

SENATE BILL NO. 6

BY SENATOR GAUTREAUX



Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact R.S. 11:887.1, relative to the Teachers' Retirement System of Louisiana; to provide
3 for payment of unfunded accrued liability by an employer that withdraws some or
4 all of its employees from the retirement system; to provide for all other withdrawal
5 liabilities of such employers; to provide for determination of amount of withdrawal
6 liability payment and collection of same; to provide an effective date; and to provide
7 for related matters.

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 11:887.1 is hereby enacted to read as follows:

11 **§887.1. Unfunded accrued liability; payment by employing agency**

12 **A.(1)(a) Notwithstanding any other provision of law to the contrary, if**
13 **an employing agency is authorized by law to terminate its participation in the**
14 **retirement system and terminates participation for all of its employees, such**
15 **employing agency shall remit to the retirement system its proportionate share**
16 **of any unfunded actuarial accrued liability of the retirement system, as further**
17 **provided in this Section.**

18 **(b) Notwithstanding any other provision of law to the contrary, if an**
19 **employing agency terminates its participation in the retirement system as**
20 **authorized by administrative action, contract, or other legally authorized**
21 **action, and terminates participation for all of its employees, any entity**
22 **authorizing such termination shall remit to the retirement system the employing**
23 **agency's proportionate share of any unfunded actuarial accrued liability of the**
24 **retirement system, as further provided in this Section.**

25 **(c) Notwithstanding any other provision of law to the contrary, if an**

1 employing agency whose employees are not members of the retirement system,
2 hires any employee previously employed by another employing agency whose
3 employees were members of the retirement system there shall be no obligation
4 on the part of the hiring employing agency for any unfunded accrued liability
5 resulting from the employee's previous employment.

6 (2) Notwithstanding any other provision of law to the contrary, if an
7 employing agency terminates its participation in the retirement system for some
8 of its employees by eliminating positions held by such employees through
9 privatization, the employer shall remit to the retirement system its
10 proportionate share of any unfunded actuarial accrued liability, as further
11 provided in this Section.

12 (3)(a) Notwithstanding any other provision of law to the contrary, if a
13 school or entity under an employer's jurisdiction is converted to any other
14 governance model and, by administrative action, contract, or other legally
15 authorized action, the prospective employing entity is permitted by the
16 employer to terminate its participation or forgo participation in the retirement
17 system, the employer shall remit to the retirement system the proportionate
18 share of any unfunded actuarial accrued liability, as further provided in this
19 Section.

20 (b) Notwithstanding any other provision of law to the contrary, if a
21 school or entity under an employer's jurisdiction is transferred to any other
22 entity and the receiving entity permits the prospective employing agency, as
23 applicable, to terminate participation or forgo participation in the retirement
24 system, the receiving entity shall remit to the retirement system the
25 proportionate share of any unfunded actuarial accrued liability, as further
26 provided in this Section.

27 (4) For purposes of this Section, the following terms shall have the
28 following meanings:

29 (a) "Proportionate share of any unfunded accrued liability" shall mean
30 the unfunded accrued liability, if any, which is attributable to benefits accrued

1 by or granted to employees and retirees of the employing agency which was
2 established during the period of time that the employing agency was a
3 participating employer with the retirement system or, with respect to
4 Paragraph (A)(3) of this Section, during the period of time the school or entity
5 was under the employer's jurisdiction.

6 (b) "Privatization" shall mean the elimination of positions eligible for
7 membership in the retirement system without eliminating the services provided
8 or delivered or the functions performed, and the outsourcing, contracting for
9 the service or function with a private employer, or utilization of any other legal
10 mechanism having the same effect, with the result that the service or function
11 previously provided, delivered, or performed by an employee in a retirement
12 system-covered position is now provided, delivered, or performed by a person
13 or persons in positions which are not eligible for system coverage.

14 B.(1) The actuary employed by the retirement system shall determine
15 the amounts required to be remitted pursuant to this Section as of the June
16 thirtieth immediately prior to the respective date of the termination of
17 participation, elimination of positions, or conversion or transfer of the school
18 or entity.

19 (2)(a) Should the entity responsible for payment disagree with the
20 amounts determined by the retirement system actuary, such entity may appeal
21 to the Public Retirement Systems' Actuarial Committee within thirty days of
22 receipt of the invoice.

23 (b) The legislative auditor shall perform an independent determination
24 of the amounts due and in the event his calculation disagrees with that of the
25 retirement system actuary, the committee shall meet and render a final
26 determination. In the event the calculations agree, the invoice shall be due as
27 provided in this Section.

28 (3) The amounts due pursuant to this Section shall, at the option of the
29 employing agency, be paid either in a lump sum or in equal monthly payments
30 with interest at the retirement system's actuarial valuation rate amortized over

1 ten years or less.

2 C. Should an employing agency fail to make payment pursuant to this
3 Section timely, the amount due shall be collected in the same manner as
4 authorized by R.S. 11:886 and 887.

5 Section 2. The provisions of this Act shall apply to any employing agency
6 participating in the retirement system in any plan year ending on or after June 30, 2011.

7 Section 3. This Act shall become effective on June 30, 2011; if vetoed by the
8 governor and subsequently approved by the legislature, this Act shall become effective on
9 June 30, 2011, or on the day following such approval by the legislature, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

VETO MESSAGE

Senate Bill No. 6 by Senator Gautreaux unnecessarily ties the payment of state retirement debt to much-needed reforms such as greater autonomy for public schools through charter conversions and better fiscal management through contracting and outsourcing. In doing so, this bill creates a significant deterrent to educational reform efforts.

I support efforts to pay down the unfunded accrued liability, which is why I signed Act 7 of the 2008 2nd Extraordinary Session to appropriate \$20 million to Louisiana State Employees Retirement System and \$40 million to Teachers' Retirement System of Louisiana. I am also signing legislation from the 2011 Regular Session to dedicate a portion of nonrecurring funds to paying down the unfunded accrued liability and to reform municipal pension systems in order to help local governments get rising pension costs under control. We must continue to look for ways to ensure the actuarial soundness of our state retirement systems but not at the expense of our educational institutions and of our students.

Multiple stakeholders – including the Board of Elementary and Secondary Education, Louisiana State University, Louisiana Association of Business and Industry, Louisiana Association of Public Charter Schools, and Citizens for 1 Greater New Orleans – have declared their opposition to the bill.

For this reason, I have vetoed Senate Bill No. 6 and hereby return it to the Senate.