Regular Session, 2011

HOUSE BILL NO. 569

BY REPRESENTATIVE ARNOLD

RETIREMENT/LOCAL: Relative to the Harbor Police Retirement System for the port of New Orleans, makes comprehensive changes to the provisions of such system

AN ACT

To amend and reenact R.S. 11:141, 142(A), 143, 144(A), 144.1, 145(A), 148(A)(1) and (B), 155, 171, 185(C), 3682, 3683, 3684, 3685, 3685.1(A)(2) and (B)(2)(a), 3685.2(B) and (C), 3686, 3687, 3689, 3690, 3690.2, 3691, 3692(A), 3693, 3695 to enact R.S. 11:158(B)(15), 173(A)(14), 174(B)(15), 185(D), 3684.1, 3685.2(D) and (E), 3688(E), 3696, 3697, 3698, and 3699, and to repeal R.S. 11:3694, relative to the Harbor Police Retirement System for the Port of New Orleans; to provide with respect to transfers, reciprocal recognition of service, contributions, service credit, membership, benefits, purchase of service credit, reporting requirements, the board of trustees, definitions, disability benefits, governance, administration, and unfunded liability; to provide an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published as provided by Article III, Section 13 and Article X, Section 29(C) of the Constitution of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:141, 142(A), 143, 144(A), 144.1, 145(A), 148(A)(1) and (B), 155, 171, 185(C), 3682, 3683, 3684, 3685, 3685.1(A)(2) and (B)(2)(a), 3685.2(B) and (C), 3686, 3687, 3689, 3690, 3690.2, 3691, 3692(A), 3693, 3695 are hereby amended and reenacted and 11:158(B)(15), 173(A)(14), 174(B)(15), 185(D), 3684.1, 3685.2(D) and (E), 3688(E), 3696, 3697, 3698, and 3699 are hereby enacted to read as follows:

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§141. Retention of credits

Any person who is a member of any actuarially funded system paid for in whole or part from public funds, other than the State Employees' Retirement System of Louisiana, the Louisiana School Employees' Retirement System of Louisiana, ~~and~~ the Teachers' Retirement System of Louisiana, and the Harbor Police Retirement System, and who transfers to other public employment where he is no longer eligible for membership in the original retirement system but becomes a member of another actuarially funded system paid for in whole or part from public funds and who has creditable service in the first system for at least ten years, shall have the right to retain membership in the first system, and in the event he becomes eligible for retirement under this second system he shall be entitled to receive a pro rata benefit from each system, each such benefit to be calculated on the years of creditable service and the formula in use in the system from which the benefit is paid.

§142. Reciprocal recognition of credited service in state, parochial, and municipal systems, and the Harbor Police Retirement System.

A. A member of any state, municipal, or parochial retirement system, or the Harbor Police Retirement System with membership service credit in any other state, municipal, or parochial retirement system, or the Harbor Police Retirement System, or an eligible survivor of a member, shall have the option of combining all service for which the member has credit in every such retirement system in order that eligibility for regular retirement, disability retirement, and survivor's benefits may be acquired, subject to the limitations of this Section; however, such other credited service shall not be recognized until and unless the member has earned at least six months service credit in the member's current system.

* * *

§143. Transfers between systems

A.(1) As provided in Subsection F of this Section, any person who is in active service and is a member of any public retirement or pension system, fund, or plan maintained primarily for officers and employees of the state of Louisiana or of

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any political subdivision thereof, or of any district, board, commission, or other agency of either, or of any other such public entity, including the Harbor Police Retirement System, who has been a member of such system, fund, or plan for at least six months and who has membership credit in or who transferred service credit from any other such system, fund, or plan shall have the option of transferring all of his credit from every such system, fund, or plan to the system, fund, or plan he is currently contributing to or to the system to which he last contributed.

* * *

§144. Repayment of refunded contributions

A. For purposes of R.S. 11:142 and 143, a member of any state, parochial, or municipal retirement system, or the Harbor Police Retirement System, having credit for at least six months in any such system may repay refunded contributions, plus compounded interest at the board-approved actuarial valuation rate thereon from date of refund until paid, to any other state, parochial, or municipal retirement system in order to reestablish such credited service.

* * *

§144.1. Repayment of refunded contributions; merged retirement systems

Any person who: (1) was a member of a public retirement system, including the Harbor Police Retirement System, and (2) who terminated his membership in such system and received a refund of contributions, and (3) who thereafter becomes a member of a state or statewide public retirement system shall be eligible to repay the refunded contributions to the system in which he is an active contributing member, provided the system from which the member received the refund has been merged into his current system and the former system is not in existence with respect to receiving the repayment of refunds. Any such repayment of refunds, and the credit granted relative thereto, shall be on an actuarial basis and in compliance with all other pertinent laws governing the repayment of refunds to the extent that such laws do not conflict with the provisions set forth in this Section.

§145. Creditable service of certain elected officials

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A. Notwithstanding any other provision of law to the contrary, any person who is now or who hereafter is elected to public office and who is now or hereafter becomes a member of the Louisiana State Employees' Retirement System or any other retirement system for public employees which is supported in whole or in part out of funds of the state of Louisiana or of any parish, municipality, or other political subdivision thereof, including the Harbor Police Retirement System, and who loses any one or more months of creditable service in such system or systems by reason of the adoption of Act 569 of 1966 or any other legislation heretofore or hereafter enacted which shortens or has the effect of shortening a term of office to which such person is elected shall be granted a credit in such retirement system or systems equal to the creditable service lost for such cause. In order to obtain such credit the member shall make application therefor to the board of trustees of the retirement system of which he is a member and shall submit evidence of the period for which he seeks credit and the reason or reasons therefor. In addition, the member shall pay into the system employee and employer contributions equal to the amount of such contributions that would have been paid had he not lost said period of service in the manner hereinabove specified.

* * *

§148. Membership age limitations

A.(1)(a) The purpose of this Section is to provide uniform membership age limitations for public retirement systems and pension funds.

(b) The provisions of this Section are applicable with respect to all retirement systems and pension funds maintained basically for public officers and employees of the state, its agencies, and political subdivisions, including the Harbor Police Retirement System.

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B. The provisions of Subsection A hereof shall be inapplicable with respect to any employee whose retirement would be governed by the State Police Pension and Retirement System, the Harbor Police Retirement System, the Municipal Police

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Employees' Retirement System or any other public retirement system or plan maintained for law enforcement personnel or firefighters, the Sheriffs' Pension and Relief Fund, the provisions within the Louisiana State Employees' Retirement System governing employees of the Department of Corrections, R.S. 11:531(2)(a), or the provisions within the Louisiana Employees' Retirement System governing wildlife and fisheries agents, R.S. 11:581 et seq.

* * *

§155. Receipt of benefits

Notwithstanding any other provisions of law to the contrary and specifically the laws governing all public, state, municipal, or parochial retirement systems, and the Harbor Police Retirement System, allowing "optional allowances", no member, retiree, beneficiary, or survivor shall be entitled to receive his benefit in a lump sum, or actuarial equivalent lump sum, or a lump sum of equivalent actuarial value and shall only receive his benefit in equal monthly benefits payable throughout life or the legally allowed time if a shorter time is specified by the laws governing the specific retirement system, except as provided in R.S. 11:446, 783, 1150, ~~or~~ 1307, or 3685. This Section shall not apply to the return of accumulated contributions without interest if a person terminates employment and requests such a refund under the laws applicable to the systems.

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§158. Purchase of service credit in public retirement systems; price

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B. The provisions of this Section are applicable to the following public retirement or pension systems, funds, and plans:

(1) Assessors Retirement Fund.

(2) Clerks' of Court Retirement and Relief Fund.

(3) District Attorneys' Retirement System.

(4) Firefighters' Pension and Relief Fund in the City of New Orleans.

(5) Firefighters' Retirement System.

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(6) Louisiana School Employees' Retirement System.

(7) Louisiana State Employees' Retirement System.

(8) Municipal Employees' Retirement System of Louisiana.

(9) Municipal Police Employees' Retirement System.

(10) Parochial Employees' Retirement System of Louisiana.

(11) Registrars of Voters Employees' Retirement System.

(12) Sheriffs' Pension and Relief Fund.

(13) State Police Pension and Retirement System.

(14) Teachers' Retirement System of Louisiana.

(15) Harbor Police Retirement System

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§171. Submission of reports to legislature

A. Each actuarially funded state, municipal, parochial, or other retirement system as supported in whole or in part by public funds, including the Harbor Police Retirement System, shall submit to the chairmen of the standing committees on retirement of the House of Representatives and the Senate, at least thirty days prior to the beginning of each regular session of the legislature, a copy of the most recent official actuarial report prepared by the system's fully accredited actuarial firm, together with a financial statement of the system for the fiscal year immediately preceding each such session of the legislature. The actuarial report shall include but not be limited to an actuarial evaluation of the assets and liabilities of the system; actuarial assumptions and considerations; cost of living adjustment evaluations, where applicable; and a five-year projection of cash flow requirements, with the number of retirees and amounts of benefits based on an annual basis.

B. Each state, municipal, parochial and other retirement system supported in whole or in part by public funds, including the Harbor Police Retirement System, which is not actuarially funded shall submit to the chairman of the standing committees on retirement of the House of Representatives and the Senate, at least thirty days prior to the beginning of each regular session of the legislature, a certified

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statement of the condition of the system for the fiscal year immediately preceding each session of the legislature. The certified statement of condition shall include but not be limited to a statement of the assets and liabilities of the retirement system; cost of living adjustments, where applicable; and an estimated five-year projection of cash flow requirements with the number of retirees and amounts of benefits listed on an annual basis.

* * *

§173. Audit reports; certified public accountants

A. This Section shall be applicable to the following public retirement systems:

(1) Louisiana State Employees' Retirement System.

(2) State Police Pension and Relief Fund.

(3) Louisiana School Employees' Retirement System.

(4) Teachers' Retirement System of Louisiana.

(5) Assessors' Retirement Fund.

(6) Clerks' of Court Retirement and Relief Fund.

(7) District Attorneys' Retirement System.

(8) Municipal Employees' Retirement System of Louisiana.

(9) Parochial Employees' Retirement System of Louisiana.

(10) Registrar of Voters Employees' Retirement System.

(11) Sheriffs' Pension and Relief Fund.

(12) Municipal Police Employees' Retirement System.

(13) Firefighters' Retirement System.

(14) Harbor Police Retirement System.

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§174. Death reports

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B. The provisions of Subsection A shall be applicable to the following public retirement systems and pension funds:

(1) Louisiana State Employees' Retirement System.

(2) State Police Pension and Relief Fund.

(3) Louisiana School Employees' Retirement System.

(4) Teachers' Retirement System of Louisiana.

(5) Assessors' Retirement Fund.

(6) Clerks' of Court Retirement and Relief Fund.

(7) District Attorneys' Retirement System.

(8) Municipal Employees' Retirement System of Louisiana.

(9) Parochial Employees' Retirement System of Louisiana.

(10) Registrar of Voters Employees' Retirement System.

(11) Sheriffs' Pension and Relief Fund.

(12) Municipal Police Employees' Retirement System.

(13) Firefighters' Retirement System.

(14) Social Security Administration.

(15) Louisiana School Lunch Employees' Retirement System.

(16) United States Railroad Retirement Board.

(17) Employees' Retirement System of the City of Shreveport.

(18) Harbor Police Retirement System.

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§185. Educational requirements for members of retirement system boards of trustees

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C. The provisions of this Section shall apply to the following local retirement system: Harbor Police Retirement System.

~~C.~~D.(1) For purposes of this Section "actuarial science" means the application of mathematical and statistical methods to estimate future payment for benefits, to set forth an orderly and convenient way to provide the funds necessary

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to make those future payments, to determine the effects of asset and liability experience on pension fund costs, and to study the demographics of plan members, particularly in relation to long-term risk assessments, mortality, and morbidity.

(2) For each system to which the provisions of this Section apply, every member of the board of trustees shall complete continuing education or professional development training during each twelve-month period from September first to August thirty-first as provided in this Subsection. By October fifteenth of each year, the board of trustees of each state and statewide retirement system shall submit to the House and Senate committees on retirement a letter stating whether or not each member of that board has met the requirements of this Section in the previous twelve-month period and giving the date or dates upon which the required training hours were completed by each member.

(3) Each year, any member to whom this Section applies shall attend at least eight hours of investment training, two hours of actuarial science information education, one hour of education regarding the laws, rules, and regulations applicable to his system, and one hour of instruction on fiduciary duty and ethics. These training hours may be conducted by the staff of the respective retirement systems or by outside experts. Two or more systems may combine any such training. Any member who is elected or appointed to the board for the first time on or after June first shall only be required to comply with the provisions of Paragraph (4) of this Subsection.

(4) Except as otherwise provided by the constitution or in R.S. 42:3.1, no board member to whom this Section applies shall receive per diem during any calendar year unless and until he has completed the fiduciary and ethics requirement and at least one hour each of investment, actuarial science, and legal education in the current twelve-month cycle. The system shall submit evidence of training in compliance with this Paragraph to the speaker of the House of Representatives and the president of the Senate within fourteen days after the completion thereof.

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(5) Additionally, no new board member to whom this Section applies shall be permitted to vote on any matter until he has completed one hour of education in each of the four required areas.

* * *

§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:

(1) "Accumulated contribution" means the sum of all the amounts deducted from the compensation of a member and credited to his individual account ~~in the Annuity Savings Fund together with regular interest thereon as provided in R.S. 11:3688~~ without any interest.

(2) "Active Member" means a member currently employed as a Harbor Police Department officer and either contributing to the Harbor Police Retirement System, in the Deferred Retirement Option Plan, employed after pre-2011 Deferred Retirement Option Plan and not contributing to the Harbor Police Retirement System, or employed after 2011 Deferred Retirement Option Plan and contributing to the Harbor Police Retirement System.

(3) "Active Service" means employed as a current Harbor Police Department officer.

~~(2)~~(4) "Actuarial equivalent" means a benefit of equivalent value to the accumulated contributions, annuity, or benefits, as the case may be, computed upon the basis of such interest and mortality assumptions as are adopted in accordance with the provisions of R.S. 11:3688(D).

~~(3) "Annuity reserve" means the present value of all payments to be made on account of any annuity, or benefit in lieu of any annuity, computed upon the basis of such mortality tables as shall be adopted by the Board of Trustees, and regular interest.~~

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(5) "Aggregate Compensation" means total income on which retirement contributions are paid.

~~(4)~~(6)(a) "Average compensation" for the limited purpose of applying Section 415(b) of the Internal Revenue Code, means the average compensation earned by a member for the period of three consecutive years during which the member was an active member of the retirement system and had the greatest aggregate compensation from the employer. For members hired on or after July 1, 2011, "average compensation" for the limited purpose of applying Section 415(b) of the Internal Revenue Code, means the average compensation earned by a member for the period of five consecutive years during which the member was an active member of the retirement system and had the greatest aggregate compensation from the employer.

(b) "Compensation" for purposes of this Paragraph, means the total compensation reportable by the state of Louisiana, its agencies, or its political subdivisions as income to the member for the reported year. However, for the limited purpose of this Paragraph, "compensation" shall specifically exclude amounts not includable or reported in the member's gross income for federal tax purposes pursuant to the provisions of Sections 125 and 414(h) of the Internal Revenue Code or any other provision of federal law, such as deferred compensation contributions.

(c) Notwithstanding any other provision to the contrary, "average compensation" shall not include any amount in excess of the limitations provided in R.S. 11:3685.3.

~~(5)~~(7) "Average final compensation" means 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. For members hired on or after July 1, 2011, the average final compensation computation period will be sixty months.

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For members hired on or after July 1, 2011, the earnings to be considered for the thirteenth through the twenty-fourth month shall not exceed one hundred fifteen percent of the earnings of the first through the twelfth month. The earnings to be considered for the twenty-fifth through the thirty-sixth month shall not exceed one hundred fifteen percent of the earnings of the thirteenth through the twenty-fourth month. The earnings to be considered for the thirty-seventh through the forty-eighth month shall not exceed one hundred fifteen percent of the earnings of the twenty-fifth through the thirty-sixth month. The earnings for the final twelve months shall not exceed one hundred fifteen percent of the earnings of the thirty-seventh through the forty-eighth month. The limitations on the computation of average compensation contained in this Paragraph shall not apply to any twelve-month period during which compensation increased by more than fifteen percent over the previous twelve-month period solely because of an increase in compensation by a uniform systemwide increase adopted by the state department of Civil Service and approved by the governor or because of a pay adjustment enacted by the legislature.

~~(6)~~(8) "Beneficiary" means any person designated to receive a pension, an annuity, a retirement allowance, or other benefit as provided by this Subpart.

~~(7)~~(9) "Board of trustees" means the board provided for in R.S. 11:3688 to administer the retirement system.

(10) "Contractually agree" means to acknowledge agreement to abide by a specified set of terms as evidenced by a signed, written document.

~~(8)~~(11) "Creditable service" means service for which credit is allowable as provided in R.S. 11:3684.

(12) "Deferred inactive" means a member with twelve or more years of service who is no longer working. The member will be eligible for retirement upon reaching the retirement age for such length of service.

~~(9)~~(13) "Defined benefit plan" means a pension plan established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to employees over a period of years after retirement

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based upon factors such as years of service and compensation received by employees.

~~(10)~~(14) "Defined contribution plan" means a pension plan established and maintained by an employer which provides benefits based upon amounts contributed to an employee's individual account, plus any earnings allocated to the account, for distribution to the employee or his beneficiary either at retirement, after a fixed number of years, or upon the occurrence of some special event.

(15) "Dependent" as it relates to a totally physically handicapped or mentally disabled child or children of a deceased member means a child or children who are totally dependent upon the legal guardian for both their care and financial support, except as provided in R.S. 11:3685(A)(2)(c).

~~(11)~~(16) "Direct rollover" means a payment by the system to the eligible retirement plan specified by the distributee.

~~(12)~~(17) "Distributee" means a member or former member. In addition, the member's or former member's surviving spouse, or the member's or former member's spouse or former spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), are distributees with reference to an interest of the member or former member.

~~(13)~~(18) "Earned compensation" means the full amount of compensation earned by an employee for a given month upon which retirement contributions are calculated, but shall not include overtime.

~~(14)~~(19) "Eligible retirement plan" means an individual retirement account described in Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in Section 403(a), or a qualified trust described in Section 401(a), all of the Internal Revenue Code, that accepts the member's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

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~~(15)~~(20) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of a member, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments not less frequently than annually, made for the life or life expectancy of the member or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more, or any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code, or the portion of any distribution that is not includable in gross income.

~~(16)~~(21) "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 on or after July 1, 2004.

~~(17)~~(22) "Employer" means the Board of Commissioners of the Port of New Orleans.

(23) "Inactive member" means a member who continues to work after the Deferred Retirement Option Plan under pre-2011 Deferred Retirement Option Plan provisions.

(24) "Inactive membership" means service after the Deferred Retirement Option Plan under pre-2011 Deferred Retirement Option Plan provisions.

~~(18)~~(25) "Medical board" means the board of physicians provided for in R.S. 11:3688.

~~(19)~~(26) "Member" includes any employees, as defined in Paragraph ~~(16)~~ (21) of this Section, included in the membership of this system as provided in R.S. 11:3683.

~~(20)~~(27) "Membership service" means service as an employee while a member of this system.

~~(21)~~(28) "Port commission" means the Board of Commissioners of the Port of New Orleans.

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~~(22) "Prior service" means service rendered prior to August 1, 1971 for which credit is allowable as provided in R.S. 11:3684.~~

~~(23)~~(29) "Qualified participant" means a member of the system who first became a member before January 1, 1990.

~~(24)~~(30) "Retirement" means withdrawal from active service with a retirement allowance granted under the provisions of this Subpart.

~~(25)~~(31) "Retirement allowance" means any benefit paid to a member under R.S. 11:3685(A) or any optional benefit payable in lieu thereof.

~~(26)~~(32) "Retirement system" means the Harbor Police Retirement System as established in R.S. 11:3681.

~~(27)~~(33) "Section 401(a)(17) employee" means an employee whose current accrued benefit as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded one hundred fifty thousand dollars.

~~(28)~~(34) "Service" means service rendered as an employee as described in Paragraph ~~(16)~~(21) of this Section.

~~(29)~~(35) "Social security retirement age" means the age used as the retirement age under Title 42, Section 416(l) of the United States Code, except that Section 416(l) shall be applied without regard to the age increase factor and shall be applied as if the early retirement age under Section 216(l)(2) of the Social Security Act was sixty-two.

~~(30)~~(36) "Spouse" means that person who is legally married to the member on the member's effective date of retirement or effective date of participation in the Deferred Retirement Option Plan, whichever is earlier.

(37) "Successive or joined months" means successive or joined months with any amount of earnings. Months without any earnings are ignored and the month immediately previous to and the month immediately after a month without any earnings are joined and considered as successive months.

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~~(31)~~(38) "Survivor's benefit" means any benefit paid to a survivor of a member who died while employed under this Subpart.

(39) "Vested" means being eligible for a disability, retirement, or survivor benefit.

§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)~~ (21) ~~after August 1, 1971, 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.

~~(2) All persons who are employees as the term is defined in R.S. 11:3682(16) on August 1, 1971, shall become members as of that date unless within a period of thirty days next following, any such employee shall file with the Board of Trustees on a form prescribed by such board a notice of his election not to be covered in the membership of the system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the retirement system.~~

~~(3)(a) All persons who are employees as the term is defined in R.S. 11:3682(16) who are members of any fund or who are eligible for membership in any fund operated for the retirement of employees by the state of Louisiana, or by a city, parish, or other political subdivision of the state of Louisiana on August 1, 1971, shall cease to be members of such fund upon that date and all contributions made by these employees to the retirement system of which they are members before August 1, 1971, shall be transferred to the Harbor Police Retirement System and shall be accompanied by the transfer of all employer contributions previously made for their account to such retirement system. All such employees shall then become members of the Harbor Police Retirement System with full credit for all such service prior to August 1, 1971. Provided, however, that the provisions of this Paragraph shall not apply to any person electing not to become a member of this system.~~

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~~(b)~~(2) Any employee who is employed on or after July 7, 2003, who has retired from service under any retirement system of this state partly or wholly financed by public funds, who is receiving retirement benefits therefrom, and who was prohibited from becoming a member of this system upon his initial employment solely on this basis shall become a member of this system from the date of his initial employment provided he ~~meets~~ met all other eligibility requirements~~; however, any such employee may purchase credit for previous service only in compliance with the provisions of R.S. 11:158 relating to actuarial calculation of purchase price~~.

~~(4)~~(3) Should any member, after becoming a member, be refunded his employee contributions, or be absent from service for more than five years and not be entitled to a deferred annuity as provided in R.S. 11:3685(A) hereof, or ~~should he become a beneficiary or~~ die, he shall thereupon cease to be a member.

§3684. Creditable service

~~A. Immediately after the establishment of the system the board of trustees shall request all information regarding members from the retirement system in which they have previously held membership. Upon verification of the statements of service the board shall issue a prior service certificate certifying to each member the length of prior service for which credit shall have been allowed on the basis of these certified statements of service. So long as membership continues a prior service certificate shall be final and conclusive for retirement purposes as to such service, provided that any member may, within one year from the date of issuance or modification of such certificate, request the board of trustees to modify or correct his prior service certificate.~~

~~B. When membership ceases, such prior service certificate shall become null and void. Should the employee again become a member of the system, he shall enter the system as an employee not entitled to prior service credit, unless he is granted a disability allowance and returns to employment upon recovery. In such case he shall be given credit for all previous service including the time he draws disability benefits.~~

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~~C~~A.(1) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member~~, and, also, if he has a prior service certificate which is in full force and effect, the amount of service certified on his prior service certificate~~.

(2) Unused sick and/or annual leave do not count toward retirement eligibility but are included in the calculation of retirement benefits.

(3) Purchased military service credit only counts toward eligibility for the twenty-five year regular retirement option but is included in the calculation of retirement benefits under the twelve-year, twenty-year, and twenty-five year retirement options.

(4) Creditable service will be earned in tenths of a year according to the following schedule:

Last Day Worked	Service Credit
January 1	.1
February 14	.2
March 31	.3
April 30	.4
May 31	.5
July 14	.6
August 14	.7
September 29	.8
October 29	.9
November 30	1 Year

~~D. Anything in this Subpart to the contrary notwithstanding, any person who shall have been an employee as defined in R.S. 11:3682(16) any time subsequent to September 16, 1940, who shall have entered the armed forces of the United States during time of war or have been inducted into said forces in time of peace subsequent to said date, shall be entitled to prior service credit for the period that he~~

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~~served in the armed forces of the United States, not to exceed four years, provided he is not granted credit for such service in any other retirement system, and provided he becomes a member of this system on the date of its establishment.~~

~~E~~ B. Conversion of annual and sick leave to retirement credit. As used in this Subsection, the term "unused sick leave and unused annual leave" shall mean that portion of accrued leave which exceeds the maximum amount of accrued leave payable in accordance with state civil service provisions.

(1) At the time of ~~regular~~ retirement of any member, after having been paid for the number of hours of annual leave payable in accordance with state civil service provisions, ~~he~~ members shall be given credit for all unused sick and unused annual leave as creditable service to be used in computing ~~his~~ their retirement benefits, subject to the limitation provided in R.S. 11:3685(A)(1)(a). Hours of leave will be converted into eight-hour days. Fractional days of four hours or more will be granted as one day; less than four hours will be disregarded. Leave will be converted using the following table:

Days of Unused Leave	Service Credit
1-26	.1
27-52	.2
53-78	.3
79-104	.4
105-130	.5
131-156	.6
157-182	.7
183-208	.8
209-234	.9
235-260	1 Year

(2) Any member employed prior to July 1, 2011, participating in the deferred retirement option plan as provided in R.S. 11:3685(B) on of after July 1, 2008, ~~or~~

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~~any member thereafter choosing to enter the deferred retirement option plan~~ shall have the following options:

(a) Elect to use all unused sick leave and unused annual leave as creditable service in computing his deferred retirement option plan benefit.

(b) Elect to specify a portion of unused sick leave and unused annual leave to be used as creditable service in computing his deferred retirement option plan benefit.

(c) Elect to use none of his unused sick leave and unused annual leave as creditable service in computing his deferred retirement option plan benefit.

~~(3) Upon completion of the term of the deferred retirement option plan and termination of employment, after having been paid for the number of hours of annual leave payable in accordance with state civil service provisions, such member shall have the following options:~~

~~(a) Be given credit for all unused sick leave and unused annual leave as creditable service to be used in computing an additional benefit to be added to the original deferred retirement option plan benefit.~~

~~(b) Request in writing that in lieu of the foregoing conversion of unused sick leave and unused annual leave to retirement credit, he be paid for such leave in a lump sum for the amount of leave that could otherwise be converted to retirement credit. Alternatively, such member who has unused sick leave or unused annual leave that if converted to retirement credit would exceed one hundred percent of the member's average compensation shall be entitled to be paid for such leave in excess of one hundred percent of average compensation at its actuarial value as if it were converted to retirement credit without regard to the one hundred percent cap. Under either of the two options authorized by this Subparagraph, the amount paid shall be the actuarial value of such leave if converted to retirement credit as determined by the retirement system's actuary. The cost for such actuarial determination shall be paid by the member. Payment shall be made only upon retirement.~~

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~~(4) The provisions of Paragraphs (2) and (3) of this Subsection shall be applicable to any person who participates in the deferred retirement option plan on or after July 1, 2008.~~

(d) Upon completion of the term of the deferred retirement option plan and termination of employment, after having been paid for the number of hours of annual leave payable in accordance with state civil service rules, members may request in writing that in lieu of the foregoing conversion of unused sick leave and unused annual leave to retirement credit, to be paid for such leave in a lump sum for the amount of leave that could otherwise be converted to retirement credit. Alternatively, such member who has unused sick leave or unused annual leave that if converted to retirement credit would exceed one hundred percent of the member's average compensation shall be entitled to be paid for such leave in excess of one hundred percent of average compensation at its actuarial value as if it were converted to retirement credit without regard to the one hundred percent cap. Under either of the two options authorized by this Subparagraph, the amount paid shall be the actuarial value of such leave if converted to retirement credit as determined by the retirement system's actuary. The cost for such actuarial determination shall be paid by the member. Payment shall be made only upon retirement.

(3) For members hired on or after July 1, 2011, unused sick and annual leave will be converted to service credit only and the conversion will take place only upon termination of employment.

~~(5)~~(4) The provisions of this Subsection shall not be applicable to a member requesting retirement pursuant to the disability retirement provisions of this Subpart.

~~F~~C. Any member who has terminated membership in the system for any reason and has withdrawn his contributions and who later is reemployed and becomes a member of the system, shall after eighteen months of additional service and membership, be eligible to obtain credit for his prior service in the system, provided that he pay back into the system the amount of the contributions which had been refunded to him plus compound interest from the date of the refund until the

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date of repurchase. The compound interest rate to be used in the computation of the amount the member must pay back into the system shall be ~~the actuarially assumed interest rate in the most recent actuarial valuation~~ as provided in R.S. 11:3688.

D. Purchase of additional years service credit.

On or after July 1, 2011, any active contributing member of the system who has credit in the system for at least five years of service shall be eligible to obtain credit for up to five years of service credit in one year increments provided that he shall apply to the system for such credit and pay to the system the amount which totally offsets the increase in accrued liability of the system resulting from the receipt of the credit by the member. The amount to be paid shall be paid in one lump sum, and no service credit shall be given to the member until or unless the amount is paid in full. Any credit purchased pursuant to this Subsection shall be used for calculation of benefits only and shall not be used for purposes of attaining eligibility for retirement. Any military service credit purchased shall not count against the maximum of five years of service credit available for purchase under this paragraph.

E. Purchase of credit for military service.

(1) Any member shall be eligible to purchase credit for regular or non-regular military service, subject to the provisions of this Section.

(2) For purposes of this Section:

(a) Regular military service shall mean any state or federal full-time active duty military service.

(b) Non-regular military service shall mean any state or federal military service, which is not regular service, for which retirement points are assigned for participation in such service, and shall include but not be limited to duty served in the state national guard, coast guard, or any reserve component of the United States armed forces.

(3)(a)(i) Any member shall be entitled to purchase credit for up to four years of either regular or non-regular military service, or a combination of both not

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exceeding four years total, provided an application is filed together with proof of the inclusive dates of military service performed.

(ii) Credit for regular service shall be based on one day of retirement credit for each day of full-time active duty service.

(iii)(aa) Credit for non-regular service shall be based on one day of retirement credit for each one of the member's accrued retirement points.

(ii)(bb) Any member seeking to purchase credit for non-regular military service shall also submit with his application to purchase such credit an official copy of the record of his retirement points as maintained by the member's respective military branch.

(b) In order to purchase such credit for military service, the member shall pay into the system the amount which totally offsets the increase in accrued liability of the system resulting from the receipt of the credit by the member. The amount to be paid shall be paid in one lump sum.

(4)(a) No member shall be entitled to purchase credit for military service if he has previously received credit for such service in any other public retirement system domiciled in this state from which plan the member is receiving any form of retirement benefits.

(b)(i) Except as provided in Subparagraph (b) of this Paragraph, no member shall be entitled to purchase credit for military service if he has previously received credit for such service in any retirement system for members of the armed forces of the United States from which plan the member is drawing a regular retirement benefit.

(ii) Any member who is receiving retirement benefits pursuant to the provisions of Chapter 1223 of Title 10 of the United States Code shall be eligible to purchase credit for military service pursuant to the provisions of this Section, and any such service being purchased may be regular or non-regular service, provided that the service being purchased was rendered prior to the initial date of employment which made him eligible to participate in the Harbor Police Retirement System.

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(5)(a) Military service shall not be used for purposes of acquiring eligibility for disability or survivor's benefits and shall only be used for purposes of acquiring eligibility for normal retirement benefits.

(b) Military service credit shall not be computed until after the completion of twenty full years of service. In addition, such military service credit shall not be used to meet the minimum eligibility requirement of any regular retirement of less than twenty-five years.

(6) Military service credit shall not be used as the highest sixty successive months, or as the highest sixty joined months of employment where interruption of service occurred, in computing the average compensation for retirement benefit computation.

(7) No member who has been released or discharged from service under less than honorable conditions shall be eligible to purchase credit for military service pursuant to the provisions of this Section.

§3684.1 Purchase of service credit; trustee-to-trustee transfer

Payment for service credit under this Part shall be allowed by a trustee-to-trustee transfer of funds from an annuity under Section 403(b) or a plan under Section 457 of the Internal Revenue Code to the system.

§3685 Benefits

A.(1)(a) ~~Any member of this system who has completed at least twenty years of creditable service and attained the age of forty-five years, or any member who has completed at least twenty-five years of creditable service regardless of age, or any member who has completed at least ten years of service and attained the age of sixty years, or any member who has completed at least twelve years of creditable service and has attained the age of fifty-five years, shall be entitled to retire from service and upon such retirement shall be paid a retirement allowance equal to three and one-third percent of his average final compensation multiplied by his years of creditable service, not to exceed one hundred percent of his final salary.~~ Members of this system shall be entitled to retire from service and upon such retirement shall

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be paid a retirement allowance equal to three and one-third percent (or the applicable accrual rate when earned, if different) of their average final compensation multiplied by their years of creditable service, not to exceed one hundred percent of their final salary, if they meet one of the following retirement eligibility options:

(i) Twenty years at age forty-five.

For members hired prior to July 1, 2011, who complete at least twenty years of creditable service and attain the age of forty-five years.

(ii) Actuarially reduced twenty years at any age.

For members hired on or after July 1, 2011, who complete at least twenty years of creditable service at any age, exclusive of purchased military service and unused annual and sick leave, but any person retiring under this Paragraph shall have his benefit, inclusive of purchased military service credit and allowable unused annual and sick leave, actuarially reduced. Any member retiring under this Paragraph who is in state service at the time of his retirement shall have his benefit actuarially reduced from the earliest age that he would normally become eligible for a regular retirement benefit under Paragraph (iii) or (v) of this Subsection if he had continued in service to that age. Any member retiring under this Paragraph who is out of state service at the time of his retirement shall have his benefit actuarially reduced from the earliest age that he would normally become eligible for a regular retirement benefit under Paragraph (iii) or (v) of this Subsection based upon his years of service as of the date of retirement. Any employee who elects to retire under the provisions of this Paragraph shall not be eligible to participate in the Deferred Retirement Option Plan or the Initial Benefit Option.

(iii) Twenty-five years at any age.

For members who complete at least twenty-five years of creditable service regardless of age, inclusive of purchased military service but exclusive of unused sick leave and unused annual leave.

(iv) Ten years at age sixty.

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For members hired prior to July 1, 2011, who complete at least ten years of service and attain the age of sixty years.

(v) Twelve years at age fifty-five.

For members who complete at least twelve years of creditable service and attain the age of fifty-five years exclusive of purchased military service and exclusive of unused sick leave and unused annual leave.

(vi) Early Retirement.

Members hired on or after July 1, 2011, who retire before reaching the age of fifty will have his retirement actuarially reduced by the number of years needed to reach age fifty.

(b) Any member hired before July 1, 2011, who has completed ten or more years of creditable service or any member hired on or after July 1, 2011, who has completed twelve or more years of creditable service, with less than thirty years of creditable service, shall be entitled to leave his contributions in the retirement system and remain a member, and shall be entitled to a retirement benefit beginning at the age for which he qualified based on his years of creditable service. Any member who leaves with less than the prescribed number of years of service as set out in this Subpart shall be paid the balance of his employee contributions upon termination.

(2) Survivor benefits.

Benefits shall be payable to survivors of a deceased member, with at least five years of creditable service, who dies before retirement as specified in the following:

(a) If a member with twelve or more years of creditable service dies while employed and leaves a surviving spouse he will be deemed to have exercised retirement Option 2 on the date of death. The benefit is payable for the life of the surviving spouse, regardless of remarriage. This provision is effective July 1, 2011.

(b) If a member dies with ten or more years of service but less than twelve years of service, the benefit is paid as follows:

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~~(a)~~(i) The surviving eligible widow without children shall be paid monthly benefits equal to forty percent of the average final compensation of the member prior to his death; however, if the surviving spouse remarries, such benefits shall cease.

~~(b)~~(ii) The surviving eligible widow of a deceased member who dies leaving one or more children under eighteen years of age shall be paid monthly benefits equal to forty percent of the average final compensation of the member prior to his death plus the greater of two hundred dollars per month per child or ten percent of the average final compensation of the member prior to his death per child up to a combined maximum of sixty percent of the average final compensation of the member prior to his death; however, if the surviving spouse remarries or the surviving children reach the age of eighteen, such benefits shall cease. If the benefits cease due to the latter cause the surviving widow shall thereafter receive the benefits specified in Subparagraph (a) of Paragraph (2) of this Subsection.

~~(c)~~(iii) If the deceased member was married and leaves surviving children under eighteen years of age but no surviving widow, the surviving children shall be paid monthly benefits equal to forty percent of the final average compensation of the member prior to his death for one child and sixty percent of the ~~average~~ final average compensation of the member prior to his death~~,~~ for two or more children, with a benefit to be paid until such time as the youngest child reaches the age of eighteen years. Benefits shall cease for children as they reach age eighteen. When there is only one surviving minor child remaining, the benefit will be reduced to forty percent of the final average compensation, as adjusted for any cost-of-living adjustments granted, of the member prior to his death, to be paid until such time as the child reaches the age of eighteen years.

(c)(i) The surviving totally physically handicapped or mentally disabled child or children of a deceased member, whether under or over the age of eighteen years, shall be entitled to the same benefits, payable in the same manner as are provided by this Part for minor children, if the totally physically handicapped or mentally disabled child is totally dependent upon the surviving spouse or other legal

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guardian and is not receiving state or federal assistance. Should it be determined that the totally physically handicapped or mentally disabled child is receiving state or federal assistance, then his benefit shall be reduced to an amount which, when added to the state or federal assistance being received, does not exceed the maximum survivor benefit payable under 3685(A)(2)(b).

(ii) The applicant shall provide adequate medical proof of handicap or mental disability of such surviving child or children and shall notify the board of any subsequent changes in the child's condition to such an extent that the child is no longer totally dependent upon the surviving spouse or legal guardian, and any changes in the assistance being received from state or federal agencies. The surviving spouse or other legal guardian shall provide by May first of each calendar year, a certified and notarized statement of each child's eligibility status and a report of all other assistance each child receives; as soon as the child's condition and/or assistance received changes. Should the surviving spouse or other legal guardian not submit such a statement for any totally physically handicapped or mentally disabled child over the age of eighteen by May first, the allowance shall be discontinued, without retroactive reimbursement, until the statement is filed. Should the nonsubmittal continue for the remainder of the calendar year, all rights in and to the allowance shall be revoked by the board of trustees.

~~(d) If a member dies leaving no surviving spouse or children, his mother and/or his father who were dependent upon him as their sole means of support shall be paid monthly benefits equal to forty percent of the average final compensation of the member prior to his death.~~

~~(e)~~(d) Provided that in the case of death of any member resulting from injury received in line of duty survivors' benefits shall be paid regardless of number of years of service and shall be sixty percent of his final salary, or effective July 1, 2011, if the member has twelve or more years of creditable service he may receive the greater of sixty percent of the benefit payable under retirement option two. The benefit shall be payable to his widow until she remarries or to his surviving children

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under eighteen years of age if there is no eligible surviving widow; or to his surviving parents if there is no eligible surviving widow or child.

~~(f) Whenever a disability retiree dies, his or her survivor shall be paid a one-time lump sum benefit equal to six times the value of the monthly benefit payments being received by the retiree at the time of death.~~

(3)(a) Should a member cease to be an employee except by death or retirement under the provisions of this Subpart, he shall be paid the amount of the accumulated contributions standing to the credit of his individual account. Should a member die before retirement and not be entitled to survivors' benefits, the amount of his accumulated contributions standing to the credit of his individual account shall be paid to his estate or to such person as he shall have nominated by written designation, duly executed and filed with the Board of Trustees.

(b) Should a retired member die, without having received in retirement benefits an amount equal to his accumulated contributions standing to his credit at the date of his retirement, and leave no eligible survivors, any balance remaining to his credit shall be paid to his designated beneficiary or, if none, his estate.

~~B. The provisions of this Subsection shall apply to those persons enrolled in the deferred retirement option plan prior to July 1, 1995.~~

~~(1) In lieu of terminating employment and accepting a service retirement under this Subpart, any member of this system who has not less than twenty years of creditable service and who is eligible to receive a service retirement allowance may elect to participate in a deferred retirement option plan as provided for below and defer the receipt of benefits in accordance with the provisions of this Section.~~

~~(2) For purposes of this Section, creditable service shall not include service credit reciprocally recognized under R.S. 11:142.~~

~~(3) The duration of participation in the plan shall be specified and shall not exceed five years.~~

~~(4) A member may participate in the plan only once.~~

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~~(5) Upon the effective date of the commencement of participation in the plan, active membership in the system shall terminate. Employer contributions shall continue to be payable by the employer during the member's participation in the plan, but payment of employee contributions shall cease upon the effective date of the member's commencement of participation in the plan. For purposes of this Section, compensation and creditable service shall remain as they existed on the effective date of commencement of participation in the plan. The monthly retirement benefits that would have been payable, had the member elected to cease employment and receive a service retirement allowance, shall be paid into the deferred retirement option plan account. Upon termination of employment, deferred benefits shall be payable as provided by Paragraph (B)(8).~~

~~(6) The deferred retirement option plan account shall earn interest not to exceed two percent less than the realized rate of investment return earned by the fund for that year. A person who participates in this program shall have credited to his DROP account the same annual cost of living increase that he would have received had the member been a retiree in the system as provided in Subsection C of this Section.~~

~~(7) The deferred retirement option plan account shall not be subject to any fees or charges of any kind for any purpose.~~

~~(8) Upon termination of employment at the end of the specified period of participation, a participant in the program shall receive, at his option, a lump sum payment from the account equal to the payment to the account; or a true annuity based upon his account; or he may elect any other method of payment if approved by the board of trustees. In the event a member elects to receive a true annuity, or any other method of payment approved by the board of trustees, funds will be transferred from the DROP account into the Annuity Reserve Account to provide for the annuity payments.~~

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~~(9) If a participant dies during the period of participation in the program, a lump sum payment equal to his account balance shall be paid to his named beneficiary, or if none, to his estate.~~

~~(10)(a) If employment is not terminated at the end of the period specified for participation, payments into the account shall cease.~~

~~(b) Payments from the account shall not be made until employment is terminated, nor shall the monthly benefits being paid into the fund during the period of participation be payable to the individual until he terminates employment.~~

~~(11)(a) If employment is not terminated at the end of the period specified for participation, he shall resume active contributing membership in the system.~~

~~(b) Upon termination of employment, the monthly benefits which were being paid to the fund shall begin to be paid to him.~~

~~(c) Upon termination of employment, he shall receive an additional retirement benefit based on his additional service rendered since termination of participation in the fund, using the normal method of computation of benefit, subject to the following:~~

~~(i) If his period of additional service is less than thirty-six months, the average compensation figure used to calculate the additional benefit shall be that used to calculate his original benefit.~~

~~(ii) If his period of additional service is thirty-six months or more, the average compensation figure used to calculate the additional benefit shall be based on his compensation during the period of additional service.~~

~~(iii) The option used shall be that applicable to the original benefit.~~

~~(iv) In no event shall the additional benefit exceed an amount which, when combined with the original benefit, equals one hundred percent of the average compensation figure used to compute the additional benefit.~~

~~C~~ B. The provisions of this Subsection shall apply to those persons who enrolled in the Deferred Retirement Option Plan on or after July 1, 1995 and who were hired before July 1, 2011.

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(1) As governed by the provisions of this Subsection, there exists as a part of this retirement system, an optional account known as the Deferred Retirement Option Plan, which may be cited as the "DROP".

(2) The provisions of this Subsection are applicable with respect to those otherwise eligible members of the retirement system whose election to participate in the DROP occurs on or after July 1, 1995 and who were hired before July 1, 2011.

(3) The purpose of the DROP is to allow, contractually, in lieu of immediate termination of employment and receipt of a service retirement allowance, continued employment for a ~~specified~~ period of time, coupled with the deferral of receipt of retirement benefits until the end of such period of participation, at which time employment is to cease.

(4)(a) Participation in the DROP is an option available to any member of this retirement system who is eligible to retire immediately with a service retirement allowance from this retirement system and has either of the following:

(i) Twelve years of creditable service, excluding unused sick leave, ~~and~~ unused annual leave, and purchased military service credit and has attained the age of fifty-five.

(ii) At least twenty-five but not more than thirty years of creditable service in this retirement system, including purchased military service credit and excluding unused sick and annual leave~~, in this retirement system~~.

(b) For purposes of this Subsection, creditable service shall not include service in another retirement system which is reciprocally recognized by this retirement system under authority of R.S. 11:142.

(5) The election to participate in the DROP shall be exercised on or before the applicant's attaining thirty years of creditable service, or the option to so participate is forfeited.

(6) A member shall participate in the DROP only once.

(7) The duration of participation in the DROP shall be for a ~~specified~~ period of time, which shall not exceed either of the following:

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(a) Five years.

(b) A number of years which, when added to the number of years of creditable service for which the member has credit in this retirement system, equals thirty-five.

(8) Should the participation period be interrupted by any of the following:

(a) ~~interruption~~ Interruption through no-fault dismissal

(b) ~~reduction~~ Reduction in work force

(c) ~~job~~ Job related disability

~~upon~~ Upon re-establishment of membership, provided member has not received any distributions from the DROP account, member shall be immediately eligible for resumption of participation for the balance of the five-year maximum or the balance of his original DROP participation period, if any.

(9) ~~The~~ Upon entering the DROP the member shall contractually agree with the retirement system to be bound by the provisions of this Subsection. The member shall therein specifically agree to cease employment at the end of the ~~specified~~ period of participation, and specifically agrees to the results stipulated for failure to abide by such terms of the contract.

(10) Prior to sixty days before the end of the ~~specified~~ period of participation, the board of trustees shall give notice of same, by certified mail, return receipt requested, to the member.

(11) Upon commencement of participation in the DROP, although the participant shall remain an active member of this retirement system, neither employee nor employer contributions shall be payable to the retirement system. Such contributions shall not be payable even if the member violates the terms of this contract and does not cease employment at the end of the period of participation as agreed, thereby assuming inactive membership status. No additional service or additional benefits, other than service credit or benefits attributable to sick leave and annual leave, shall be earned.

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(12) Upon commencement of participation, the service retirement allowance that would have been payable to the member had the member elected to cease employment and receive a service retirement allowance, shall be paid into the Deferred Retirement Option Plan Account in lieu of being paid to the member.

(13) The Deferred Retirement Option Plan Account shall ~~not~~ earn interest during the period of participation. ~~However, the~~ The board of trustees shall annually set a percentage rate, and its manner of compounding~~, to represent the interest rate that would be earned thereby if same did earn interest. If the member ceases employment at the end of the specified period of participation as contractually agreed, or dies during or at the end of the specified period of participation as contractually agreed, a sum equal to the amount the individual account would have earned, if the representative interest rate, as compounded, had been applicable to such account, shall be added to this account. Thereafter, the account, if maintained as otherwise authorized by this Subsection, shall earn interest at a rate compounded, as set annually by the board of trustees~~. Such ~~actual~~ rate of interest ~~and manner of compounding~~ shall be equal to the ~~representative rate and compounding in effect~~ actuarial rate of return earned on the system's portfolio for the same period of time for each fiscal year as certified by the system's actuary in the actuarial report, less one-half of one percent. If the member does not abide by the terms of the contract and cease employment at the end of the period of participation as contractually agreed, payments into the Deferred Retirement Option Plan Account shall immediately cease and the member shall ~~immediately be paid a lump sum payment from the member's individual account balance in the Deferred Retirement Option Plan Account equal to its balance, without the addition of any sum representing interest~~ receive, at the member's option, any one of the following payment options, and such member's DROP account shall be terminated.

(a) A lump sum payment from the retiree's individual account balance in the DROP account equal to its balance.

(b) A life annuity based upon the account balance.

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(c) Any other method of payment if approved by the board of trustees.

Such member shall not be considered as retired, but shall remain as a member of the retirement system, in an inactive status. Only upon actual cessation of employment shall the member be considered as a retiree and entitled to the receipt of retirement benefits. ~~This~~ The DROP account shall not be subject to any fees or charges of any kind for any purpose, except as otherwise provided herein.

(14) If the member remains an employee for ~~a specified~~ the period of participation in the DROP and then immediately thereafter terminates employment, the member shall become a retiree and shall receive, at the retiree's option, any one of the following:

(a) A lump sum payment from the retiree's individual account balance in the Deferred Retirement Option Plan Account equal to its balance.

(b) A life annuity based upon the account balance.

(c) Any other method of payment if approved by the board of trustees.

The payments that were being made into the Deferred Retirement Option Plan Account in lieu of a retirement allowance shall thereafter be paid to the retiree.

(15) If the member terminates employment prior to the end of the specified period of participation, the member shall immediately become a retiree and shall receive, at the retiree's option, any one of the following:

(a) A lump sum payment from the retiree's individual account balance in the Deferred Retirement Option Plan Account equal to its balance.

(b) A life annuity based upon the account balance.

(c) Any other method of payment if approved by the board of trustees.

The payments that were being made into the Deferred Retirement Option Plan Account in lieu of a retirement allowance shall thereafter be paid to the retiree.

(16) If the member dies during the period of participation and the member's named beneficiary is the member's surviving spouse with whom the member was legally married at the time of the member's death, the named beneficiary shall receive, at the beneficiaries option, any one of the following:

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(a) A lump sum payment from the retiree's individual account balance in the Deferred Retirement Option Plan Account equal to its balance.

(b) A life annuity based upon the account balance.

(c) Any other method of payment if approved by the board of trustees.

~~Normal survivor~~ Retirement benefits are payable to ~~survivors of retirees shall be payable~~ the beneficiary, if any, in accordance with the retirement option selected.

(17) If the member dies during the period of participation and the member's named beneficiary is someone other than the member's surviving spouse to whom the member was legally married at the time of the member's death, the named beneficiary shall receive a lump sum payment equal to the member's individual account balance in the Deferred Retirement Option Plan Account. ~~Normal survivor~~ Retirement benefits are payable to ~~survivors of retirees shall be payable~~ the beneficiary, if any, in accordance with the retirement option selected.

(18) If the member dies during the period of participation and a beneficiary was not named, the member's estate shall receive a lump sum payment equal to the member's individual account balance in the Deferred Retirement Option Plan Account. ~~Normal survivor~~ Retirement benefits are payable to ~~survivors of retirees shall be payable~~ the beneficiary, if any, in accordance with the retirement option selected.

C. The provisions of this Subsection shall apply to members hired on or after July 1, 2011.

(1)(a) In lieu of terminating employment and accepting a retirement allowance, any member of this system who is eligible for regular retirement may elect to participate in the DROP. For purposes of participation in the DROP, "regular retirement" shall mean 3685(A)(1)(a)(ii) or (v) retirement.

(b) An election to participate in the DROP may be made only once and must be for a specified period not to exceed three years. The three-year period begins within sixty calendar days after the member first becomes eligible for regular retirement under the retirement provisions applicable to the member. The

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participation period must end not more than three years from the date the member first becomes eligible for regular retirement, and in no case shall the actual participation in the plan exceed three years. Once specified, the period of participation shall not be extended. A member participating in the DROP shall not terminate participation in the DROP prior to the end of the selected duration without terminating employment.

(c) For purposes of this plan, sick and annual leave shall not be converted for purposes of establishing eligibility.

(2)(a) Upon the effective date of commencement of participation in the DROP and during the period of participation in the DROP, neither the employee nor the employer contributions shall be payable.

(b) For purposes of this Section, final average compensation and creditable service shall remain fixed as they existed on the date of commencement of participation in the DROP. Creditable service shall not include conversion of sick and annual leave. Purchased military service credit shall apply as provided in 3685(A)(1)(a)(ii) and (v).

(c) Retirement benefits based on final average compensation and creditable service as established under Subsection (b) of this Section and which otherwise would have been due the participant shall, during the period of participation in DROP, be credited to the participant's DROP subaccount.

(d) Individuals who participate in the plan shall not receive the benefit of any cost-of-living adjustments granted while employed and for a period of one year following termination of employment and then such cost-of-living adjustment shall only be granted in accordance with R.S. 11:3685(D).

(3)(a) The DROP shall be a part of the system fund.

(I) The contributing period shall mean that time period during DROP participation when retirement funds are being credited to the participant's DROP subaccount maintained by the system.

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(ii) The investment period shall mean the period of time after the contributing period ends through the end of employment.

(b)(I) Management of the DROP funds shall be by the system during the contributing period.

(ii) At the end of the contributing period, the balance of the subaccount shall, at the election of the participant prior to participation in the plan, be transferred to either the self-directed subaccount or to a system subaccount, maintained and managed by the system, in accordance with the terms in this section. The participant's election shall be irrevocable. If no election is made, the participant shall be deemed to have elected to enter the self-directed portion of the plan.

(iii) Both subaccounts shall be within the DROP established pursuant to this Section. If the funds are transferred to the self-directed subaccount for the investment period, the system is authorized to hire a third-party provider who shall be an agent of the system for purposes of investing balances in the self-directed subaccounts of the participants.

(c) The system or the third party provider shall maintain the DROP subaccounts within this plan reflecting the credits attributed to each participant in the plan during the contributing and investment periods as applicable. All monies in the DROP subaccounts, while the participant is employed, shall remain a part of the fund, regardless of in which subaccount the monies are maintained, until disbursed to a participant in accordance with the plan provisions upon termination of employment.

(d) Interest shall not be credited to a participant's DROP subaccount during the contributing period. All amounts which remain credited to the individual's DROP subaccount after termination of participation in the plan and employment shall be disbursed as provided in R.S. 11:3685(C)(A)(i).

(4)(a) Upon termination of participation in both the DROP and employment, a participant shall:

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(I) At the participant's option, receive either a lump sum payment equal to the amount then credited to his individual DROP subaccount, or a life annuity based on his individual DROP subaccount balance, or any other method of payment that is approved by the board, and

(ii) Begin to receive regular monthly retirement benefits based on the retirement option selected at the time of election to participate in the DROP, as adjusted pursuant to Subsection (d) of this Section.

(b) Upon termination of participation in the DROP but not employment, credits to the DROP subaccount shall cease and no retirement benefits shall be paid to the participant until employment is terminated. If the participant chooses to enter the self-directed portion of the plan the balance in the participant's DROP subaccount shall be placed in a self-directed subaccount in the name of the participant as provided for in R.S. 11:3685(H), and the participant shall then be bound by the provisions of said Section. If the participant chooses not to enter the self-directed portion of the plan, the balance in the participant's subaccount shall be maintained and managed by the system in a separate subaccount in his name, subject to the provisions of R.S. 11:3685(C)(4)(b)(i) - (iii). No payment shall be made based on credits in either subaccount until employment is terminated as defined in this Section. The participant may continue employment after termination of participation in DROP for the sole purpose of accruing a supplemental benefit, and employer and employee contributions shall be made during this period of continued employment after DROP.

(i) Any individual who becomes eligible to participate in DROP may make an irrevocable written election to waive his rights as set forth in Article X, Section 29 of the Constitution of Louisiana, relative to the interest earned by his DROP subaccount. For any such person who has made such irrevocable election and who continues employment after DROP, upon termination of participation in the DROP his individual DROP subaccount balance in the plan, if managed by the system, shall earn interest on those funds at a rate equal to the actuarial rate of return on the

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system's portfolio for each fiscal year as certified by the system's actuary in the actuarial report, less one-half of one percent. However, by making such an election, the person shall expressly acknowledge that his account shall be debited in the event the system's investment portfolio experiences a negative earnings rate. The member shall further expressly acknowledge his consent to having the value of his account balance permanently reduced as a result of the devaluation of system assets caused by such a negative earnings rate. As a precondition of making this election, the member shall expressly acknowledge his understanding of the possibility of such account reductions.

(ii) Any individual who does not elect to waive his rights pursuant to Subparagraph (a) of this Paragraph shall have the funds in his DROP account governed by the provisions applicable to participants in the self-directed portion of the plan.

(iii) The board of trustees may make, alter, amend, and promulgate rules necessary for the implementation and administration of this Paragraph.

(c) If the participant dies, whether still participating in DROP or after participation but while still employed, his credits and benefits, if any, that are due to his beneficiaries shall be payable as if he had retired immediately prior to death and his retirement was in accordance with the R.S. 11:3687 option selected.

(d) Monthly retirement benefits payable to a participant after termination of participation in DROP and termination of employment shall be calculated as follows:

(i) There shall be a "base benefit" which shall equal the participant's monthly credit to the DROP subaccount as calculated at the time of the participant's entry into DROP.

(ii) If the participant does not continue employment after termination of participation in DROP, his monthly retirement benefit shall equal his base benefit.

(iii) If the participant continues employment after termination of participation in the DROP for a period of less than sixty months, his monthly retirement benefit shall equal his base benefit plus a supplemental benefit based upon

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the service credit for the additional employment, and based upon the final average compensation used to calculate the monthly credit to the DROP subaccount.

(iv) If the participant continues employment after termination of participation in the DROP for a period of sixty months or more, his monthly retirement benefit shall equal his base benefit plus a supplemental benefit based upon the service credit for the additional employment, and based upon the final average compensation for the period of employment after termination of participation in the DROP.

(v) The amount of unused sick and annual leave at the time of termination may be converted to retirement credit under the provisions of R.S. 11:3684. If a participant continues employment for less than five years after termination of participation in the DROP, then unused sick and annual leave shall be used to compute a supplemental benefit using the member's final average compensation as provided in Paragraph (C)(4)(d)(i) of this Section. If a participant continues employment for more than five years after termination of participation in the DROP, then unused sick and annual leave shall be used to compute a supplemental benefit using the member's final average compensation as provided in Paragraph (C)(d)(d)(iv) of this Section.

(vi) In no instance shall a supplemental benefit and a base benefit, added together, exceed one hundred percent of the applicable final average compensation.

(5) Once participation in the DROP commences, the election to participate is irrevocable and the term of participation may not be extended. Once participation in the DROP commences, transfers of service, reciprocal service agreements, repaying previously refunded contributions, and purchasing service credit are not permitted. Only one period of participation is permitted. Final average compensation and election of retirement option are fixed upon commencement of participation and may not be changed after entering the DROP.

D.(1) The board of trustees is authorized to provide a cost-of-living increase in any year when either:

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(a) The realized investment return on reserves allocated to retirees exceeds the actuarial requirements, provided that the actuarial present value of the cost-of-living benefits granted that year, valued over the future lifetimes of such retirees' retirement annuities, shall not exceed the aforementioned excess investment return and, effective July 1, 2011, further provided that the funded ratio of the plan equals or exceeds sixty-five percent.

(b) The funded ratio equals or exceeds ninety percent. The "funded ratio" is the funded ratio as determined under the Projected Unit Credit Actuarial Cost Method within the meaning of Statement 27 of the Governmental Accounting Standards Board.

(2) Any such cost-of-living benefits granted to a retiree shall not ~~in total~~ exceed three percent of the current benefit being received at the time of the granting of the increase for ~~each year of retirement before the year such retiree attains~~ retirees under age sixty-five on the date of the increase, and five percent for ~~each year of retirement thereafter~~ retirees aged sixty-five or older on the date of the increase. ~~Such benefits shall be paid only when funds are available from this source, and payments shall be made in such manner and in such amount as may be determined by the board of trustees based on the funds available.~~

(3) Any adjustment to benefits for cost-of-living changes made by formal action of the board of trustees as provided by this Subsection shall be considered amendments to the provisions of the retirement system. If made by formal action of the board of trustees, such changes must be disclosed to members of the retirement system.

(4) Cost-of-living adjustments may be granted each January first after at least a full year has elapsed after the member has terminated employment and benefits began, subject to the limitations contained herein.

(5) All members hired on or after July 1, 2011, must also be age sixty or older on June thirtieth of the year that a cost-of-living adjustment is approved by the trustees in order to qualify for the cost-of-living adjustment.

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E. The benefits provided in this Section shall not be retroactive to any period. ~~Further adjustments in benefits may be made each January first after at least a full year has elapsed after benefits began, subject to the limitations contained herein.~~ Effective July 1, 2011, all increases in benefits affecting this system will be applied only to years of service subsequent to the effective date of the increase unless stated otherwise in the Act. Statutory changes in benefits do not apply to members who have already retired.

F. Automatic cost-of-living adjustments. This provision is effective July 1, 2011.

(1)(a) Upon application for retirement or participation in the DROP, any member may elect to receive an actuarially reduced retirement allowance plus an annual two and one-half percent cost-of-living adjustment. Such an election shall be irrevocable after the effective date of retirement or after the beginning date of participation in the DROP. The retirement allowance together with the cost-of-living adjustment shall be certified by the system actuary to be actuarially equivalent to the member's maximum or optional retirement allowance and shall be approved by the system's board of trustees.

(b) The annual cost-of-living adjustment of such retirees shall be based on the retirement allowance received pursuant to the retirement plan option selected by the member and the monthly benefit being paid pursuant thereto on the effective date of the increase, inclusive of cost-of-living adjustments paid pursuant to this Section, but exclusive of cost-of-living adjustments or permanent benefit increases paid pursuant to any other provision of law. Cost-of-living adjustments granted under 3685(D) are not to be included in the calculation of the annual cost-of-living adjustment.

(c)(i) The annual cost-of-living adjustment of any DROP participant shall be credited to the participant's DROP subaccount during the participation period.

(ii) Following participation in the DROP, the annual cost-of-living adjustment shall be applied to the monthly benefit allowance amount determined by

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the retirement plan option selected, inclusive of cost-of-living adjustments paid pursuant to this Section, but exclusive of cost-of-living adjustments or permanent benefit increases paid pursuant to any other provision of law. Cost-of-living adjustments granted under R.S. 11:3685(D) are not to be included in the calculation of the annual cost-of-living adjustment. The monthly benefit allowance upon retirement shall reflect the annual benefit adjustments set forth in this Paragraph.

(iii) Upon retirement of a DROP participant, the annual cost-of-living adjustment shall also be applied to any supplemental benefit earned after the participation period in accordance with applicable law.

(d) If a retiree or DROP participant has chosen an optional retirement allowance wherein a spouse who has been designated as beneficiary will receive a continuing benefit upon the retiree's or DROP participant's death, the spouse's annual cost-of-living adjustment shall be payable based on the spouse's allowance on the effective date of the increase. A non-spouse beneficiary will not receive the annual cost-of-living adjustments.

(2) The annual cost-of-living adjustment authorized by Subsection (1)(a) of this Section shall be effective annually on the retirement anniversary date of the retiree and shall be payable to any retiree who is age fifty-five or older on the anniversary date and not before the retiree would have attained such age on his retirement anniversary date if his spouse is receiving the retirement allowance as his designated beneficiary.

(3) Additional cost-of-living adjustments or permanent benefit increases granted by the system's board of trustees, as otherwise provided by law, shall be computed on the basis of the retiree's benefit amount on the date such cost-of-living adjustment or permanent benefit increase is granted. If an additional cost-of-living adjustment or permanent benefit increase is scheduled to be effective on the same day as the annual cost-of-living adjustment, the annual cost-of-living adjustment shall be calculated first.

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(4) Upon application for retirement or participation in the DROP and upon certifying that he is contemplating availing himself of the provisions of this Section, a member may request that the system provide actuarial estimates of the benefits that such member would receive pursuant to Subsection A of this Section for the fifth, tenth, and fifteenth year following the member's anticipated retirement date. The system shall provide such actuarial estimates to the member upon request.

G. Initial benefit option.

This provision is effective July 1, 2011.

(1) The initial benefit option provided in this Paragraph is available to a member who has not participated in the DROP provided in this Chapter and who selects the maximum benefit or one of the options in Paragraphs 3687(A)(2), (3), (4), (5), (6), or (7) and, if this initial benefit option is selected, the person shall thereafter be ineligible to participate in the DROP.

(2) If a member selects the initial benefit option provided in this Paragraph, the member shall receive an initial benefit plus a reduced monthly retirement allowance, provided the initial benefit together with the reduced monthly retirement allowance shall be actuarially equivalent to his maximum retirement allowance.

(3) The amount of the initial benefit, as determined by the member, shall not exceed an amount equal to thirty-six payments of the member's maximum retirement allowance.

(4) The initial benefit shall, at the option of the member, be paid as a lump-sum payment or shall be placed in an account in accordance with R.S. 11:3685(H).

(5) The monthly retirement benefit received by the retiree and the beneficiary or survivor shall be based on the amount otherwise payable under the retirement option selected that is actuarially reduced by an amount calculated to offset the cost of the initial benefit.

(6) If a change in option selection is allowed under the provisions of R.S. 11:3687(A)(3) or (5), or 11:3687(A)(6) with a similar pop-up provision, or

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11:3687(F), the monthly benefit payable under those provisions shall be actuarially reduced in accordance with the provisions of this Paragraph.

(7) A person who retires under the provisions of disability retirement may not select the initial benefit option.

(8) Cost-of-living adjustments or permanent benefit increases granted by the board of trustees to retirees who select the initial benefit option shall be computed on the basis of each retiree's regular monthly retirement benefit or on the basis of each beneficiary/survivor's benefit based on the option selected as reduced and shall not be computed on the initial benefit received.

H. Self-directed DROP participants' subaccounts.

This provision is effective for members hired on or after July 1, 2011.

(1) Each participant who at his option continues employment after participation in the contribution period of the DROP may have the balance of his subaccount as of the end of the contribution period transferred to a subaccount to be managed by a third-party provider selected in accordance with R.S. 11:3685(H)(5) in accordance with the agreement entered into by the system and the third-party provider. Each participant who terminates employment, as defined herein, after the contribution period may at his option participate in the self-directed plan under the same conditions.

(2) Each participant in the self-directed portion of this plan agrees that the benefits payable to participants are not the obligations of the State of Louisiana, the Harbor Police Retirement System, or the Board of Commissioners of the Port of New Orleans and that any returns and other rights of the plan are the sole liability and responsibility of the participant and the designated provider to which contributions have been made. Furthermore, each such participant, in accordance with this provision, shall expressly waive his rights set forth in Article X, Section 29(A) and (B) of the Louisiana Constitution as it relates to his subaccount in the self-directed portion of the plan.

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(3) By participating in the self-directed portion of the plan, the participant agrees that he and the provider shall be responsible for complying with all applicable provisions of the Internal Revenue Code, and if any violation of that code occurs as a result of the participant's participation in this portion of the plan, it will be the responsibility and liability of the participant and the provider and not the State of Louisiana, the Harbor Police Retirement System, or the Board of Commissioners of the Port of New Orleans.

(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the State of Louisiana, the Harbor Police Retirement System, the Board of Commissioners of the Port of New Orleans, or their agents or employees, for any action taken by the participants for choices the participants make in relationship to the funds they chose to place in their subaccount balance.

(5) Selection of providers

The Board of Trustees of the Harbor Police Retirement System shall select a provider which will be authorized to place the DROP participant's subaccount balance, after the DROP participation ends, in products that shall be selected by the participant. In selecting a provider, the board shall consider, among other things, the following:

(a) The tax status of the products.

(b) The portability of the products offered by the provider.

(c) The types and diversity of products offered by the provider.

(d) The ability of the designated provider to provide the rights and benefits under the products.

(e) At a minimum, one short-term fixed income option.

(f) At least one of the fund providers shall maintain an office in the state of Louisiana.

(6) Rules and regulations.

The system is authorized to adopt regulations under the Administrative Procedure Act to implement this plan.

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(7) Renunciation; retirement benefit or allowance.

The Harbor Police Retirement System is hereby authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act to permit the irrevocable renunciation of a retirement benefit or allowance. If such rules and regulations are adopted, any renunciation thereunder shall be deemed to be made pursuant to this Section.

§3685.1. Limitations on payment of benefits

A.

* * *

(2) If the member is married and his spouse survives him, the designated beneficiary for at least a qualified joint and survivor annuity and fifty percent of the Deferred Retirement Option Plan Account shall be his spouse, unless such spouse has consented to the contrary in writing before a notary public. For purposes of this Paragraph, "spouse" shall mean that person who is married to the member under a legal regime of community of acquets and gains on his effective date of retirement or effective date of participation in the DROP, whichever is earlier.

* * *

B.

* * *

(2) However, the provisions of Paragraph (1) of this Subsection shall not apply:

(a) To any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary, over the life of or over the life expectancy of such beneficiary, provided that such distributions begin no later than one year after the date of the member's death, or in the case of the member's surviving spouse, the member would have attained the age of seventy years and six months. ~~If the designated beneficiary is the member's surviving spouse and if the surviving spouse dies before the distribution of benefits commences, then Paragraph (1) of this Subsection shall be applied as if the surviving spouse were the member.~~ If the

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designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph (1) of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age eighteen or, if later, upon the child's completing a designated event. For purposes of this Subparagraph, a designated event shall be the later of the date the child is no longer disabled or the date the child ceases to be a full-time student or attains age twenty-three, if earlier.

* * *

3685.2. Computation of retirement benefits

* * *

B.~~(1) If a member is a member or participant in more than one defined benefit pension plan maintained by the state, its agencies, or its political subdivisions, then such member's benefit, considered in the aggregate after taking into account the benefits provided by all such retirement plans, shall not exceed the limitations provided in this Subsection.~~

~~(2) The benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitations of Section 415(b) of the Internal Revenue Code if:~~

~~(a) The retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed ten thousand dollars for the plan year or for any prior plan years.~~

~~(b) The employer has not at any time maintained a defined contribution plan in which the participant participated.~~

The annual retirement benefit of any member of the retirement system who is not a qualified participant, as defined by Paragraph (2) of Subsection A of this Section, and which is not attributable to the member's after-tax employee contribution, cannot exceed the lesser of ninety thousand dollars or one hundred

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percent of such member's average compensation. For purposes of determining whether a member's benefit exceeds those limitations, the following shall apply:

(1) Adjustment if benefit not single life annuity.

(a) If the normal form of benefit is other than a single life annuity, such form shall be adjusted actuarially to the equivalent of a single life annuity. This single life annuity shall not exceed the maximum dollar or percent limitations outlined in this Section.

(b) No adjustment is required for the following:

(i) Qualified joint and survivor annuity benefits.

(ii) Pre-retirement disability benefits.

(iii) Pre-retirement death benefits.

(iv) Post-retirement medical benefits.

(2) Adjustment if benefit commences before social security retirement age. If benefit distribution commences before social security retirement age, the actual retirement benefit shall not exceed the lesser of one hundred percent of the member's average compensation or the adjusted dollar limitation. The adjusted dollar limitation shall be the equivalent, determined in a manner consistent with reduction of benefits for early retirement under the Social Security Act, of ninety thousand dollars commencing at social security retirement age. For purposes of this adjustment, survivor benefits, that portion of a joint and survivor annuity which is the survivor annuity which is the survivor benefit, and any other ancillary benefits shall not be taken into account.

(3) Adjustment if benefit commences after social security retirement age. If benefit distribution commences after social security retirement age, the dollar limitation shall be increased to the equivalent of ninety thousand dollars commencing at social security retirement age.

(4) Social security retirement age defined. For purposes of this Subsection, the term "social security retirement age" means the age used as the retirement age

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under 42 U.S.C. §416(1) of the Social Security Act, except that such Section shall be applied:

(a) Without regard to the age increase factor.

(b) As if the early retirement age under Section 216(1)(2) of such Act were sixty-two.

~~(3)~~(5) The interest rate used for adjusting the maximum limitations of Section 415(b) of the Internal Revenue Code shall be as follows:

(6) Adjustment for less than ten years of participation or service.

(a) If retirement system benefits are payable under this retirement system to a member who has less than ten years of participation in the retirement system, the dollar limitation referred to in the introductory paragraph of this Subsection will be multiplied by a fraction, the numerator of which is the member's number of years of participation in the system, not greater than ten, and the denominator of which is ten.

(b) If retirement benefits are payable under this retirement system to a member who has less than ten years of service with the employer, the percentage limitation referred to in the introductory paragraph of this Subsection and the dollar limitation referred to in Paragraph (9) of this Subsection will be multiplied by a fraction, the numerator of which is the member's number of years of service with the employer, not greater than ten, and the denominator of which is ten.

(7) Annual adjustment. The ninety thousand dollar limitation provided in this Subsection shall be adjusted annually to the maximum dollar limits allowable by the secretary of the Treasury of the United States under Section 415(d) of the Internal Revenue Code, such adjustments to take effect on the first day of each fiscal year following December 31, 1987. The adjustment shall not exceed the adjustment in effect for the calendar year in which the fiscal year of the system begins. The adjusted earlier limitation is applicable to employees who are members of the system and to members who have retired or otherwise terminated their service under the system with a nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive benefits. This system shall be considered specifically

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to provide for such post-retirement adjustments. For any limitation year beginning after separation from service occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the member separated from service. No adjustment shall be permitted with respect to post October 14, 1987 limitations.

(8) If a member is a member or participant in more than one defined benefit pension plan maintained by the state, its agencies, or its political subdivisions, then such member's benefit, considered in the aggregate after taking into account the benefits provided by all such retirement plans, shall not exceed the limitations provided in this Subsection.

(9) The benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitations of Section 415(b) of the Internal Revenue Code if:

(a) The retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed ten thousand dollars for the plan year or for any prior plan years.

(b) The employer has not at any time maintained a defined contribution plan in which the participant participated.

~~(4)~~(11) No benefit shall be considered to have exceeded the limitation provisions of this Section if the amount of the initial benefits did not exceed the limitations of Section 415(b) of the Internal Revenue Code, nor exceed any comparable provision in effect at the time of the initial payment, and the amount of any subsequent benefits payable in any year did not exceed the amount of the initial benefits, except for allowable cost-of-living adjustments.

C. The board of trustees shall make no actuarial adjustment under this Section by reason of the member's retirement after normal retirement age.

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D. The board of trustees shall adopt rules for the administration of the limits provided in this Section and the limitations under Section 415 of the Internal Revenue Code including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

~~C~~ E.(1) The provisions of this Section shall apply if any member is covered, or has been covered, by another plan maintained by the employer, including a qualified plan or a welfare benefit plan as defined in Internal Revenue Code Section 419(e), or an individual medical account as defined by Internal Revenue Code Section 415(l)(2).

(2) If a member is or has ever been covered under more than one defined benefit plan maintained by the employer, the sum of the members annual benefit from all such plans shall not exceed the maximum amount permissible.

(3)(a) If the employer maintains or at any time maintained one or more qualified defined contribution plans covering any member in this system, a welfare benefit fund as defined in Internal Revenue Code Section 419(e), or an individual medical account as defined by Internal Revenue Code Section 415(l)(2), the sum of the member's defined contribution fraction and defined benefit fraction shall not exceed one percent in any limitation year and the annual benefit otherwise payable to the member under this system shall be limited in order to satisfy such limitations. This provision shall no longer be effective for plan years beginning after December 31, 1999.

* * *

§3686 Disability retirement

A. (1) ~~Upon the application of a member to his employer, any~~ Any member who has ~~had~~ at least ~~five~~ ten years of creditable service may ~~be retired by the board of trustees, not less than thirty and not more than ninety days next following the date of filing such application, on a disability retirement allowance,~~ apply for a disability retirement, provided that the disability was incurred while the member was an active contributing member in active service and provided that ~~the medical board~~ a

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physician as designated below, after a medical examination, shall certify that he is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that he should be retired.

(2) Any disability claimed by a member must have been incurred after commencement of service in the system. Disability claims shall not be honored in the case of preexisting conditions.

(3) If the application for disability benefits is not filed while the member is in service, it shall be presumed that the disability was not incurred while the member was an active contributing member in active service. Such presumption may be overcome only by clear, competent, and convincing evidence that the disability was incurred while the member was an active contributing member in active service.

(4) If a member is eligible for a regular retirement, other than the 20-year actuarially reduced retirement, he is not eligible for disability retirement.

B. Process for applying for disability retirement.

(1) Any eligible member who becomes disabled may apply for disability benefits to the board of trustees of the retirement system. The board of trustees shall require the supervisor of the applicant to submit to the board a report which shall include a brief history of the case and the supervisor's opinion as to the applicant's present ability to perform the normal duties required of him.

(a) The applicant shall accompany his application with certificates from at least three physicians certifying that he is unable to perform the duties required of him by the head of the division.

(b) The disability retirement must be recommended by the superintendent of the harbor police.

(2) The applicant's disability case history shall be examined by a physician designated by the board whose area of specialty most closely relates to the nature of the claimed disability. The examining physician shall either conduct a medical examination of the applicant, or waive the medical examination if obvious and overwhelming medical evidence of disability exists to his satisfaction. The cost of

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the examination, including costs of laboratory tests, X-rays, and other such direct examination procedures shall be borne by the retirement system.

(3) The examining physician shall submit to the board of trustees an in-depth report which shall include a medical evaluation and his conclusions as to the applicant's claimed disability. Any board designated physician shall have full authority to certify total disability in those applicants whom he examines. An applicant shall be considered as certified totally disabled if in the in-depth report submitted by the examining physician to the board of trustees, the physician declares the applicant to be totally incapacitated for the further performance of his normal duties and states that such incapacity is likely to be permanent. In the case of partial disability, the physician shall indicate the degree of incapacity.

(4)(a) Should the examining physician's final certification decision be contested by either the applicant or the board of trustees, the contesting party shall have the right to a second medical examination if a written appeal is filed with the Board of Trustees within thirty days of notification of the certification decision. This second examination shall be performed by a board designated physician and shall be at the expense of the requesting party. The second physician shall also submit an in-depth report to the board of trustees which shall include his medical evaluation and conclusions as to the applicant's claimed disability.

(b) If the second examining physician concurs in the findings and recommendations of the first physician, the first physician's original decision on certification shall stand as final and binding and shall not be subject to further appeal other than through the courts.

(c) If the second examining physician disagrees with the findings and recommendations of the first physician, the two physicians shall select a third specialist to conduct another examination and prepare and file a third report in the same manner as provided for above. The majority opinion of the three examining physicians shall be final and binding and not subject to further appeal other than through the courts. The cost of the third medical examination shall be borne by the

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retirement system if the applicant is certified as disabled, or by the applicant if his disability claim is denied.

(5) The board of trustees shall review all pertinent information including the disability application, the report from the applicant's supervisor, the three physicians' statements, the recommendation from the superintendent of the harbor police, and the final and binding disability certification(s) and, if the board of trustees determines that all requirements for a disability retirement are met, shall retire an eligible disability applicant. Disability benefits shall accrue from the filing date of the application for disability retirement, or from the day following the exhaustion of all sick leave or annual leave claimed by the applicant, whichever is the later.

~~B.~~C. Benefit amount.

Any member who has twelve years of creditable service, and who has withdrawn from active service prior to the age at which he is eligible to begin receiving retirement benefits, shall be eligible in the event of total and permanent disability, for the lesser of all non-service related disability benefits, or the normal vested retirement benefit for time served. If a member has completed twelve years of creditable service, upon attaining the normal vested retirement age, he shall be eligible for full normal retirement benefits. To receive such benefits, the member shall file an application with the board of trustees of the retirement system. Upon commencement of regular retirement benefits, disability benefits shall cease.

~~(1) Upon retirement for disability, a member shall receive a retirement allowance if he has attained the age of fifty-five years; otherwise, he shall receive a disability benefit which shall be computed as follows:~~

~~(a) In case of total disability of any harbor member resulting from injury received in line of duty, a monthly pension of sixty percent of his average salary shall be paid to the disabled employee.~~

~~(b) Any member of the system who has become disabled or incapacitated because of continued illness or as a result of any injury received, even though not in the line of duty, and who has been a member of the system for at least five years but~~

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~~is not eligible for retirement under the provisions of R.S. 11:3685 may apply for retirement under the provisions of this Section.~~

(1) Any member who becomes totally disabled, and who files for disability benefits while in service, who upon medical examination and certification is found to be totally disabled solely as the result of injuries sustained in the performance of his official duties shall, upon approval of the board of trustees, receive the greater of a monthly pension of sixty percent of his average salary or the normal vested retirement benefit for time served, with no required minimum number of years of credible service.

Any disability retiree of the Harbor Police Retirement System who is receiving disability benefits as a result of an injury sustained in the line of duty, and who, as a result of the disability, is permanently and completely confined to a wheelchair for movement of person, is permanently and legally blind as a result of an injury suffered in the line of duty, or as a result of his injury is an amputee to such a degree as would prevent him from serving as a law enforcement officer, shall be exempt from any provision of this Subpart or any other provision of law which provides for reduction of benefits if the recipient, subsequent to his disability, becomes gainfully employed.

(2) Any member who becomes totally disabled, and who files for disability benefits while in service, and who upon medical examination and certification is found to be totally disabled or incapacitated because of continued illness or as a result of any injury received, even though not in the line of duty, and who has been a member of the system for at least ten years shall, upon approval of the board of trustees, receive a monthly pension of forty percent of his average salary. If a member has completed twelve years of creditable service, upon attaining the normal vested retirement age, he shall be eligible for full normal retirement benefits. To receive such benefits, the member shall file an application with the board of trustees of the retirement system. Upon commencement of regular retirement benefits, disability benefits shall cease.

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~~(c) Any disability beneficiary of the Harbor Police Retirement System who is receiving disability benefits as a result of an injury sustained in the line of duty, and who, as a result of the disability, is permanently and completely confined to a wheelchair for movement of person, is permanently and legally blind as a result of an injury suffered in the line of duty, or as a result of his injury is an amputee to such a degree as would prevent him from serving as a law enforcement officer, shall be exempt from any provision of this Subpart or any other provision of law which provides for reduction of benefits if the recipient, subsequent to his disability, becomes gainfully employed.~~

~~(2) The applicant shall accompany his application with certificates from at least three physicians certifying that he is unable to perform the duties required of him by the head of the division.~~

~~(3) Thereafter, upon the recommendation of the head of the division and the approval of the board the employee shall be retired on forty percent of his average salary.~~

~~C.~~(3) Any amount received as a compensable wage or lump sum settlement under the provisions of the Worker's Compensation Laws or the Federal Social Security Act shall be applied as an offset against benefits received under the provisions of this Section, under rules prescribed by the Board. The Board shall have complete discretion and authority to determine the extent and application of the provisions of this Subparagraph.

(4) Every disability retiree shall submit to the board of trustees by May first of every year a notarized annual earnings statement detailing his earned income from employment in the previous tax year as well as any Workers Compensation or Social Security benefits received in the previous tax year. Should a beneficiary not submit such an earnings statement by May first, his allowance shall be discontinued, without retroactive reimbursement, until the statement is filed. Should his non-submittal continue for the remainder of the calendar year, all his rights in and to his disability pension shall be revoked by the board of trustees. Individual private insurance

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settlements, separate retirement accounts, and other similar non-system resources except as noted herein shall be specifically exempted from listing on the annual earnings statement and from consideration in any of the calculations in 3685.(5) below.

(5) Should the notarized earnings statement show earnings or income of more than the difference between his retirement allowance and his average final compensation, then the amount of his pension shall be reduced to an amount, which, together with his earnings statement income, shall equal the amount of his average final compensation. Should his earnings change, the amount of his pension shall be further modified; however, the new pension shall not exceed the amount of the pension originally granted nor an amount, which, when his earnings statement income and annuity are added together, equals the amount of his average final compensation.

(6) Should the board of trustees determine that a disability retiree is able to engage in a gainful occupation paying more than the difference between his retirement allowance and the final average compensation then the amount of his pension shall be reduced to an amount, which together with his annuity and the amount earnable by him, shall equal the amount of his final average compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted nor an amount, which when added to the amount earnable by the beneficiary together with his annuity equals the amount of his final average compensation.

(7) For the purposes of this Section, there shall be an annual cost-of-living adjustment to the average final compensation figure used in the modification computations in R.S. 11:3686(C)(6). This cost-of-living adjustment shall be based upon and directly reflect the annual percentage increase or decrease in the Consumer Price Index ___ index title to be filled in ___ for the preceding calendar year. The CPI increase or decrease shall be limited to three percent in any one year.

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(8) A disability retiree restored to active service at a salary less than his final average compensation shall not become a member of the retirement system.

D. Certification of continuing eligibility for disability benefits.

(1) Once each year during the first five years following retirement of a member on a disability retirement allowance, and once in every three year period thereafter, the ~~Board of Trustees may, and upon his application shall,~~ board of trustees shall require ~~any~~ each disability ~~beneficiary~~ retiree who has not yet attained the equivalent age of ~~sixty years~~ regular retirement or the age of sixty if the member does not have the required number of years of creditable service for a vested regular retirement to undergo a medical examination at the retiree's expense, such examination to be made at the place of residence of said beneficiary if he is immovable or other place mutually agreed upon, by a ~~physician or physicians designated by the Board of Trustees~~ board designated specialist. The examining physician shall submit a report to the board of trustees certifying that the disability retiree is or is not still totally mentally or physically incapacitated for the further performance of duty, that such incapacity is or is not likely to be permanent, and recommending either the continuation or cessation of the retiree's disability status. A contested decision shall be appealed as set out in R.S. 11: 3686(B)(4)(a).

(2) Should any disability ~~beneficiary~~ retiree who has not yet attained the equivalent age of ~~sixty~~ regular retirement or the age of sixty if the member does not have the required number of years of creditable service for a vested regular retirement refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees, his allowance ~~may~~ shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year all his rights in and to his disability pensions ~~may~~ shall be revoked by the Board of Trustees.

~~(2) Should the Medical Board report and certify to the Board of Trustees that such disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and the average~~

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~~final compensation, and should the Board of Trustees concur in such report, then the amount of his pension shall be reduced to an amount, which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount, which, when added to the amount earnable by the beneficiary together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation shall not become a member of the retirement system.~~

(3) The board of trustees, upon receipt of a final binding report from a physician or specialist declaring a retiree's total disability to have ceased, shall order the discontinuance of the disability allowance.

(4) Neither the former receipt of nor the involuntary termination of disability benefits shall affect the right of any member to any regular retirement benefits based upon age or service to which he is eligible.

~~(3)~~(5) Should a disability ~~beneficiary~~ retiree under the age of fifty-five be restored to active service at a compensation not less than his ~~average~~ final average compensation, his retirement allowance shall cease, he shall again become a member of the retirement system, and ~~he shall contribute thereafter at the same rate he paid prior to disability. Any such prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his service as a member but~~ employer and employee contributions to the retirement system shall resume. However, should he be restored to active service on or after the attainment of the age of fifty years his pension upon subsequent retirement shall not exceed the sum of the pension which he was receiving immediately prior to his last restoration and the pension that he would have received on account of his service since his last restoration had he entered service at the time as a new entrant.

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~~E. Should a member cease to be an employee except by death or retirement under the provisions of this Subpart, he shall be paid such part of the amount of the accumulated contributions standing to the credit of his individual account in the Annuity Savings Fund as he shall demand. Should a member die before retirement and not be entitled to survivors' benefits, the amount of his accumulated contributions standing to the credit of his individual account shall be paid to his estate or to such person as he shall have nominated by written designation, duly executed and filed with the Board of Trustees.~~

D. When a disability retiree dies, his survivor shall be paid a one-time lump sum benefit equal to six times the value of the monthly benefit payment being received by the retiree at the time of death. Payment will not be made if there are no survivors as defined in R.S. 11:3685.

§3687 Optional allowance for superannuation retirement

A. With the provisions that no optional selection shall be effective in case a retiree dies within thirty days after retirement, and that such a retiree shall be considered as an active member at the time of death~~; until the first payment on account of any benefit becomes normally due~~, any member may elect to receive ~~his~~ the Option 1 maximum benefit in an equal monthly retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent at the time, of his retirement in ~~a~~ one of the reduced equal monthly retirement ~~allowance~~ allowances payable throughout life, Options 2-5 ~~with the provision that~~:

(1) Option 1 - Maximum plan.

~~If he dies before he has received in annuity payments the present value of his member's annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.~~ The benefit shall be calculated as the percentage factor in R.S. 11: 3685(A)(1)(a) multiplied by the member's average final compensation multiplied by the member's years of creditable service. All benefits end upon the death of the member.

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(2) Option 2 - Joint with 100% percent to beneficiary for life.

Upon his death, his reduced retirement allowance shall be continued throughout the life and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement.

(3) Option 2A - Joint with 100% to beneficiary for life with pop-up.

Upon his death, his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the designated beneficiary predeceases the retiree, the retiree's reduced benefit shall change to the maximum benefit effective on the first day of the next month following the notification of the death of the designated beneficiary.

(4) Option 3 - Joint with 50% to beneficiary for life.

Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement.

(5) Option 3A - Joint with 50% to beneficiary for live with pop-up.

Upon his death, one-half of the reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the designated beneficiary predeceases the retiree, the retiree's reduced benefit shall change to the maximum benefit effective on the first day of the next month following the notification of the death of the designated beneficiary.

(6) Option 4 - Alternate actuarially equivalent benefit.

Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate provided, such other benefit or benefits,

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together with the reduced retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance, and approved by the Board of Trustees.

(7) Option ~~4A. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate provided, such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance, and approved by the Board of Trustees, provided that if the designated beneficiary predeceases the retiree, the retiree's reduced benefit shall change to the maximum benefit effective on the first day of the next month following the notification of the death of the designated beneficiary.~~ 5 - Joint with 100% to beneficiary and handicapped child or children for life. This provision is effective July 1, 2011.

Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominated by written designation and, upon the death of that designated person, his reduced benefit shall be continued throughout the life of the deceased member's mentally handicapped child or children, but such benefits shall be paid to the guardian of such child or children except as provided in Subsection E of this Section. The written designation provided for in this Subparagraph shall be duly acknowledged and filed with the board of trustees at the time of the member's retirement.

(8) Option 5A - Joint with 100% to beneficiary and handicapped child or children for life with pop-up. This provision is effective July 1, 2011.

Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominated by written designation and, upon the death of that designated person, his reduced benefit shall be continued throughout the life of the deceased member's mentally handicapped child or children, but such benefits shall be paid to the guardian of such child or children except as provided in Subsection E of this Section. The written designation provided for in this Subparagraph shall be duly acknowledged and filed with the board of trustees

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at the time of the member's retirement, provided that if the designated beneficiary and handicapped child or children predecease the retiree, the retiree's reduced benefit shall change to the maximum benefit effective on the first day of the next month following the notification of the death of the designated beneficiary and handicapped children.

(9) Option 6 - Annual cost-of-living adjustment add-on. This provision is effective July 1, 2011.

In addition to any of the above options, upon application for retirement or participation in the DROP, any member may make an election, which is irrevocable after the effective date of retirement or the beginning date of participation in the DROP, to receive an actuarially reduced retirement allowance plus an annual two and one-half percent cost-of-living adjustment pursuant to R.S. 11:3685(F).

B. A retiree cannot change the designation of beneficiary ~~unless the retirement was approved under Option 1~~.

C. No change in the option elected by the member, other than to correct administrative error, shall be permitted after the application has been officially filed with the Board of Trustees.

D. ~~The~~ For members electing Options 2A, 3A, or 5A, the retiree shall be responsible for notifying the retirement system of the death of the beneficiary, to furnish the beneficiary's death certificate, and to request the recomputation of benefits. Adjustment of benefits under this Subsection shall not be retroactive, and shall be effective on the first day of the next month following official approval of the application for recomputation of benefits.

E.(1) This provision is effective July 1, 2011. If a retiree designates a child as a beneficiary under Option 2, Option 2A, Option 3, Option 3A, or Option 4, as provided in Subsection A of this Section, or if a retiree designates children as beneficiaries under Option 5 or Option 5A as provided in Subsection A of this Section, and a trust is created under law by the retiree for the benefit of such child or children, if the terms of the trust so provide, and if the system is provided with a

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certified copy of the trust document, then the optional retirement allowance payable to a child beneficiary pursuant to this Subsection upon the death of the retiree, or upon the death of the retiree and beneficiary under Options 5 and 5A, shall be paid to the trust for addition to the trust property.

(2) If the trust is contested by any party, the system shall withhold all benefit payments or deposit them in the registry of the court if a concursus proceeding is filed until there is a final binding legal agreement or judgment regarding the proper payment of benefits.

(3) If the trust terminates under the terms of the trust prior to the death of a designated child beneficiary, then any optional retirement allowance payable after the date of termination of the trust shall be paid as provided for in Subsection A of this Section.

(4) The trustee of the trust shall immediately notify the system in writing of the death of a child beneficiary. Upon the death of a child beneficiary, benefit payments from the system to the trust on behalf of the deceased child beneficiary shall cease.

(5) For purposes of this Subsection only, the term "child" shall mean a minor or major child, regardless of age, who is the issue of a marriage of a member of this system, the legally adopted child of a member of this system, a child born outside of marriage of a female member of this system, or the child of a male member of this system if acknowledged or affiliated pursuant to the provisions of the Civil Code.

§3688 Administration

* * *

E. 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.

* * *

§3689 Management of funds

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A. The ~~Board of Trustees~~ board of trustees shall have full power to invest and reinvest such funds, subject to the prudent-man rule limitations regarding investments set forth in Subtitle I, Chapter 4, Part II, Subpart I of this Title and shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any monies belonging to said funds.

B. All expense vouchers and pension payrolls shall be certified by the ~~Secretary~~ plan administrator. The ~~Secretary~~ plan administrator shall furnish the ~~Board of Trustees~~ board of trustees a surety bond in a company authorized to do business in Louisiana and in such an amount as shall be required by the ~~Board~~ board, the premium to be paid from the Expense Fund.

C. For the purpose of meeting disbursements for pensions, annuities, and other payments there may be kept available cash, not exceeding ten percent of the total amount in the several funds of the retirement system, on deposit in one or more banks or trust companies of the state of Louisiana organized under the laws of the state of Louisiana or of the United States, provided, that the sum of deposit in any one bank or trust company shall not exceed twenty-five percent of the paid-up capital and surplus of such bank or trust company.

D. The ~~Board of Trustees~~ board of trustees shall approve the ~~Fiscal Agency Bank~~ bank or banks selected for the deposit of the funds and securities of this retirement system~~, provided that no bank shall be selected unless the bank is a fiscal agent of the State~~. The funds and properties of the system held in any bank of the State shall be safeguarded by bonds or other securities acceptable for the protection of State deposits, the amount to be determined by the ~~Board of Trustees~~ board of trustees.

E. Except as otherwise herein provided, no trustee and no employee of the ~~Board of Trustees~~ board of trustees shall have any direct interest in the gains or profits of any investment made by the ~~Board of Trustees~~ board, nor as such receive

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any pay or emolument for his service. No trustee or employee of the ~~Board~~ board of trustees shall, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the ~~Board of Trustees~~ board; nor shall any trustee or employee of the ~~Board of Trustees~~ board become an endorser or surety or in any manner as obligor for moneys loaned or borrowed from the ~~Board of Trustees~~ board.

§3690 Method of financing

~~A. All of the assets of the retirement system shall be credited according to the purpose for which they are held to one of four funds, namely, the Annuity Savings Fund, the Annuity Reserve Fund, the Pension Accumulation Fund, and the Expense Fund.~~

~~B. Annuity savings fund. The Annuity Savings Fund shall be the fund in which shall be accumulated contributions from the compensation of members to provide for their annuities. Contributions to the Annuity Savings Fund shall be made as follows:~~

A. Employee contributions.

(1) The port commission shall make deductions from any salary or wages paid by them to any member of this fund equal to ~~seven~~ nine percent of the compensation paid him in each and every payroll ~~after August 1, 1971~~.

(2) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Subpart. The employer shall certify to the ~~Board of Trustees~~ board of trustees on each and every payroll or in such other manner as the ~~Board of Trustees~~ board may prescribe, the amounts to be deducted;

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and each of said amounts shall be deducted, and when deducted shall be paid into said Annuity Savings Fund, and shall be credited to the individual account of the member from whose compensation said deduction was made.

~~C. Annuity reserve fund. The Annuity Reserve Fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities, payable as provided in this Subpart. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, his annuity reserve shall be transferred from the Annuity Reserve Fund to the Annuity Savings Fund and credited to his individual account therein.~~

~~D. Pension accumulation fund. The Pension Accumulation Fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and other benefits payable from contributions made by employers. Contributions to and payments from the Pension Accumulation Fund shall be made as follows:~~

~~(1) On account of each member there shall be paid annually into the Pension Accumulation Fund for the preceding fiscal year an amount equal to a certain percentage of the earnable compensation of each member to be known as the "Normal Contribution", and an additional amount equal to a percentage of his earnable compensation to be known as the "Accrued Liability Contribution". The rate per centum of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuation; subject to the limitation of Paragraph D(8).~~

~~(2) The total amount that shall be contributed annually to the pension accumulation fund shall be equal to the amount obtained by applying the total rate ("normal contribution" plus "accrued liability contribution") to the earnable compensation of all members. This amount shall be paid as provided in Paragraphs D(3) and (4).~~

B. Employer contributions.

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~~(3)~~(1) The Port Commission shall annually contribute an amount equal to the rate per centum determined herein in accordance with Paragraphs ~~D(4) and (8)~~ B(2)and (3). ~~The first contribution under this Subpart shall begin with the fiscal year beginning July 1, 1971 and shall be made annually thereafter.~~ Contributions shall be made monthly based on the same salary or wages used to calculate the members' contributions.

~~(4)~~(2) ~~On the basis of regular interest and of such mortality and other tables as shall be adopted by the Board of Trustees, the actuary engaged by the Board to make each valuation required by this Subpart during the period over which the accrued liability contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the compensation of the average new entrant, which if contributed on the basis of compensation of such new entrant throughout the entire period of active service would be sufficient to provide for the payment of any pension payable on his account. The rate per centum so determined shall be known as the "normal contribution" rate. After the accrued liability contribution has ceased to be payable, the~~ The normal contribution rate shall be the rate per centum of the earned salary of all members obtained by deducting from the total liabilities of the ~~Pension Accumulation Fund~~ fund the amount of the funds in hand to the credit of ~~that~~ the fund and dividing the remainder by one percentum of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the ~~Board of Trustees~~ board of trustees and ~~regular~~ interest as set forth in R.S. 11:3688(d)(5)(a)(i). The normal rate of contributions shall be determined by the actuary after each valuation.

~~(5) Immediately succeeding the first valuation the actuary engaged by the Board of Trustees shall compute the rate per centum of the total annual compensation of all members which is necessary to liquidate the amount of the total pension liability on account of all members and beneficiaries which is not dischargeable by the aforesaid normal contribution made on account of such~~

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~~members during the remainder of the active service. The rate per centum originally so determined shall be known as the "Accrued Liability Contribution" rate.~~

~~(6) The total amount payable in each year to the Pension Accumulation Fund shall be not less than the sum of the rate per centum known as the "Normal Contribution Rate" and the "Accrued Liability Contribution Rate" of the total compensation earned by all members during the preceding year and shall not exceed the limitation set forth in Paragraph D(8).~~

~~(7) The accrued liability contributions shall be discontinued as soon as the accumulated reserve in the Pension Accumulation Fund shall equal the present value, as actuarially computed and approved by the Board of Trustees, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of all persons who are at that time members.~~

~~(8)~~(3) The maximum contribution by the employer, Board of Commissioners of the Port of New Orleans, shall not exceed ~~thirteen~~ twenty percent of the earned compensation of the members in any one year. ~~There~~ Except as permitted in R.S. 11:3697, there shall be no contribution by employer other than the percentage of earned compensation of the members as provided in this Subpart, and subject to the maximum stated above, even in the event that the payment by employer should not be sufficient, when combined with the amount in the fund, to provide the retirement allowances and other benefits payable out of the fund.

~~(9)~~ C. Court fines.

All fines collected by any court, official or agency from violators of ordinances of the City of New Orleans applicable to the wharves, landings and river front of the city or ordinances of the Board of Commissioners of the Port of New Orleans, as provided for in R.S. 34:25, shall be transmitted to the board of trustees of this system. Such funds shall be used by the board solely for the payment of the retirement allowances ~~provided for in Subsections B, C, and D of this Section~~, and such funds shall be supplemented by such other funds as are now or may be hereafter

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paid into the system on account of members of the harbor police department of the Port of New Orleans.

~~(10) All pensions, and benefits in lieu thereof, with the exception of those payable on account of members who receive no prior service allowance, payable from contributions of employees, shall be paid from the Pension Accumulation Fund to the Annuity Reserve Fund.~~

~~(11) Upon the retirement of a member not entitled to credit for prior service, an amount equal to his pension reserve shall be transferred from the Pension Accumulation Fund to the Annuity Reserve Fund.~~

~~(12)~~ D. Annual expenses.

The ~~Board of Trustees~~ board of trustees may ~~transfer annually from the Pension Accumulation Fund to the Expense Fund~~ incur annual expenses up to a sum not to exceed one and one-half percent of the total assets of the system as shown by the balance sheet at the end of the last fiscal year.

~~E. Expense fund. The Expense Fund shall be the fund from which the expenses of the retirement system shall be paid, exclusive of amount payable as retirement allowances and other benefits provided therein. Contributions shall be made to the Expense Fund as follows. The Board of Trustees shall determine annually the amount required to defray such expenses for the ensuing fiscal year and shall have the right to transfer the amount required to defray the cost of expenses of administration from the amount transferred from the Pension Accumulation Fund.~~

~~F~~ E. Collections of contributions.

~~(1) The collection of members' contributions shall be as follows:~~

~~(a)~~ The Port Commission shall cause to be deducted on each and every payroll of a member ~~for each and every payroll period subsequent to the date of establishment of the retirement system~~ the contributions payable by such member as provided in this Subpart.

~~(b) The Treasurer, or other officer authorized to issue warrants, shall make deductions from salaries of members as provided in this Subpart, and shall transmit~~

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~~monthly the amount specified to be deducted to the Secretary-Manager of the Board of Trustees. The Secretary-Manager of the Board of Trustees after making a record of all such receipts shall deposit them in a bank or banks selected by the Board of Trustees.~~

~~(2) The collection of employers' contributions, if and when assessed or required, shall be as follows. Upon the basis of each actuarial valuation provided herein, the Board of Trustees shall annually prepare a statement of the total amount necessary for the ensuing fiscal year to the Pension Accumulation and Expense Funds as provided under Subsections D and E of this Section.~~

* * *

§3690.2 Unclaimed funds, checks, and property; retention by system

Any unclaimed employee contributions, other funds, checks, or any other property held by this system that could be claimed by a member or prior member, the member's beneficiary, heirs, or estate shall never be presumed abandoned and shall be held continuously by the system for the benefit of such member, prior member, the member's beneficiary, heirs, or estate.

Should this system be merged with another system, such unclaimed employee contributions, other funds, checks, or any other property held by this system that could be claimed by a member or prior member, the member's beneficiary, heirs, or estate shall be transferred to the new system and shall be held continuously by that system for the benefit of such member, prior member, the member's beneficiary, heirs, or estate.

§3691 Exemption from execution

The right of a person to a pension, an annuity, ~~or~~ a retirement allowance, ~~to~~ the return of contributions, ~~the pension, annuity, or retirement allowance itself~~, any optional benefit or any other right accrued or accruing to any person under the provisions of this Subpart, ~~and the moneys in the various funds created by this Subpart,~~ are hereby exempt from any state or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, except as

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provided in R.S. 11:292, and shall be unassignable except as in this Subpart specifically otherwise provided.

§3692 Protection against fraud

A. Any persons who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act shall be ~~guilty of a misdemeanor, and on conviction thereof by any court of competent jurisdiction shall be punished by a fine not exceeding five hundred dollars or imprisonment in the parish jail not exceeding twelve months, or both such fine and imprisonment at the discretion of the court~~ subject to criminal prosecution.

* * *

§3693. ~~Limitation of membership~~ Laws applicable to the Harbor Police Retirement System

No other provisions of law in any other statute which provided wholly or partly at the expense of the State of Louisiana for pensions or retirement benefits for employees of the several parishes or any parish of the State of Louisiana, their widows, or other dependents, shall apply to members or beneficiaries of the retirement system established by this Subpart, their widows or other dependents.

* * *

§3695. Direct rollover

A. Notwithstanding any other provision of law to the contrary that would otherwise limit a member's election under this Section, a member may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover.

B. ~~This Section shall apply to all eligible rollover distributions by the system made on or after January 1, 1993.~~ An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of a member, except that an eligible rollover distribution does not include:

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(1) Any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the member, or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more.

(2) Any distribution to the extent that such distribution is required under Section 401(a)(9) of the United States Internal Revenue Code.

C. An "eligible retirement plan" shall mean any of the following:

(1) An individual retirement account described in Section 408(a) of the Internal Revenue Code.

(2) An individual retirement annuity described in Section 408(b) of the Internal Revenue Code.

(3) An annuity plan described in Section 403(a) of the Internal Revenue Code.

(4) A qualified trust as described in Section 401(a) of the Internal Revenue Code, provided that such trust accepts the member's eligible rollover distribution.

(5) An eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan.

(6) An annuity contract described in Section 403(b) of the Internal Revenue Code.

D. A "distributee" as provided for in this Section shall include:

(1) A member or former member.

(2) The member's or former member's surviving spouse, or the member's or former member's former spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), with reference to an interest of the member or former spouse.

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(3) The member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs (C)(1)(a) and (C)(1)(b) of this Section.

§3696 Errors and Omissions

Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the board of trustees shall correct such error, and as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

The corrected benefit amount will be paid prospectively. When considering corrections to the account of members for past erroneous benefit payments, the collection of overpayments and/or payment of underpayments may be waived if (1) it is deemed by the trustees to not be cost effective for the system, in relation to the amount of the overpayment or underpayment, to attempt to locate the beneficiary or estate of such members and collect the overpayment or pay the underpayment or (2) if it is deemed by the trustees to cause an extreme hardship on the member or beneficiary.

§3697 Unfunded Liability

The board of trustees may accept an annuity from the plan sponsor of up to thirty years at an interest rate agreeable to both the board of trustees and plan sponsor to fund any unfunded liability. Such annuity will allow for additional interim payments of principle from the plan sponsor. Annuity payments will be due thirty days after the end of each fiscal year the annuity is in effect.

§3698 Effective dates

All benefit changes shall be prospective only unless stated otherwise in the Act. Statutory benefit changes shall not apply to members who have already retired.

§3699. Unusual Benefit Adjustments

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A. Should it be discovered through an audit or review of statute compliance and/or benefit payment calculations to be concluded in 2011, that unusual errors in benefit determinations and/or calculations were made, such errors shall be adjusted via the statute language clarifications contained in R.S. 11:3683 and R.S. 11:3685, as well as through the following provisions:

(1) For members who were hired on 9/23/70, 6/21/69, 7/9/57, 1/3/59, and 6/28/61 and whose retirement eligibility determination erroneously included unused annual leave and/or unused sick leave as creditable service in determining eligibility for retirement, the use of such leave shall be allowed. This adjustment shall be effective for the designated members only and only in determining the amount of the correct benefit payments going forward.

(2) For members hired on 8/29/1990 and 4/4/1994 who were over the age of eligibility for membership and erroneously allowed to become a member and for whom all normal member and employer contributions have been made, whether the member is still employed or retired from the system, the member shall be considered as a fully qualified member of the system. This adjustment shall be effective for the designated members only and only in determining the amount of the correct benefit payments going forward.

(3) For members hired on 7/1/47, 11/8/56, 7/9/57, 1/3/59, 6/28/61, 2/20/67, 7/3/68, 12/2/68, 1/2/69, 3/25/69, 4/21/69, 6/21/69, 10/4/69, 11/15/69, and 9/23/70 who were granted military credit eligibility in accordance with R.S. 11:3684 but who did not purchase such eligible military credit in accordance with R.S. 29:251.2.B and such unpurchased credit was erroneously used in determining their eligibility for retirement and/or erroneously used in their retirement benefit calculation, the use of such military credit shall be allowed. When a member hired on 9/22/48 who had been granted military credit eligibility by another retirement system in accordance with R.S. 11:143 but who did not purchase such eligible credit in the Harbor Police Retirement System as required by R.S. 11:143 and such unpaid credit was erroneously used in determining his eligibility for retirement and/or was erroneously

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used in his benefit calculation, the use of such military credit shall be allowed. When a member who was hired on 9/23/70 and who resigned on 7/31/71 and was rehired on 9/23/71, and who therefore was not a member on 8/1/71 and therefore not eligible for military service credit in accordance with R.S. 11:3684, but who was erroneously granted eligibility for such military credit and who did not purchase such eligible military credit in accordance with R.S. 29:251.2.B and such unpurchased credit was erroneously used in determining eligibility for retirement and/or erroneously used in the retirement benefit calculation, the use of such military credit shall be allowed. This adjustment shall be effective for the designated members only and only in determining the amount of the correct benefit payments going forward.

(4) Act 484 of 1985 increased the service benefit of 3% per year of service to 3?% per year of service and stipulated that "This Act shall become effective upon approval of the Board of Commissioners of the Port of New Orleans." Although no formal approval was given by the Board of Commissioners of the Port of New Orleans, the increase was implemented by the Harbor Police Retirement System upon the Act's signature by the governor. The benefits shall be calculated as if the required Board of Commissioners of the Port of New Orleans approval had been given on the effective date of the Act. This Act applies to all members who retired after the date of the act and the increased rate applies to all years of service credit. This adjustment shall be effective only for members currently employed on July 1, 2011 and retired as of July 1, 2011 and only in determining the amount of the correct benefit payments already paid to retirees and the correct benefit payments going forward.

(5) The increase in service benefit in ACT 484 of 1985 from 3% to 3?%, as well as the increase from 2½% to 3% in 1975, were implemented without containing language that stipulated for what years the increase was to apply, such as for all past years of service for active members, or for all future years of service for all active members, or for all past and future years of service for all active members. Instead of a "blended rate" wherein the rates in effect when the service credit was earned are

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used in the retirement benefit calculation, the increases were implemented as if each increase applied to all past and future years of service for all active members and such implementation shall apply for these adjustments. This adjustment shall be effective only for members currently employed on July 1, 2011 and retired members and only in determining the amount of the correct benefit payments already paid to retirees and the correct benefit payments going forward relative to the herein specified percentage changes.

(6) Any member hired on 11/8/1976 who completed a period of DROP participation prior to July 1, 2008 and who is still employed on July 1, 2008 shall be subject to R.S. 3684.B(2). This adjustment shall be effective for the designated member only and only in determining the amount of the correct benefit payment going forward.

(7) Any net overpayment error will be forgiven in its entirety except for the last three years and the last three years of any net underpayment error will be paid in it's entirety in a lump sum. The plan's seven percent interest shall accrue on the over and under payments beginning sixty days after notification of the error amounts

B. The adjustments authorized by this section are not to be considered a waiver of any statute provision governing this system. Paragraph R.S. 11:3699 will be null and void and removed from the statute on 7/1/2012.

Section 2. R.S. 11:3694 is hereby repealed in its entirety.

Section 3. This Act shall become effective on July 1, 2011; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2011, or on the day following such approval by the legislature, 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)]

Arnold HB No. 569

Abstract: Relative to the Harbor Police Retirement System for the Port of New Orleans, provides with respect to transfers, reciprocal recognition of service, contributions, service credit, membership, benefits, purchase of service credit, reporting requirements, the board of trustees, definitions, disability benefits, governance, administration, and unfunded liability.

(Amends R.S. 11:141, 142(A), 143, 144(A), 144.1, 145(A), 148(A)(1) and (B), 155, 171, 185(C), 3682, 3683, 3684, 3685, 3685.1(A)(2) and (B)(2)(a), 3685.2(B) and (C), 3686, 3687, 3689, 3690, 3690.2, 3691, 3692(A), 3693, 3695; Adds R.S. 11:158(B)(15), 173(A)(14), 174(B)(15), 185(D), 3684.1, 3685.2(D) and (E), 3688(E), 3696, 3697, 3698, and 3699; Repeals R.S. 11:3694)

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