

2019 Regular Session

HOUSE BILL NO. 22

BY REPRESENTATIVE BACALA

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

RETIREMENT/MUNICIPAL POL: Provides relative to the calculation of benefits of certain employees of the Baton Rouge Police Department who are members of the Municipal Police Employees' Retirement System

## 1 AN ACT

2 To enact R.S. 11:2225(F), to provide relative to the earnable compensation of certain  
3 employees of the Baton Rouge Police Department who are members of the  
4 Municipal Police Employees' Retirement System; to provide for retirement benefits;  
5 to provide for actuarial certification of the cost of such benefits; to provide for  
6 repayment of associated costs paid by the system; and to provide for related matters.

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. 11:2225(F) is hereby enacted to read as follows:

12 §2225. Administration

13 \* \* \*

14 F.(1) The following words and phrases, as used in this Subsection, shall have  
15 the following meanings:

16 (a) "Actuarial certification" means a certification, by the actuary designated  
17 pursuant to Paragraph D(1) of this Section, of the actuarial impact of including  
18 disputed overtime in the average final compensation of a Baton Rouge police officer.

1        An actuarial certification shall be based on the assumptions in the system's most  
2        recent valuation approved by the Public Retirement Systems' Actuarial Committee.

3                (b) "Applicable interest" means interest to be computed using the actual  
4        market rates of return on system assets certified in the system's Public Retirement  
5        Systems' Actuarial Committee approved actuarial valuation reports to the extent  
6        available. For periods where no such approved valuation exists, applicable interest  
7        shall be determined based on the most recent estimate of the system's composite  
8        market rate of return as certified by the system's investment consultant. For any  
9        periods where no estimate is available, the assumed rate of return utilized in the  
10       system's most recent Public Retirement Systems' Actuarial Committee approved  
11       actuarial valuation report shall be used.

12               (c) "Disputed overtime" means compensation paid to a Baton Rouge police  
13       officer that does not qualify as earnable compensation under this Chapter but meets  
14       all of the following requirements:

15               (i) It was paid for work required in the employee's regular scope of duty.  
16               (ii) It is compensation of the type on which the city of Baton Rouge, parish  
17       of East Baton Rouge, referred to in this Subsection as "Baton Rouge", was paying  
18       contributions to the system prior to January 1, 2018.

19               (d) "Baton Rouge police officer" means any of the following:

20               (i) An active employee of Baton Rouge as of June 30, 2019, whose  
21       employment with Baton Rouge making him eligible for membership in the system  
22       occurred during the period beginning February 26, 2000, and ending December 31,  
23       2017, and who does not obtain a refund of his accumulated contributions after  
24       December 31, 2017.

25               (ii) A member whose employment with Baton Rouge making him eligible  
26       for membership in the system occurred during the period beginning February 26,  
27       2000, and ending December 31, 2017, who did not obtain a refund of the amount of

1        his accumulated contributions after December 31, 2017, who has sufficient years of  
2        service credit established in the retirement system to receive a benefit upon obtaining  
3        the appropriate age under this Chapter, who ceased covered employment with Baton  
4        Rouge before June 30, 2019, and who leaves his accumulated contributions in the  
5        retirement system in order to receive a retirement benefit upon reaching the  
6        applicable age.

7                (iii) A former employee of Baton Rouge who is retired on June 30, 2019, or  
8        who is deceased and has a beneficiary receiving a survivor benefit on June 30, 2019,  
9        and whose employment with Baton Rouge making him eligible for membership in  
10       the system occurred during the period beginning February 26, 2000, and ending  
11       December 31, 2017.

12               (iv) Baton Rouge police officer does not mean an employee who was merged  
13       into the system pursuant to R.S. 11:2225(A)(11)(ii), who, after being merged,  
14       obtained a refund of the amount of his accumulated contributions and who, after  
15       December 31, 2017, returns to employment with Baton Rouge .

16               (e) "Initial actuarial certification" means a certification by the actuary  
17       designated pursuant to Paragraph D(1) of this Section of the actuarial impact of  
18       including disputed overtime in the average final compensation for all Baton Rouge  
19       police officers to whom a benefit was paid prior to July 1, 2019.

20               (2)(a) The average final compensation of a Baton Rouge police officer to  
21       whom a benefit was paid prior to July 1, 2019, shall include disputed overtime if on  
22       or before September 30, 2019, Baton Rouge provides the system with all data  
23       necessary for the initial actuarial certification, and such certification shows that the  
24       actuarial cost does not exceed the value of the contributions received by the system  
25       plus applicable interest.

26               (b) If the initial actuarial certification shows the actuarial cost exceeds the  
27       value of the contributions received by the system plus applicable interest, Baton  
28       Rouge shall pay to the system, within ninety days, the amount determined by the  
29       actuary necessary to offset the actuarial cost. If Baton Rouge fails to pay the amount

1       necessary to offset the actuarial cost, the system shall notify the retiree or beneficiary  
2       of Baton Rouge's failure to pay and shall cease paying benefits based on disputed  
3       overtime until the system receives the amount necessary to offset the actuarial cost  
4       plus interest from Baton Rouge or from the treasurer pursuant to Paragraph (6) of  
5       this Subsection.

6               (c) If any Baton Rouge police officer is omitted from the initial actuarial  
7       certification due to an administrative error, the actuary shall amend the initial  
8       actuarial study within ninety days of the discovery of the omission.

9               (d) Prior to making the initial actuarial certification, the actuary designated  
10       pursuant to Paragraph (D)(1) of this Section and an actuary hired by Baton Rouge  
11       shall agree, in writing, on the actuarial methodology to be used for the initial  
12       actuarial certification and any subsequent actuarial certifications. No other  
13       methodology shall be used for certifications made under this Section.

14              (3)(a) The average final compensation of a Baton Rouge police officer who  
15       was not receiving a benefit prior to July 1, 2019, shall include disputed overtime if,  
16       upon receipt of an application for benefits, the system obtains an actuarial  
17       certification that shows the actuarial cost does not exceed the value of the  
18       contributions received by the system for the applicant plus applicable interest.

19              (b) If such certification shows that the actuarial cost exceeds the value of the  
20       contributions received by the system for the applicant plus applicable interest, Baton  
21       Rouge shall pay to the system within thirty days of receipt of the actuarial  
22       certification the amount determined by the actuary necessary to offset the increased  
23       actuarial cost. If Baton Rouge fails to pay the amount necessary to offset the  
24       increased actuarial cost within the thirty-day period, the system shall notify the  
25       applicant of Baton Rouge's failure to pay. The average final compensation of such  
26       an officer shall include disputed overtime when the system receives the amount  
27       necessary to offset the actuarial cost plus interest from Baton Rouge or from the  
28       treasurer pursuant to Paragraph (6) of this Subsection.

1           (4) If the initial actuarial certification or an actuarial certification shows the  
2           actuarial cost is less than the value of the contributions received by the system plus  
3           applicable interest, Baton Rouge shall receive a credit from the system to offset any  
4           cost due to the system pursuant to this Subsection.

5           (5) On or before January fifteenth of each year, the system's director shall  
6           certify to Baton Rouge, the total of expenses paid by the system during the previous  
7           calendar year for compliance with the requirements of this Subsection. Baton Rouge  
8           shall reimburse the system for such amounts no later than June thirtieth of that year.

9           (6) Any delinquent payment due under this Subsection, including actuarial  
10          costs associated with a benefit on disputed overtime, shall include interest at the  
11          assumed rate of return used in the system's most recent valuation approved by the  
12          Public Retirement Systems' Actuarial Committee and may otherwise be collected  
13          in the manner provided in R.S. 11:2227(D)(2).

14          (7) The system and Baton Rouge shall mediate any disputes under this  
15          Subsection before any legal action is commenced by either party.

16          Section 2. The city of Baton Rouge, parish of East Baton Rouge shall reimburse the  
17          Municipal Police Employees' Retirement System for costs that are associated with disputed  
18          overtime payments and that were paid to the accounting firm and actuary on or before the  
19          effective date of this Act.

20          Section 3. This Act shall become effective upon signature by the governor or, if not  
21          signed by the governor, upon expiration of the time for bills to become law without signature  
22          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
23          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
24          effective on the day following such approval.

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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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HB 22 Engrossed

2019 Regular Session

Bacala

**Abstract:** Provides for certain overtime payments made by the Baton Rouge Police Department (BRPD) to employees who are members of the Municipal Police Employees' Retirement System (MPERS) to be included in the calculation of average final compensation for eligible members.

Present law provides that the average final compensation of a member of MPERS is based off of his annual earned compensation, but does not include overtime. Proposed law retains present law.

Proposed law allows for certain overtime payments made by BRPD to certain employees who are members of MPERS to be included in the calculation of average final compensation when the overtime payments were of the type on which BRPD was paying contributions to the system prior to Jan. 1, 2018. Provides for payment of actuarial and administrative costs of proposed law.

Proposed law requires the actuary for MPERS and an actuary hired by BRPD to agree, in writing, on the actuarial methodology to be used for the initial actuarial certification before the initial actuarial certification can be made.

Proposed law requires MPERS and BRPD to mediate any disputes before legal action is commenced by either party.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds 11:2225(F))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Retirement to the original bill:

1. Define "applicable interest" and require inclusion of interest in calculations required by proposed law.
2. Add requirement that both parties agree on the actuarial methodology to be used for the initial actuarial certification.
3. Add a mandatory mediation provision.