HLS 21RS-306 REENGROSSED

2021 Regular Session

HOUSE BILL NO. 29

1

BY REPRESENTATIVE JEFFERSON

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

RETIREMENT/FIREFIGHTERS: Provides relative to Firefighters' Retirement System's Deferred Retirement Option Plan and unfunded accrued liability

AN ACT

2	To amend and reenact R.S. 11:2252(5), 2257(C) and (K), 2262(D)(2)(b), and 2265(A)(2)					
3	and to enact R.S. 11:2262(D)(2)(c) and 2262.1, relative to the Firefighter					
4	Retirement System; to provide for the period of participation within the Deferre					
5	Retirement Option Plan; to provide with respect to unfunded accrued liability					
6	payments when a fire department is fully or partially dissolved; to provide relative					
7	to the assignment of employee contributions to loan repayment; to provide for					
8	calculation of benefits; and to provide for related matters.					
9	Notice of intention to introduce this Act has been published					
10	as provided by Article X, Section 29(C) of the Constitution					
11	of Louisiana.					
12	Be it enacted by the Legislature of Louisiana:					
13	Section 1. R.S. 11:2252(5), 2257(C) and (K), 2262(D)(2)(b), and 2265(A)(2) are					
14	hereby amended and reenacted and R.S. 11:2262(D)(2)(c) and 2262.1 are hereby enacted to					
15	read as follows:					
16	§2252. Definitions					
17	The following words and phrases, as used in this Chapter, unless a different meaning					
18	is plainly required by context, shall have the following meaning:					
19	* * *					

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(5)(a) "Average Except as provided in Subparagraph (b) of this Paragraph, "average final compensation" shall mean the average annual earned compensation of an employee for any period of thirty-six successive or joined months of service as an employee during which the said earned compensation was the highest. In case of interruption of employment, the thirty-six month period shall be computed by joining employment periods immediately preceding and succeeding the interruption. The earnings to be considered for the thirteenth through the twenty-fourth months shall not exceed one hundred fifteen percent of the earnings for the first through the twelfth months. The earnings to be considered for the final twelve months shall not exceed one hundred fifteen percent of the earnings of the thirteenth through the twenty-fourth months.

(b) For any member who elects to participate in the Deferred Retirement Option Plan for longer than thirty-six months pursuant to R.S. 11:2257(C)(2), "average final compensation" shall mean the average annual earned compensation of an employee for any period of sixty successive or joined months of service as an employee during which the earned compensation was the highest. In case of interruption of employment, the sixty-month period shall be computed by joining employment periods immediately preceding and succeeding the interruption. The earning to be considered for the thirteenth through the twenty-fourth months shall not exceed one hundred fifteen percent of the earnings for the first through the twelfth months. The earnings to be considered for the twenty-fifth through the thirty-sixth months shall not exceed one hundred fifteen percent of the earnings for the thirteenth through the twenty-fourth months. The earnings to be considered for the thirty-seventh through the forty-eighth months shall not exceed one hundred fifteen percent of the earnings for the twenty-fifth through the thirty-sixth months. The earnings to be considered for the final twelve months shall not exceed one hundred fifteen percent of the earnings of the thirty-seventh through the forty-eighth months.

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1	§2257. Deferred Retirement Option Plan
2	* * *
3	C.(1) The duration of participation in the plan shall be specified and shall not
4	exceed three years. the following:
5	(a) Three years for any member who has less than thirty years of creditable
6	service.
7	(b) Five years for any member who has at least thirty years of creditable
8	service. A member who chooses to participate in the plan for a period longer than
9	three years shall have all benefits calculated using average final compensation as
10	defined in R.S. 11:2252(5)(b).
11	(2) The decision made by the member regarding the duration of participation
12	plan is irrevocable.
13	* * *
14	K.(1) If employment is not terminated at the end of the period specified for
15	participation, the plan participant shall resume active contributing membership in the
16	system, and upon termination of employment, he shall receive an additional
17	retirement benefit based on his additional service rendered since termination of
18	participation in the fund, using the normal method of computation of benefit,.
19	(2) If the plan participant selects a period of participation that is less than or
20	equal to thirty-six months, the additional benefit is subject to the following:
21	(a) If his period of additional service is less than thirty-six months, the
22	average compensation figure used to calculate the additional benefit shall be that
23	used to calculate his original benefit.
24	(b) If his period of additional service is thirty-six or more months, the
25	average compensation figure used to calculate the additional benefit shall be based
26	on his compensation during the period of additional service.
27	(3) If the plan participant selects a period of participation that is longer than
28	thirty-six months, the additional benefit shall be calculated using a figure for average
29	final compensation as defined by R.S. 11:2252(5)(b).

1	(e)(4) The optional allowance applied to the additional retirement benefit
2	shall be the same optional allowance selected in accordance with R.S. 11:2259 for
3	the original benefit.
4	(d)(5) In no event shall the additional benefit exceed an amount which, when
5	combined with the original benefit, equals one hundred percent of the average
6	compensation figure used to compute the additional benefit.
7	(2)(6) If the plan participant dies or acquires a disability during the period
8	of additional service, he shall be considered as having retired on the date of death or
9	commencement of disability.
10	* * *
11	§2262. Method of financing
12	* * *
13	D. Pension accumulation fund
14	The pension accumulation fund shall be the fund in which shall be
15	accumulated all reserves for the payment of all pensions and benefits payable from
16	contributions made by employers. Contributions to and payments from the pension
17	accumulation fund shall be made as follows:
18	* * *
19	(2)
20	* * *
21	(b) Reasonable attorney fees and court costs shall be recoverable by the
22	Firefighters' Retirement System:
23	(i) If any amount of delinquent payments under Paragraph (B)(1) of this
24	Section and Paragraph (1) of this Subsection are recovered by action in a court of
25	competent jurisdiction against a political subdivision or instrumentality liable.
26	(ii) In any concursus proceeding instituted pursuant to C.C.P. Art. 4651 et
27	seq., wherein the Firefighters' Retirement System is named as a party.
28	(c) Alternatively, at the request of the Firefighters' Retirement System, and
29	upon due certification of delinquency to the state treasurer, such amounts shall be

1	deducted from any other monies payable to such subdivision or instrumentality by
2	any department or agency of the state and shall be remitted directly to the
3	Firefighters' Retirement System.
4	* * *
5	§2262.1. Dissolution of fire department; unfunded accrued liability; payment by
6	<u>employer</u>
7	A.(1) If an employer fully dissolves its fire department, the employer shall
8	remit to the system, beginning the first July immediately following the date of
9	dissolution, that portion of the unfunded accrued liability existing on the thirtieth of
10	June immediately prior to the date of dissolution of the fire department that is
11	attributable to such employer and calculated using the allocation percentage included
12	in the prior fiscal year's employer pension report produced according to requirements
13	established by the Governmental Accounting Standards Board. The amount due
14	pursuant to the provisions of this Paragraph shall include interest at the system's
15	valuation interest rate.
16	(2)(a) If an employer partially dissolves its fire department, the employer
17	shall be liable for a pro rata portion of the system's unfunded accrued liability. The
18	portion shall be calculated by applying the percentage decrease in the salaries paid
19	to participating employees by the employer on the thirtieth of June and salaries paid
20	to participating employees by the employer as of the thirtieth of June of the prior
21	year to the total payment that would have been required pursuant to the provisions
22	of Paragraph (1) of this Subsection if the employer had fully dissolved its fire
23	department. Payments required pursuant to the provisions of this Paragraph shall
24	include interest at the system's valuation interest rate.
25	(b) An employer shall be deemed to have partially dissolved its fire
26	department if either of the following occurs:
27	(i) The number of participating employees of the employer as of the thirtieth
28	of June is less than seventy percent of the number of participating employees of the
29	employer on the thirtieth of June of the prior year and either the number of

1	participating employees decreases by at least three or the number of participating
2	employees is zero.
3	(ii) The number of participating employees of the employer as of the thirtieth
4	of June is at least fifty fewer than the number of participating employees of the
5	employer as of the thirtieth of June of the prior year.
6	B.(1) Any amount due pursuant to Subsection A of this Section shall be
7	determined by the actuary employed by the system and shall be amortized over
8	fifteen years in equal payments with interest at the system's valuation rate. Payments
9	for withdrawals that occur on or after July 1, 2021, shall be payable beginning the
10	first of July of the second fiscal year following the determination by the actuary and
11	in the same manner as regular payroll payments to the system. Beginning on the first
12	of July of the fiscal year following withdrawal, interest shall accrue at the system's
13	actuarial valuation rate, compounded annually.
14	(2) If the number of participating employees of an employer subject to
15	Paragraph (A)(2) of this Section returns to at least the number of participating
16	employees as of the thirtieth of June immediately preceding the withdrawal, the
17	payments required by this Section shall cease on the first of July following the
18	determination by the actuary that a sufficient increase in participating employees has
19	occurred, and no further payments shall be due with respect to the withdrawal. Any
20	payments made pursuant to this Section shall be credited as an offset of any amounts
21	due by the employer attributable to any subsequent withdrawal that occurs within
22	fifteen years of the payments.
23	C. If an employer fails to make a payment timely, the amount due shall be
24	collected in any of the following manners:
25	(1) By action in a court of competent jurisdiction against the delinquent
26	employer. The amount due shall include interest calculated by the system's actuarial
27	valuation rate, compounded annually. The employer shall also be liable for any legal
28	and actuarial fees incurred by the system in the collection of amounts pursuant to this
29	Section.

	(2) The board may certify to the state treasurer all amounts attributable to the
delinq	uent employer. In support of such certification, the board shall submit to the
<u>treasur</u>	rer a resolution certifying the name of the delinquent employer, its failure to
pay, aı	nd the amount owed and shall name a designee or designees to act on the
board's	s behalf. Upon receipt of such certification, the treasurer shall deduct from
monie	s payable to the certified delinquent party the certified amount due and shall
remit s	such deducted amounts directly to the Firefighters' Retirement System.
	D. For the purposes of this Section, the following terms shall mean:
	(1) "Participating employee" shall mean an active member or participant in
the De	eferred Retirement Option Plan.
	(2) "Withdrawal" shall mean the dissolution or partial dissolution of a fire
departi	ment as described in Subsection A of this Section.
	* * *
§2265.	. Assignment of employee contributions; credit union loans
	A.
	* * *
	(2)(a) The member shall authorize the system to deliver or pay the total
amoun	nt of his accumulated employee contributions to the designated credit union,
upon t	ermination or resignation of employment but only if he has less than twelve
years o	of creditable service. If a member who accumulates twelve or more years of
credita	able service and who, having previously executed a valid assignment of
emplo	yee contribution, elects to withdraw his accumulated employee contributions,
then th	nose contributions may be delivered to the credit union as provided in this
Section	n.
	(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
if a m	member who has twelve or more years of creditable service and who has
execut	red a valid assignment of employee contributions dies with no person entitled

to survivors' benefits as provided in R.S. 11:2256, his contributions shall be

delivered to the credit union as provided in this Section.

\* \* \*

Section 2. Any person who has at least thirty years of creditable service and who is

participating in the Deferred Retirement Option Plan on the effective date of this Act may

extend his participation in the plan up to the five-year period provided for in this Act subject

to the other provisions of this Act including the average final compensation provisions. His

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DIGEST

benefits shall be recalculated using average final compensation as defined in R.S.

HB 29 Reengrossed

11:2252(5)(b).

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2021 Regular Session

Jefferson

**Abstract:** Provides for participation within the Firefighters' Retirement System (FRS) Deferred Retirement Option Plan (DROP) for up to five years and with respect to payments of the unfunded accrued liability (UAL) should a fire department fully or partially dissolve.

#### **DROP** Participation

Present law provides for participation within DROP for up to three years.

Proposed law provides for DROP participation to not exceed:

- (1) Three years for members with less than 30 years of creditable service.
- (2) Five years for members with at least 30 years of creditable service.

<u>Proposed law</u> allows a current DROP participant to select a longer participation period as authorized by <u>proposed law</u>.

<u>Present law</u> provides that FRS benefits are based on a 36-month period when compensation was highest.

<u>Proposed law</u> retains <u>present law</u> except that the benefits of a person who selects a DROP period longer than 36 months shall be based on a 60-month period when compensation was the highest.

Proposed law provides that the selection of a DROP participation period is irrevocable.

## Dissolution of Fire Department and UAL Payment

<u>Proposed law</u> provides that if an employer dissolves or partially dissolves its fire department, then beginning on the first July following the dissolution, the employer shall pay the

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department's portion of the UAL to the system according to the percent included in the prior fiscal year's employer pension report. Provides the amount due to the system shall include interest at the system's valuation interest rate.

<u>Proposed law</u> provides that if an employer partially dissolves its fire department, it shall pay a pro rata portion of the system's UAL.

<u>Proposed law</u> provides that a partially dissolved fire department meet one of the following criteria:

- (1) The number of participating employees of the employer as of June 30 is 70% less than June 30 of the previous year and either the number of participating employees decreases by at least three or participating employees is zero.
- (2) The number of participating employees of the employer, as of June 30 is at least 50 fewer than the previous year.

<u>Proposed law</u> provides that payments due to the system be determined by the system's actuary and amortized over 15 years in equal payments.

<u>Proposed law</u> provides that if the number of employees of a partially dissolved employer returns to the number participating prior to withdrawal, payments will cease and payments made will be credited as an offset of any amount due by the employer attributable to any subsequent withdrawal that occurs within 15 years of payment.

### **Collection of Unpaid Amounts**

Present law provides for collection of funds if an employer fails to make payments by either:

- (1) Action in a court of competent jurisdiction against the employer. The employer is responsible for legal fees incurred by the system.
- (2) The board of trustees may submit a resolution and certification to the state treasurer of the name of the delinquent employer and amount owed. The state treasurer shall deduct monies payable to the employer and remit said monies directly to the system.

<u>Proposed law</u> provides that attorney fees and court costs are recoverable by FRS if delinquent payments are recovered in court or through a concursus proceeding.

## **Employee Contributions and Credit Loans**

<u>Present law</u> authorizes a member of FRS to assign the accumulated contributions he has made to the system to a firefighters' credit union in consideration of a loan. If a member with less than 12 years of creditable service leaves employment, <u>present law</u> requires that his contributions be paid to the credit union.

<u>Proposed law</u> requires payment of such contributions to the credit union if the member has 12 or more years of creditable service and dies without a survivor who is entitled to benefits.

(Amends R.S. 11:2252(5), 2257(C) and (K), 2262(D)(2)(b), and 2265(A)(2); Adds R.S. 11:2262(D)(2)(c) and 2262.1)

# Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Retirement</u> to the <u>original</u> bill:

- 1. Provide that if a member chooses to participate in DROP for more than three years, his benefits are calculated using a five year final average compensation.
- 2. Provide that the decision of how long a member participates in DROP is irrevocable.
- 3. Provide for recovery of attorney fees and court costs through a concursus proceeding.
- 4. Relative to partial department dissolutions where the number of participating employees is less than 70% of what it was, change the number of employee positions that must be lost from two to three.