

Regular Session, 2014

HOUSE BILL NO. 79

BY REPRESENTATIVE PEARSON

RETIREMENT/STATE EMPS: Provides for enrollment of new hires of the Harbor Police Department of the Port of New Orleans in the Hazardous Duty Services Plan in the La. State Employees' Retirement System and for administration of the Harbor Police Retirement System by the La. State Employees' Retirement System

1 AN ACT

2 To amend and reenact R.S.11:102(C)(1)(introductory paragraph), (2), (3), and (4)(b), 511(5)

3 and (6), 3682(7) and (16), 3683(1), 3688(E), 3688.1(B), and 3690(B)(1) and (C), to

4 enact R.S. 11:612(2.1), 620.1, Subpart E of Part VII of Chapter 1 of Subtitle II of

5 Title 11 of the Louisiana Revised Statutes of 1950, comprised of R.S. 11:631, and

6 3688(A)(13), and to repeal R.S. 11:3688(B), relative to retirement for employees of

7 the Harbor Police Department of the Port of New Orleans; to provide relative to the

8 administration of the Harbor Police Retirement System by the Louisiana State

9 Employees' Retirement System; to authorize a cooperative endeavor agreement

10 relative to such administration; to provide relative to the assets of the Harbor Police

11 Retirement System; to provide relative to retirement benefits for new hires of the

12 Harbor Police Department of the Port of New Orleans; to provide relative to benefits

13 for members of the Harbor Police Retirement System; to provide relative to the

14 boards of trustees of the Louisiana State Employees' Retirement System and the

15 Harbor Police Retirement System; to provide an effective date; and to provide for

16 related matters.

17 Notice of intention to introduce this Act has been published

18 as provided by Article III, Section 13 and Article X, Section

19 29(C) of the Constitution of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:3682(7) and (16), 3683(1), 3688(E), and 3688.1(B) are hereby amended and reenacted and R.S. 11:612(2.1) and 3688(A)(13) are hereby enacted to read as follows:

§612. Application; definitions

Terms not specifically defined in this Section but defined in R.S. 11:403 shall have the meanings provided in R.S. 11:403 unless a different meaning is clearly required by the context. For purposes of this Subpart:

\* \* \*

(2.1) In addition to the definition provided in Paragraph (2) of this Section, the term "member" shall also include any commissioned employee of the Harbor Police Department of the Port of New Orleans first hired on or after July 1, 2014.

\* \* \*

§3682. Definitions

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

\* \* \*

(7) "Board of trustees" means the board provided for in R.S. 11:3688 to administer the retirement system and the board of trustees of any other retirement system which assumes administration of this retirement system.

\* \* \*

(16) "Employee" means any commissioned member or employee of the Harbor Police Department of the Port of New Orleans prior to July 1, 2004, or any commissioned member of the Harbor Police Department of the Port of New Orleans hired on or after July 1, 2004, and on or before June 30, 2014.

\* \* \*

§3683. Membership

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

(1) All persons who shall become employees as defined in R.S. 11:3682(16) after August 1, 1971, and on or before June 30, 2014, except those specifically excluded under Paragraph (3) of this Section, shall become members as a condition of their employment, provided they are under fifty years of age at the date of employment.

\* \* \*

§3688. Administration

A. Board of Trustees.

\* \* \*

(13) If the board of trustees of the Louisiana State Employees' Retirement System, the board of commissioners of the Port of New Orleans, and the board of trustees of this system execute a cooperative endeavor agreement for the administration of this system by the board of trustees of the Louisiana State Employees' Retirement System, then the board of trustees created pursuant to the provisions of this Section shall be dissolved effective January 1, 2016, and this Subsection shall cease to be effective.

\* \* \*

E. ~~At~~ Until administration of the system is assumed by the board of another retirement system, all service providers including the certified public accountant, actuary, legal consultant, bank custodian, investment advisor, and plan administrator shall be selected jointly by the Board of Trustees and the Board of Commissioners of the Port of New Orleans. Notwithstanding any provision of law to the contrary, after administration of this system is assumed by the board of trustees of another retirement system, the administering board shall select all service providers for the system.

\* \* \*

§3688.1. Amendments

\* \* \*

B.(1) No amendment to this retirement system shall operate to deprive any member of a benefit to which he is already entitled. In the case of any merger or consolidation with, or transfer of assets or liabilities to, any other retirement system, each member in the retirement system will, if the retirement system is then terminated, receive a benefit immediately after the merger, consolidation, or transfer equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer, if the retirement system had then terminated.

9                   (2) Notwithstanding any provision of law to the contrary, if the  
10                   administration of this retirement system is transferred to the board of trustees of any  
11                   other retirement system, eligibility for and calculation of permanent benefit increases  
12                   for members of this retirement system shall be determined in accordance with the  
13                   laws governing the retirement system that assumed administration of this retirement  
14                   system. However, nothing in this Paragraph shall be construed to authorize the  
15                   funding of such permanent benefit increases for members of this system with funds  
16                   attributable to the administering system.

17 \* \* \*

18           Section 2. R.S. 11:102(C)(1)(introductory paragraph), (2), (3), and (4)(b), 511(5) and  
19   (6), 3690(B)(1) and (C) are hereby amended and reenacted and R.S. 11:620.1 and Subpart  
20   E of Part VII of Chapter 1 of Subtitle II of Title 11 of the Louisiana Revised Statutes of 1950,  
21   to be comprised of R.S. 11:631, are hereby enacted to read as follows:

22 §102. Employer contributions; determination; state systems

23 \* \* \*

C.(1) This Subsection shall be applicable to the Louisiana State Employees' Retirement System effective for the June 30, 2010, system valuation and beginning Fiscal Year 2011-2012. For purposes of this Subsection, "plan" or "plans" shall mean the Harbor Police Retirement System and a subgroup within the system characterized by the following employee classifications:

29 \* \* \*

(2) For the Louisiana State Employees' Retirement System, effective for the June 30, 2010, system valuation and beginning with Fiscal Year 2011-2012, the normal cost calculated pursuant to Subparagraph (B)(3)(a) of this Section, shall be calculated separately for each particular plan ~~within the system~~. An employer shall pay employer contributions for each employee at the rate applicable to the plan of which that employee is a member.

(3) For the Louisiana State Employees' Retirement System, effective for the June 30, 2010, system valuation and beginning with Fiscal Year 2011-2012, changes in actuarial liability due to legislation, changes in governmental organization, or reclassification of employees or positions shall be calculated individually for each particular plan within the system based on each plan's actuarial experience as further provided in Subparagraph (4)(c) of this Subsection.

(4) For each plan referenced in Paragraph (1) of this Subsection, the legislature shall set the required employer contribution rate equal to the sum of the following:

16 \* \* \*

(b)(i) The shared unfunded accrued liability rate. Except as provided in Item  
(ii) of this Subparagraph, a single rate shall be computed for each fiscal year,  
applicable to all plans for actuarial changes, gains, and losses existing on June 30,  
2010, or occurring thereafter, including experience and investment gains and losses,  
which are independent of the existence of the plans listed in Paragraph (1) of this  
Subsection, the payment and rate therefor shall be calculated as provided in  
Paragraphs (B)(1) and (3) of this Section.

24                   (ii) The shared unfunded accrued liability rate applicable to the Harbor  
25                   Police Retirement System shall not include any unfunded accrued liability incurred  
26                   on or before July 1, 2015, until the earlier of:

27 (aa) July 1, 2022.

(bb) The date that all sums payable by the Port of New Orleans to the board  
of trustees of the Louisiana State Employees' Retirement System pursuant to the

1 terms and conditions of a cooperative endeavor agreement between the board of  
2 trustees of the Louisiana State Employees' Retirement System, the board of  
3 commissioners of the Port of New Orleans, and the board of trustees of the Harbor  
4 Police Retirement System regarding the administration of the Harbor Police  
5 Retirement System by the board of trustees of the Louisiana State Employees'  
6 Retirement System have been paid in full.

7 \* \* \*

8 §511. Composition of board of trustees

9 The board of trustees shall consist of the following members:

10 \* \* \*

(5) Six trustees who shall be active employees and members of ~~the~~ this system or the Harbor Police Retirement System, who each have ~~with~~ at least ten years of creditable service and who shall be elected by the members of ~~the~~ this system and the Harbor Police Retirement System for a term of four years to succeed members whose terms expire under rules and regulations adopted by the board to govern the elections. However, those trustees whose terms begin on or after January 1, 1998, shall be eligible to serve only three consecutive four-year terms, to include any term served as an active or retired member. Upon the completion of the third consecutive four-year term, the trustee shall be ineligible for a fourth consecutive term of office. An active member trustee who retires while serving on the board shall be allowed to remain on the board for the remainder of the term for which elected. The director, assistant directors, chief investment officer, and other employees ~~of the staff~~ of the system shall be ineligible for membership on the board, and no member of the board elected under this Section shall be eligible for one of these positions for a period of two years after the termination of their service on the board. No department in the executive branch of state government, as more particularly described in Title 36 of the Louisiana Revised Statutes of 1950, as amended and revised, may have more than two trustees serving on the board at the same time. The candidate or candidates who have received the highest and next

1 highest vote tallies, and who do not violate the prohibition against more than two  
2 trustees serving from the same department, shall be declared the elected trustee or  
3 trustees.

4 (6) Three trustees who are retired members of ~~the~~ either this system or the  
5 Harbor Police Retirement System and who shall represent the retired members of ~~the~~  
6 system both systems. The retired trustees shall be elected by the retired members of  
7 ~~the~~ this system and the Harbor Police Retirement System for a term of four years.  
8 However, those trustees whose terms begin on or after January 1, 1998, shall be  
9 eligible to serve only three consecutive four-year terms, to include any term served  
10 as an active or retired member. Upon the completion of the third consecutive  
11 four-year term, the trustee shall be ineligible for a fourth consecutive term of office.  
12 The election shall be held in accordance with the rules adopted by the board to  
13 govern the elections of trustees. Vacancies shall be filled in accordance with R.S.  
14 11:512.

15 \* \* \*

16 §620.1. Transfer of other service credit; Harbor Police Retirement System  
17 employees

18 A. Any member of the Harbor Police Retirement System who would  
19 otherwise be eligible for benefits under the Hazardous Duty Services Plan except that  
20 his first employment making him eligible for membership in the Harbor Police  
21 System occurred on or before June 30, 2014, and who has not participated in the  
22 Deferred Retirement Option Plan in the system of which he is a member shall have  
23 the right to irrevocably elect to become a member of the plan by submitting an  
24 application to the board of trustees to become effective on or after July 1, 2015.

25 B. Any eligible member who elects to transfer to the Hazardous Duty  
26 Services Plan from the Harbor Police Retirement System shall have the option of:

27 (1)(a) Maintaining prior service credit in the Harbor Police Retirement  
28 System pursuant to the provisions of that system and accruing service credit and  
29 benefits in the Hazardous Duty Services Plan after the date he joins the plan. If such

1 election results in an actuarial cost to this system, then the member shall pay the  
2 system the amount of such actuarial cost prior to his retirement.

3 (2)(a) An actuarial transfer from the Harbor Police Retirement System to this  
4 plan in accordance with the provisions of R.S. 11:143(C) and (D) in which the  
5 member transfers all of his service credit from the Harbor Police Retirement System  
6 and maintains prior service credit at the accrual rate at which it was earned in such  
7 system prior to joining the Hazardous Duty Services Plan. If the amount of funds  
8 transferred is less than the actuarial cost of the service transferred to the plan, the  
9 member transferring, except as otherwise provided in this Section, shall pay the  
10 deficit or difference, including the interest thereon at the board-approved actuarial  
11 valuation rate of the system.

12 (b) In lieu of paying the deficit or difference plus interest, the member may  
13 at his option, but only at the time of transfer, be granted an amount of credit in the  
14 plan which is based on the amount of funds actually transferred plus any additional  
15 funds less than the deficit paid by the member.

16 (c) A member who completes a transfer under the provisions of this Section  
17 shall have his retirement benefit calculated using the accrual rate of the system from  
18 which he transferred based on the number of years transferred.

19 C. A member whose first employment making him eligible for membership  
20 in the Harbor Police Retirement System occurred on or before June 30, 2015, who  
21 elects to join this plan shall thereafter for purposes of all state retirement systems be  
22 treated as an employee whose first eligibility for membership occurred on or after  
23 July 1, 2015.

24 \* \* \*

25 SUBPART E. HARBOR POLICE EMPLOYED BY THE PORT OF NEW ORLEANS

26 §631. Administration of the Harbor Police Retirement System

27 A. The board of trustees of the Louisiana State Employees' Retirement  
28 System, the board of commissioners of the Port of New Orleans, and the board of  
29 trustees of the Harbor Police Retirement System may execute a cooperative endeavor

1 agreement for the administration of the Harbor Police Retirement System by the  
2 board of trustees of the Louisiana State Employees' Retirement System, as may be  
3 deemed appropriate under such terms and conditions as it may be agreed to by the  
4 parties.

5 B. Any cooperative endeavor agreement executed pursuant to this Section  
6 shall include provisions regarding the following:

7 (1) Rights of current participants in the Harbor Police Retirement System:

8 (a) Current participants in the Harbor Police Retirement System, including  
9 retirees and active members, shall retain all accrued benefits and continue to accrue  
10 benefits under the terms of the Harbor Police Retirement System plan, as specified  
11 in R.S. 11:3681 through 3698, except as provided as in this Paragraph.

12 (b) Active members the Harbor Police Retirement System who have not  
13 participated in the Deferred Retirement Option Plan shall have the option to join the  
14 Louisiana State Employees' Retirement System Hazardous Duty Services Plan and  
15 the option to transfer prior service credit using the procedures set out in R.S.  
16 11:620.1.

17 (c) Effective July 1, 2016, the calculation and granting of permanent benefit  
18 increases for members of the Harbor Police Retirement System shall be in  
19 accordance with R.S. 11:542, consistent with the eligibility for permanent benefit  
20 increases for members of the Louisiana State Employees' Retirement System. Funds  
21 attributable to the Louisiana State Employees' Retirement System shall not be used  
22 to grant such increases to members of the Harbor Police Retirement System.

23 (2) Liabilities of the Harbor Police Retirement System:

24 (a) The Port of New Orleans shall agree to pay to the board of trustees of the  
25 Louisiana State Employees' Retirement System sums sufficient to fund all of the  
26 accrued liability of the Harbor Police Retirement System determined using the  
27 Louisiana State Employees' Retirement System actuarial assumptions.

28 (b) The liabilities shall be paid under such terms and conditions as agreed to  
29 by the parties and shall include interest at the Louisiana State Employees'

Retirement System actuarially assumed rate of return as approved by the Public Retirement Systems' Actuarial Committee.

C. In the administration of the Harbor Police Retirement System by the board of trustees of the Louisiana State Employees' Retirement System pursuant to a cooperative endeavor agreement entered into pursuant to this Section, the board of trustees of the Louisiana State Employees' Retirement System shall have all of the powers and duties of the board of trustees of the Harbor Police Retirement System as set forth in R.S. 11:3681 through 3698.

D. Notwithstanding the provisions of R.S. 11:3690 or any other provision of law to the contrary, upon the transfer of the assets of the Harbor Police Retirement System to the board of trustees of the Louisiana State Employees' Retirement System, the assets of the Harbor Police Retirement System shall become part of the Louisiana State Employees' Retirement System trust and shall be maintained in a notional account. Such assets shall be managed in accordance with the laws governing the Louisiana State Employees' Retirement System. The account shall be credited with interest at the actuarial rate of return earned by the Louisiana State Employees' Retirement System, and the account shall not be reduced pursuant to any allocation required by R.S. 11:102.1 nor by diversion to the system's experience account.

\* \* \*

§3690. Method of financing

\* \* \*

B. Employer contributions.

(1)(a) Except as provided in Subparagraph (b) of this Paragraph, the ~~The~~ port commission shall annually contribute an amount equal to the rate per centum determined herein in accordance with Paragraphs (2) and (3) of this Subsection. Contributions shall be made monthly based on the same salary or wages used to calculate the members' contributions.

1                   **(b) Notwithstanding any provision of law to the contrary, upon assumption**  
2                   **of the administration of this system by the board of trustees of the Louisiana State**  
3                   **Employees' Retirement System, employer contributions shall be determined in**  
4                   **accordance with the provisions of R.S. 11:102. The contribution rate limitation**  
5                   **contained in Paragraph (3) of this Subsection shall not apply to any employer**  
6                   **contribution rate determined pursuant to this Subparagraph.**

7 \* \* \*

8 C. Court fines.

9 All fines collected by any court, official or agency from violators of  
10 ordinances of the City of New Orleans applicable to the wharves, landings and river  
11 front of the city or ordinances of the Board of Commissioners of the Port of New  
12 Orleans, as provided for in R.S. 34:25, shall be transmitted to the board of  
13 commissioners of the Port of New Orleans. ~~of trustees of this system. Such funds~~  
14 ~~shall be used by the board solely for the payment of the retirement allowances, and~~  
15 ~~such funds shall be supplemented by such other funds as are now or may be hereafter~~  
16 ~~paid into the system on account of members of the harbor police department of the~~  
17 ~~Port of New Orleans.~~

18 \* \* \*

19           Section 3. R.S. 11:3688(B) is hereby repealed in its entirety.

Section 4. The cost of future accruals under the provisions of this Act, if any, shall be funded with additional employer contributions in compliance with Article X, Section 29(F) of the Constitution of Louisiana.

Section 5. Until such time as the Public Retirement Systems' Actuarial Committee adopts an official valuation of the Louisiana State Employees' Retirement System which includes an employer contribution rate for the Harbor Police Retirement System calculated in accordance with the provisions of R.S. 11:102, the employer contribution rate to be paid by the Port of New Orleans for members of the Harbor Police Retirement System shall be the employer contribution rate in effect for the Harbor Police Retirement System as of June 30, 2015.

1           Section 6. The terms of elected active or retired members serving on the board of  
2 trustees of the Louisiana State Employees' Retirement System on the effective date of this  
3 are not affected by this Act. Any vacancy in an active or retired member trustee position  
4 occurring on or after the effective date of this Act shall be filled in accordance with the  
5 provisions of this Act.

6           Section 7.(A) The provisions of Section 2, 3, 5, and 6 of this Act shall become  
7 effective on June 30, 2015.

8           (B) The provisions of this Section and Sections 1 and 4 of this Act shall become  
9 effective on July 1, 2014; if vetoed by the governor and subsequently approved by the  
10 legislature, the provisions of this Section and Sections 1, 4, and 7 of this Act shall become  
11 effective on July 1, 2014, or on the day following such approval by the legislature,  
12 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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Pearson

HB No. 79

**Abstract:** Provides for administration of the Harbor Police Retirement System (HBPOL) by the board of trustees of the La. State Employees' Retirement System (LASERS). Further provides for harbor police employees hired on or after July 1, 2014 to be enrolled in the Hazardous Duty Services Plan in LASERS.

#### **NEW EMPLOYEES OF THE HARBOR POLICE DEPARTMENT OF THE PORT OF NEW ORLEANS**

Present law establishes the Hazardous Duty Services Plan in LASERS. Such members receive a 3.33% accrual rate, have an employee contribution rate of 9.5%, and have the following retirement eligibilities:

- (1) Twenty-five years or more of service, at any age.
- (2) Twelve years or more of service, at age fifty-five or thereafter.
- (3) Twenty years of service credit at any age, actuarially reduced from age 55.

Proposed law retains present law.

Present law provides that any commissioned member of the Harbor Police Department of the Port of New Orleans on or after July 1, 2004, shall be a member of HBPOL. Proposed law retains present law for all commissioned members hired on or before June 30, 2014.

Proposed law places any commissioned employee of the Harbor Police Department of the Port of New Orleans first hired on or after July 1, 2014, in the Hazardous Duty Services Plan in LASERS.

**MEMBERS OF THE HARBOR POLICE RETIREMENT SYSTEM AS OF  
JUNE 30, 2014**

Present law establishes HBPOL as a local retirement system to provide for the retirement of commissioned members and employees of the Harbor Police Department of the Port of New Orleans prior to July 1, 2004, and for the retirement of commissioned members of the police department after July 1, 2004. Proposed law retains present law for all such persons hired on or before June 30, 2014.

Proposed law authorizes the boards of trustees of LASERS and HBPOL and the board of commissioners of the Port of New Orleans to enter into a cooperative endeavor agreement for LASERS to administer HBPOL. Provides requirements relative to the rights of HBPOL members and the liabilities of the system that shall be contained in such cooperative endeavor agreement.

Present law provides for the administration of HBPOL by a board of trustees comprised of active, retired, and ex officio members. Proposed law provides that if a cooperative endeavor agreement is entered into for LASERS to administer HBPOL, then the HBPOL board as established in present law shall be dissolved effective Jan. 1, 2016.

Proposed law further provides that beginning July 1, 2015, the board of LASERS shall be modified to provide for representation of HBPOL members. Future vacancies in the active member and retired member trustee positions on the LASERS board shall be elected from the LASERS membership and the HBPOL membership. Such elected trustees shall represent the constituents of both systems.

Proposed law authorizes members of HBPOL to transfer service credit to the Hazardous Duty Services Plan of LASERS. Requires the member to pay any actuarial cost, calculated in accordance with present law, for such service transfers.

Present law authorizes the board of HBPOL to provide cost-of-living adjustments (COLAs) to retirees whenever the system experiences excess returns above what is actuarially required. Proposed law provides that future COLAs for HBPOL retirees shall be calculated and granted in the same manner as COLAs for LASERS retirees and beneficiaries. Further provides that only funds attributable to HBPOL shall be used to pay COLAs to HBPOL retirees and beneficiaries after the funds of the two systems are combined.

**EMPLOYER CONTRIBUTION RATES**

Present law provides that employer contribution rates for HBPOL are capped at 20% of the earned compensation of the members in any one year. Provides that no further sums must be transferred to the retirement system in the event the payment from the employer is not sufficient to provide the retirement allowances and other benefits payable from the fund. Proposed law provides that after LASERS assumes administration of HBPOL, the employer contribution rate shall be calculated pursuant to the laws governing LASERS employer contribution rates. Further removes the 20% employer contribution cap.

Present law, relative to LASERS employer contribution rates, provides for particularized contribution rates for plans within LASERS, such as the Hazardous Duty Services Plan. Proposed law provides for particularized contribution rates for HBPOL and for plans within LASERS.

Present law for LASERS provides that part of the employer contribution rate is an amount to cover "shared" unfunded liabilities of the system. Such "shared" liability is comprised of two elements: (1) the unfunded liabilities of the system existing as of June 30, 2010, and (2) the unfunded liabilities system accrued after June 30, 2010, that are independent of the existence of the plans within LASERS (for example, losses incurred if the system does not achieve its actuarially assumed rate of return).

Proposed law provides that the HBPOL contribution rate shall not include any shared UAL incurred on or before July 1, 2015 until the earlier of:

- (1) July 1, 2022.
- (2) The date all sums owed to LASERS by the Port of New Orleans pursuant to the terms and conditions of the cooperative endeavor agreement provided for in proposed law are paid in full.

### **FUNDS OF THE SYSTEM**

Present law provides for the maintenance of HBPOL funds by the system. Proposed law provides that after the cooperative endeavor agreement provided for in proposed law is executed, the assets of HBPOL shall be transferred to LASERS and shall become a part of the LASERS trust to be managed in accordance with LASERS law. Requires such funds to be kept in a notional account. Prohibits debiting of the account to pay allocations to LASERS debt required by present law (R.S. 11:102.1) and further prohibits debiting of the account to divert funds to the LASERS experience account. Provides that the notional account shall be credited with interest each year at the actuarial rate of return earned by LASERS.

Provisions relating to the assumption of administration of HBPOL by LASERS become effective June 30, 2015.

All other provisions, including enrollment of new hires in the Hazardous Duty Plan of LASERS, become effective July 1, 2014.

(Amends R.S.11:102(C)(1)(intro. para.), (2), (3), and (4)(b), 511(5) and (6), 3682(7) and (16), 3683(1), 3688(E), 3688.1(B), and 3690(B)(1) and (C); Adds R.S. 11:612(2.1), 620.1, 631, and 3688(A)(13); Repeals R.S. 11:3688(B))