

Regular Session, 2012

HOUSE BILL NO. 1048

BY REPRESENTATIVE POPE

RETIREMENT/TEACHERS: Provides for the maintenance of tax qualification status for the Teachers' Retirement System of La.

1 AN ACT

2 To amend and reenact R.S. 11:701(10), 761(A)(3)(b), 768(A)(2) and (B)(2)(introductory
3 paragraph), and 786(A)(1) and to enact R.S. 11:785 and 927(E), relative to the
4 Teachers' Retirement System of Louisiana; to provide with respect to tax-
5 qualification of such system; to make certain changes to such system's provisions in
6 conformity with federal tax-qualification provisions; to provide effective dates; and
7 to provide for related matters.

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

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 11:701(10), 761(A)(3)(b), 768(A)(2) and (B)(2)(introductory
13 paragraph), and 786(A)(1) are hereby amended and reenacted and R.S. 11:785 and 927(E)
14 are hereby enacted to read as follows:

15 §701. Definitions

16 As used in this Chapter, the following words and phrases have the meanings
17 ascribed to them in this Section unless a different meaning is plainly required by the
18 context:

19 * * *

1 (10) "Earnable compensation" means the compensation earned by a member
 2 during the full normal working time as a teacher. Earnable compensation shall
 3 include any differential wage payment, as defined by 26 U.S.C. 3401(h)(2), which
 4 is made by an employer to any individual performing qualified military service.
 5 Earnable compensation shall not include per diem, post allowances, payment in kind,
 6 hazardous duty pay, or any other allowance for expense authorized and incurred as
 7 an incident to employment, nor payments in lieu of unused sick or annual leave, nor
 8 retroactive salary increases unless such increase was granted by legislative act or by
 9 a city/parish systemwide salary increase, nor payment for discontinuation of
 10 contractual services, unless the payment is made on a monthly basis. If a member
 11 is granted an official leave and he makes contributions for the period of leave,
 12 ~~"earnable compensation"~~ earnable compensation shall not include compensation paid
 13 for other employment which would not have been possible without the leave. The
 14 board of trustees shall determine whether or not any other payments are to be
 15 classified as earnable compensation.

* * *

17 §761. Retirement benefits; application; eligibility requirements; effective date;
 18 cancellation; errors and omissions

19 A.

* * *

21 (3) Any person whose first employment making him eligible for membership
 22 in one of the state systems occurred on or after January 1, 2011, may retire upon
 23 written application to the board of trustees, if at the time of application the member:

* * *

25 (b) Has twenty years of service credit at any age, exclusive of ~~military~~
 26 ~~service and~~ unused annual and sick leave and military service other than qualified
 27 military service as provided in 26 U.S.C. 414(u) earned on or after December 12,
 28 1994, but any person retiring under this Subparagraph shall have his benefit,
 29 inclusive of military service credit and allowable unused annual and sick leave,

1 actuarially reduced from the earliest age that he would normally become eligible for
2 a regular retirement benefit under Subparagraph (a) of this Paragraph if he had
3 continued in service to that age. Any member who elects to retire under the
4 provisions of this Subparagraph shall not be eligible to participate in the Deferred
5 Retirement Option Plan provided by R.S. 11:786 or the Initial Lump-Sum Benefit
6 option provided by R.S. 11:783.

7 * * *

8 §768. Retirement allowances

9 A.

10 * * *

11 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, any
12 member who retires on or after July 1, 1997, who became a member prior to July 1,
13 1999, and who has attained the age of sixty-five years and has credit for at least
14 twenty years of creditable service, ~~exclusive of military service,~~ unused accumulated
15 sick leave, ~~and unused accumulated annual leave, and military service other than~~
16 qualified military service as provided in 26 U.S.C. 414(u) earned on or after
17 December 12, 1994, or any of these, or who has attained the age of fifty-five years
18 and has credit for at least twenty-five years of creditable service, exclusive of unused
19 accumulated sick leave and unused accumulated annual leave, or who has credit for
20 at least thirty years of creditable service at any age, exclusive of unused accumulated
21 sick leave and unused accumulated annual leave, shall receive an annual benefit
22 which provides an allowance equal to two and one-half percent of his average
23 earnable compensation, multiplied by the number of years of creditable service, plus
24 a sum of three hundred dollars. The referenced additional sum of three hundred
25 dollars shall ~~only be applicable~~ be applicable only with respect to persons becoming
26 members prior to July 1, 1986.

27 * * *

28 B.

29 * * *

1 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, any
 2 person who became a member on or after July 1, 1999, whose first employment
 3 making him eligible for membership in one of the state systems occurred on or
 4 before December 31, 2010, having twenty years of service credit, exclusive of
 5 ~~military service and unused annual and sick leave~~ and military service other than
 6 qualified military service as provided in 26 U.S.C. 414(u) earned on or after
 7 December 12, 1994, but who is less than sixty years of age, may retire but he shall
 8 have his maximum benefit inclusive of military service credit and allowable unused
 9 annual and sick leave actuarially reduced from the earlier of the following:

10 * * *

11 §785. Compliance with certain federal and state provisions relating to qualified
 12 military service

13 A. Notwithstanding any other provision of law to the contrary, effective
 14 December 12, 1994, contributions, benefits, and service credit in this system with
 15 respect to qualified military service shall be governed by the Uniformed Services
 16 Employment and Reemployment Rights Act of 1994, 26 U.S.C. 414(u), and Part VI
 17 of Chapter 2 of Title 29 of the Louisiana Revised Statutes of 1950.

18 B. Effective January 1, 2007, 26 U.S.C. 401(a)(37), as enacted by the Heroes
 19 Earnings Assistance and Relief Tax Act of 2008, is hereby adopted as part of the
 20 retirement system law.

21 C. Effective January 1, 2009, 26 U.S.C. 3401(h)(2), as enacted by the Heroes
 22 Earnings Assistance and Relief Tax Act of 2008, is hereby adopted as part of the
 23 retirement system law.

24 * * *

25 §786. Deferred Retirement Option Plan

26 * * *

27 A.(1) In lieu of terminating employment and accepting a retirement
 28 allowance, any member of this system whose first employment making him eligible
 29 for membership in one of the state retirement systems occurred on or before

1 December 31, 2010, and who is not covered by R.S. 11:801 and who has thirty years
 2 of service credit at any age, twenty-five years of service credit and is at least age
 3 fifty-five, or has twenty years of service credit exclusive of military service other
 4 than qualified military service as provided in 26 U.S.C. 414(u) earned on or after
 5 December 12, 1994, and is at least age sixty-five may elect to participate in the
 6 Deferred Retirement Option Plan. A member with ten years of service credit
 7 exclusive of military service other than qualified military service as provided in 26
 8 U.S.C. 414(u) earned on or after December 12, 1994, and who is at least age sixty
 9 may elect to participate in the plan, but all benefits payable at any time shall ~~only~~ be
 10 calculated using only a two percent benefit formula.

11 * * *

12 §927. Contributions

13 * * *

14 E. Effective January 1, 2009, to the extent required by 26 U.S.C. 414(u)(12),
 15 any differential wage payment, as defined by 26 U.S.C. 3401(h)(2), of which is made
 16 by any employer to any individual performing qualified military service shall be
 17 treated as earnable compensation for purposes of applying the limits on annual
 18 additions under 26 U.S.C. 415(c), and any participant of the optional retirement plan
 19 shall be treated as an employee of the employer making such payment.

20 Section 2. This Act shall become effective on July 1, 2012; if vetoed by the governor
 21 and subsequently approved by the legislature, this Act shall become effective on July 1,
 22 2012, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Pope

HB No. 1048

Abstract: Relative to the Teachers' Retirement System of La. (TRSL), makes certain changes to such system's provisions in conformity with federal tax-qualification provisions.

Present federal law (Internal Revenue Code §401 et seq.) contains certain requirements which must be met in order for governmental and nongovernmental retirement plans to attain and maintain "tax-qualified" status.

Present federal law (the Uniformed Services Employment and Reemployment Rights Act (USERRA)) provides relative to reemployment rights and retirement benefits of retirement system members performing qualified military service.

Present state law (R.S. 29:401 et seq.) adopts and supplements USERRA.

Present federal law (Internal Revenue Code §414(u)) requires a retirement plan to comply with USERRA in order to maintain its tax-qualified status.

Proposed law adopts the provisions of present federal law (IRS Code and USERRA) and present state law into TRSL's laws, relative to contributions, benefits, and service credit.

Present federal law (the Heroes Earnings Assistance and Relief Tax Act (HEART)) requires a tax-qualified retirement plan to comply with several additional requirements with respect to retirement system members performing qualified military service:

- (1) Death Benefits - for purposes of death benefits, if a member dies while performing qualified military service, the plan shall treat such member as having died during covered employment with the retirement plan.
- (2) Differential Wage Payment - for any member performing qualified military service who received differential wage payments from his employer (the portion of wages that the employee would be receiving if he were still employed), such payments shall be treated as compensation for purposes of testing contribution limits under federal law.

Proposed law conforms provisions of TRSL law to provisions of HEART for tax qualification purposes.

Effective July 1, 2012.

(Amends R.S. 11:701(10), 761(A)(3)(b), 768(A)(2) and (B)(2)(intro. para.), and 786(A)(1); Adds R.S. 11:785 and 927(E))