present law provides for retirement for a member of HPRS if he has:

- (1) Attained the age of 45 with 20 years of service credit.
- (2) Attained any age with 25 years of service credit.
- (3) Attained the age of 60 with 10 years of service credit.
- (4) Attained the age of 55 with 12 years of service credit.

Proposed law retain present law’s retirement eligibility provisions for members hired prior to July 1, 2011.

Proposed law further provides for retirement for a member of HPRS hired on or after July 1, 2011, if he has:

- (1) Attained any age with 25 years of service credit.
- (2) Attained the age of 55 with 12 years of service credit.
- (3) Attained eligibility for early retirement with 20 years of service credit at any age, subject to an actuarial reduction of benefits.

Proposed law provides that any member hired prior to July 1, 2011, who reaches 10 years of service credit, and any member hired on or after July 1, 2011, who reaches 12 years of service credit, may leave his contributions in the retirement system and receive a retirement benefit upon attaining the requisite age for retirement.

Benefit Calculation (R.S. 11:3685(A)(1))

Present law provides that the retirement benefit of an HPRS retiree shall be equal to 3.33% x years of service x FAC.

Proposed law clarifies that the accrual rate for an HPRS retiree shall be 3.33% or whatever the accrual rate was when service was earned.

Survivor Benefits (R.S. 11:3685(A)(2))

Present law provides that if any member with at least 5 years of service credit dies before reaching retirement, his surviving spouse and/or children under the following circumstances in the following amounts:

- (1) Surviving spouse without children - 40% of the member's FAC.
- (2) Surviving spouse with children - 60% of FAC. Benefits cease upon children reaching majority or remarriage of spouse.
- (3) Children without surviving spouse - 60% of FAC. To be paid until youngest child reaches majority.

Proposed law provides that, effective July 1, 2011, and thereafter, if any member with at least 12 years of service credit dies before reaching retirement, his surviving spouse shall receive a benefit equivalent to the Option 2 optional allowance for the remainder of the life of the surviving spouse.

Proposed law provides further that if a member with 10 or more years of service, but less than 12 years of service, dies before reaching retirement, his surviving spouse and/or children under the following circumstances in the following amounts:

- (1) Surviving spouse without children - 40% of the member's FAC.
- (2) Surviving spouse with children - 40% of FAC + the greater of \$200 or 10% of FAC per child for no more than a combined 60% of FAC. Benefits cease upon children reaching majority or remarriage of spouse.
- (3) Children without surviving spouse - 40% of FAC for one child and 60% of FAC for two or more children. To be paid to each child until he reaches majority.

Proposed law provides that survivor benefits shall continue past majority for physically or mentally handicapped children.

Present law provides that a survivor benefit payable for a death sustained in the performance of a member's official duties shall be paid regardless of the number of years of service credit and shall be 60% of FAC payable to the surviving spouse until remarriage, or to surviving minor children in lieu of a spouse, or to his surviving parents in lieu of a spouse or children.

Proposed law retains present law.

## DROP (R.S. 11:3685 (B) and (C))

Present law provides relative to Deferred Retirement Option Plan (DROP) participation for members of HPRS hired prior to July 1, 1995. Proposed law deletes such provisions.

Present law provides relative to DROP participation for members hired on or after July 1, 1995. Proposed law provides that such provisions shall apply to members hired on or after such date but prior to July 1, 2011. Provides the DROP period for such members shall not exceed 5 years. Members in DROP shall agree to cease employment upon completing DROP.

Present law provides that interest for members hired on or after July 1, 1995, but prior to July 1, 2011, shall not be earned during DROP participation, but upon completion of DROP shall be credited to the member's DROP account in an amount equal to the system's rate of return less ½ of 1%.

Proposed law provides that interest shall be earned during DROP participation.

Proposed law provides further for DROP provisions applicable to members hired on or after July 1, 2011. For such members, the DROP period shall not exceed 3 years. No interest shall be earned on such member's DROP account during the DROP period. However, interest shall be earned after participation in DROP has terminated. Such member may choose to earn at the system interest rate (subject to a waiver of his constitutional rights) or shall have his DROP funds transferred to a self-directed plan with a third party. Such member may continue his employment after participation in DROP, and shall be eligible to accrue a supplemental benefit for his post-DROP service.

## Cost-of-Living Adjustments (COLAs) (R.S. 11:3685(D) and (F))

Present law allows the HPRS board to grant a COLA to retirees if either:

- (1) The system's realized investment returns exceed the actuarial rate of return; or
- (2) The funded ratio of HPRS is at least 90%.

Proposed law provides that in order to satisfy (1) above, HPRS' funded ratio must be at least 65% for a COLA to be granted.

Proposed law clarifies that the excess investment earnings to be used by the board in determining whether to grant a COLA in (1) above shall be the investment return on the assets of the system rather than the investment return on the reserve allocated to retirees.

Present law provides that a COLA shall not exceed 3% for every year before a retiree reaches age 65 and 5% for every year after 65.

Proposed law provides that COLAs payable to retirees under 65 shall not exceed 3% and shall not exceed 5% for retirees over 65.

Proposed law provides that a retiree shall not receive a COLA unless he had been retired for at least one year on the effective date of the COLA (January 1<sup>st</sup> of each year). Proposed law further provides that members hired on or after July 1, 2011, must be at least 60 to receive a COLA.

Proposed law further provides for an automatic 2.5% COLA as an option upon retiring. A member choosing such automatic COLA shall have his retirement benefit actuarially reduced in order to receive such COLA.

## Retroactivity of Benefit Increases (R.S. 11:3685(E))

Proposed law provides that, effective July 1, 2011, any benefit increase for HPRS members shall only be applied to service credit accruing after the effective date of the increase. Clarifies that changes in benefits shall not apply to any retirees.

## Initial Benefit Option (R.S. 11:3685(G))

Proposed law provides that, effective July 1, 2011, an Initial Benefit Option (IBO) shall be available to members of HPRS as an option at retirement. Provides for the payment of a lump-sum amount upon retirement, not to exceed the amount of 36 benefit payments. Individuals selecting the IBO shall have their remaining retirement benefit payments actuarially reduced based on the lump-sum amount received.

## Tax Qualification (R.S. 11:3685.1 and 3685.2)

Proposed law makes changes to certain provisions relating to HPRS in conformity with provisions of the Internal Revenue Code relative to tax-qualified plans.

Proposed law further provides that the HPRS board shall promulgate rules for administering certain tax qualification provisions in present law and proposed law.

## Disability Retirement (R.S. 11:3686)

Present law provides that any member with at least 5 years of service credit, who becomes disabled, may apply for a disability retirement.

Proposed law provides instead that a member must have at least 10 years of service credit to apply for disability retirement for in-the-line of duty disability and 5 years of service credit for non-duty related disabilities.

Proposed law provides for procedures for applying for disability retirement.

Present law provides that a member becoming disabled from an injury sustained in the line of duty shall be entitled to a disability benefit equal to 60% of his FAC. Present law provides no benefit amount for disability for injuries not sustained in the line of duty.

Proposed law provides that a member becoming disabled from an injury sustained in the line of duty shall be entitled to a disability benefit equal to the greater of 60% of his FAC or what his regular retirement benefit would be given his years of service.

Present law provides that any amount received from Workers' Compensation or Social Security shall offset any disability benefit payable by HPRS.

Proposed law retains present law.

Proposed law provides that if the board determines that a disability retiree is able to engage in gainful employment, his retirement benefit shall be reduced to an amount, which combined with his earnings equals his FAC.

Proposed law provides that a disability retiree restored to active service at a salary less than his FAC shall not become a member of the system.

Present law and proposed law provide mechanisms for continued certification of eligibility for disability benefits.

## Optional Allowances (R.S. 11:3687)

Present law provides an HPRS retiree with several benefit payment options for his monthly retirement benefit. A member may choose the "maximum option", whereby no benefits shall be payable to a beneficiary upon his death, or may choose from several options which actuarially reduce his monthly benefit but will provide a benefit to his designated beneficiary upon his death.

Proposed law retains present law and makes several technical clarifications.

## Administration of HPRS (R.S. 11:3688)

Present law provides generally for an HPRS board of trustees. Provides that the board shall be responsible for the operation of HPRS, and may employ or appoint certain professionals to carry out such responsibility.

Proposed law retains present law but provides that all service providers for HPRS including CPAs, actuaries, attorneys, investment advisors, and plan administrators shall be chosen jointly by the board of trustees and the Board of Commissioners of the Port of New Orleans.

Proposed law removes references to a medical board responsible for certifying disability applications and instead allows the board of trustees to hire a firm to provide medical advice to the board of trustees.

## Method of Financing (Employee and Employer Contributions, etc.) (R.S. 11:3690)

Present law provides that the employee contribution for members of HPRS shall be 7% of compensation.

Proposed law changes the employee contribution to 9% of compensation.

Present law provides for calculations of normal cost and accrued liability for the purposes of determining the employer contribution rate.

Proposed law makes various technical and administrative changes in making such calculations.

Present law sets a cap on the employer contribution at 13% of payroll.

Proposed law changes the employer cap to 20% of payroll.

## Unclaimed Funds (R.S. 11:3690.2)

Present law provides that any funds or property in the HPRS trust that could be claimed by a member, his heirs, or his beneficiaries shall not be presumed to be abandoned and shall remain with the system continuously.

Proposed law provides that in the event of a merger of HPRS with another system, such unclaimed property shall be transferred to the new system and shall remain with that system continuously.

## Errors and Omissions (R.S. 11:3696)

Proposed law provides that if any calculation error was made, which resulted in a member or beneficiary receiving the incorrect benefit amount, the HPRS board shall correct such mistake in a manner that is actuarially equivalent to the benefit that should have received. Further provides that the corrected benefit shall be paid prospectively. Further provides that the collection of overpayments or underpayments may be waived by the system if:

- (1) It is deemed not to be cost effective to the system to locate a beneficiary or the estate of a member; or
- (2) It is deemed by the board to be a hardship on the member or beneficiary.

Benefit Changes and Errors (R.S. 11:3698)

Proposed law provides that statutory benefit changes shall be prospective only, unless otherwise specified by the legislation enacting the changes.

Proposed law provides that should any errors in benefit calculations be discovered through an audit conducted in 2011, the errors shall be addressed pursuant to Present law and proposed law, prospectively, and in the following manner:

- (1) For members hired on 9/23/70, 6/21/79, 7/9/57, 1/3/59, and 6/28/61, whose retirement eligibility erroneously included unused sick leave toward service credit, the use of such leave shall be allowed.
- (2) For members hired on 8/29/1990 and 4/4/94, who were over the permissible age for membership in HPRS, such members shall continue to be allowed as members of HPRS.
- (3) For members hired on 7/1/47, 11/8/56, 7/9/57, 1/3/59, 6/28/61, 2/20/67, 7/3/68, 12/2/68, 1/2/69, 3/25/69, 4/21/69, 6/21/69, 10/4/69, 11/15/69, 9/23/70, and others, who were granted military service credit without paying for such credit, the use of such credit shall be allowed.
- (4) Act 484 of the 1985 Regular Legislative Session provided for an increase in accrual rate from 3% to 3.33%. The Act provided that the increase shall be effective upon the board's approval. The board never approved such increase. Proposed law provides that such increase shall be applied as though properly adopted by the board of trustees for all members employed on July 1, 2011, and all persons retired as of such date.
- (5) The increase to 3.33% and an increase in 1975 from 2.5% to 3% were implemented without guidance as to whether the increases were for future *and* past service. Proposed law provides that the increases shall be applicable to all service.
- (6) Any cumulative net overpayment error shall be forgiven and any cumulative net underpayment error shall be paid entirely in a lump sum.
- (7) For members hired on 3/27/68, 7/3/68, 12/3/68, 6/28/61, 3/30/71, 4/5/67, 3/25/60, 9/29/66, 9/23/70, 12/2/68, 7/28/69, 7/8/71, 6/21/69, 11/8/56, and 10/4/69 who transferred into HPRS at an accrual rate of 2.5% and were granted an accrual rate of 3% or 3.33% shall hire percentage shall be allowed.

Proposed law the adjustments permitted under proposed law shall cease to be effective on July 1, 2012.

(Amends R.S. 11:141, 142(A), 143(A)(1), 144(A), 144.1, 145(A), 148(A)(1) and (B), 155, 171, 185(C), 3682, 3683, 3684, 3685, 3685.1(A)(2) and (B)(2)(a), 3685.2(B) and (C), 3686, 3687, 3688(A)(8), (9), (10), and (11), (B), (C), and (D), 3689, 3690, 3690.2, 3691, 3692, 3693, and 3695; Adds R.S. 11:158(B)(15), 173(A)(14), 174(B)(18), 185(D), 3684.1, 3685.2(D) and (E), 3688(A)(12) and (E), 3696, 3697, and 3698; Repeals R.S. 11:3694)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Retirement to the original bill.

1. Removes provision authorizing the purchase of "air time" by members, which is the purchase of service credit for which there is no corresponding public service.
2. Removes provision authorizing the purchase of military service credit by members except as already provided in present law.
3. With regard to survivor benefits when a member dies in the line of duty, removes proposed law calculation formula whereby the surviving spouse receives the greater of 60% of the members FAC or the amount payable under retirement option 2 and restores present law calculation formula whereby the surviving spouse receives 60% of the member's FAC.
4. Clarifies that the excess investment earnings to be used by the board in determining whether to grant a COLA shall be the investment return on the assets of the system rather than the investment return on the reserve allocated to retirees.
5. Removes provisions of proposed law for calculation of disability benefits for injuries not sustained in the line of duty: 40% of FAC, or the member's regular retirement benefit if he has 12 years of service and reaches retirement age.
6. Removes certain retirement options from proposed law relating to joint and survivor annuities for handicapped children.
7. Removes provision of proposed law allowing a trust to be designated as a beneficiary of retirement benefits.
8. Removes references to a medical board in present law, which is responsible for certifying disability applications and instead allows the board of trustees to hire a firm to provide medical advice to the board of trustees.
9. Removes provisions of proposed law allowing the board of trustees of the retirement system to accept an annuity from the port of commissioners (the employer) to pay for unfunded liabilities.
10. Adds several individuals to the list of calculation errors being rectified in proposed law.