Regular Session, 2011

HOUSE BILL NO. 530

BY REPRESENTATIVE PEARSON

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

RETIREMENT/STATE SYSTEMS: Relative to state retirement systems, increases employee contributions and average compensation for calculation of benefits

AN ACT

To amend and reenact R.S. 11:102(B)(2)(b)(ii) and (3)(a), 403(5), 450(B), 531(A)(1)(c), 612(1), 701(5)(b) through (e), and 927(A) and to enact R.S. 11:63 and 701(5)(f), relative to state retirement systems; to provide with respect to employee and employer contributions; to provide with respect to benefit calculation; to provide with respect to system funding; 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 X, Section 29(C) of the Constitution of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:102(B)(2)(b)(ii) and (3)(a), 403(5), 450(B), 531(A)(1)(c), 612(1), 701(5)(b) through (e), and 927(A) are hereby amended and reenacted and R.S. 11:63 and 701(5)(f) are hereby enacted to read as follows:

§63. Additional employee contributions; certain state retirement systems

A. The provisions of this Section shall apply to the following members of state retirement systems:

(1) Members of the Louisiana State Employees' Retirement System.

(2) Any member of the Teachers' Retirement System of Louisiana who is an academic or administrative employee of a public institution of higher education, or who is an employee of the Board of Regents, the Board of Trustees for State

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Colleges and Universities, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, or any other constitutionally established board which manages institutions of higher education.

(3) Any member of the State Police Pension and Retirement System.

B. Beginning July 1, 2012, the employee contribution rate as provided in R.S. 11:62 for any member to whom this Section applies shall be increased as follows:

(1) Beginning on July 1, 2012, one percent.

(2) Beginning on July 1, 2013, an additional one percent.

C. The dollar amount received by the system in any fiscal year representing the employee contributions payable pursuant to this Section, shall be applied in the following manner:

(1) For the Louisiana State Employees' Retirement System, such dollar amount shall be applied to the oldest existing amortization base or bases for any given fiscal year except for the Original Amortization Base or the Experience Account Amortization Base.

(2) For the Teachers' Retirement System of Louisiana, such dollar amount shall be applied to the oldest existing amortization base or bases for any given fiscal year except for the Original Amortization Base or the Experience Account Amortization Base.

D. This Section shall not apply to any employee participating in the Optional Retirement Plan pursuant to R.S. 11:921, et seq.

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§102. Employer contributions; determination; state systems

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B.

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(2)

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(b) At the end of each fiscal year, the difference between the minimum employer contribution, as required by the Constitution of Louisiana, and the actuarially required employer contribution for the fiscal year, as determined under Paragraph (3) of this Subsection or pursuant to Subsection C of this Section, shall be determined and applied in accordance with the following provisions:

* * *

(ii) Except as provided in Paragraph (5) of this Subsection, annual contributions required in accordance with this Subsection, or the constitutional minimum if greater, may be funded in whole or in part from the employer credit account, provided the employee contribution rate or rates for the system as set forth in R.S. 11:62 or 63 if applicable, has or have been reduced to an amount equal to or less than fifty percent of the annual normal cost for the system or the plan as provided in Subsection C of this Section, rounded to the nearest one-quarter percent.

* * *

(3) With respect to each state public retirement system, the actuarially required employer contribution for each fiscal year, commencing with Fiscal Year 1989-1990, shall be that dollar amount equal to the sum of:

(a) The employer's normal cost for that fiscal year, computed as of the first of the fiscal year using the system's actuarial funding method as specified in R.S. 11:22 and taking into account the value of future accumulated employee contributions and interest thereon, except for employee contributions remitted pursuant to R.S. 11:63, such employer's normal cost rate multiplied by the total projected payroll for all active members to the middle of that fiscal year. For the Louisiana State Employees' Retirement System, effective for the June 30, 2010, system valuation and beginning with Fiscal Year 2011-2012, the normal cost shall be determined in accordance with Subsection C of this Section.

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§403. Definitions

The following words and phrases used in this Chapter shall have the following meanings, unless a different meaning is clearly required by the context:

* * *

(5)(a)~~(i) "Average compensation", for a member whose first employment making him eligible for membership in the system began on or before June 30, 2006, and for any person who receives an additional benefit pursuant to R.S. 11:444(A)(2)(b) or (c), 557, 582, or 602 or R.S. 24:36 whose first employment making him eligible for membership in one of the state systems occurred on or before December 31, 2010, means the average annual earned compensation of a state employee for the thirty-six highest months of successive employment, or for the highest thirty-six successive joined months of employment where interruption of service occurred; however, average compensation for part-time employees who do not use thirty-six months of full-time employment for average compensation purposes shall be based on the base pay the part-time employee would have received had he been employed on a full-time basis.~~

~~(ii) The earnings to be considered for the thirteenth through the twenty-fourth month shall not exceed one hundred twenty-five percent of the earnings of the first through the twelfth month. The earnings to be considered for the final twelve months shall not exceed one hundred twenty-five percent of the earnings of the thirteenth through the twenty-fourth month. Nothing in this Subparagraph, however, shall change the method of determining the amount of earned compensation received.~~

~~(b)~~(i) "Average compensation"~~, for a member whose first employment making him eligible for membership in the system began on or after July 1, 2006, and subject to the limitations provided in this Subparagraph,~~ means the average annual earned compensation of a ~~state employee~~ member for the sixty highest months of successive employment or for the highest sixty successive joined months of employment where interruption of service occurred; however, average

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compensation for part-time employees who do not use sixty months of full-time employment for average compensation purposes shall be based on the base pay the part-time employee would have received had he been employed on a full-time basis. ~~This Item shall also be applicable to any judge, court officer, governor, lieutenant governor, clerk or sergeant-at-arms of the House of Representatives, secretary or sergeant-at-arms of the Senate, or state treasurer whose first employment making him eligible for membership in one of the state systems occurred on or after January 1, 2011.~~

~~(ii)~~ (b) The member's earnings to be considered ~~for persons to whom Item (i) of this Subparagraph applies~~ 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 ~~Item~~ Subparagraph 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. ~~This Item shall also be applicable to any judge, court officer, member of the Louisiana Legislature, governor, lieutenant governor, clerk or sergeant-at-arms of the House of Representatives, secretary or sergeant-at-arms of the Senate, or state treasurer whose first employment making him eligible for membership in one of the state systems occurred on or after January 1, 2011.~~

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~~(iii) The provisions of this Subparagraph shall not apply to any person who receives an additional benefit pursuant to R.S. 11:444(A)(2)(b) or (c), 557, 582, or 602 or R.S. 24:36 whose first employment making him eligible for membership in one of the state systems occurred on or after January 1, 2011.~~

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§450. Termination of participation

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B. Upon termination of participation in the plan but not employment, credits to the account shall cease and no retirement benefits shall be paid to the participant until employment is terminated. The balance in the participant's subaccount shall be placed in a self-directed subaccount in the name of the participant as provided for in R.S. 11:451.1, and the participant shall then be bound by the provisions of said Section. No payment shall be made based on credits in the subaccount until employment is terminated as defined in this Section. The participant may continue employment after termination of participation in the plan for the sole purpose of accruing a supplemental benefit, and employer and employee contributions shall resume. ~~Correction officers, probation and parole officers, and security officers of the Department of Public Safety and Corrections; peace officers of the Department of Public Safety and Corrections, office of state police, other than state troopers, as provided in R.S. 11:444(A)(2)(b); and personnel employed by the Department of Revenue, office of alcohol and tobacco control, as provided in R.S. 11:444(A)(2)(c), who have ended their participation in the Deferred Retirement Option Plan but not employment shall make contributions at the rate established in R.S. 11:62(5)(b).~~

* * *

§531. Monthly retirement report; employer and employee contributions

A.(1) Each agency employing members of the system shall submit a certified monthly retirement report to the board of trustees containing the following information:

* * *

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(c) The individual employee contributions equal to the percentage of the earned compensation of the employee as established by R.S. 11:62(5) and 63 as applicable for the appropriate employee, which the employer shall cause to be deducted from the salary of each member on each and every payroll of the employee for each and every payroll period. This amount shall conform to Article X, Section 29(E)(2)(a) of the Constitution of Louisiana.

* * *

§612. Application; definitions

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

(1) "Average compensation" ~~means the average annual earned compensation of a member for the sixty highest months of successive employment, or for the highest sixty successive joined months of employment where interruption of service occurred; however, average compensation for part-time employees who do not use sixty months of full-time employment for average compensation purposes shall be based on the base pay the part-time employee would have received had he been employed on a full-time basis. 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~~

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~~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.~~ shall be defined as provided in R.S. 11:403.

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§701. Definitions

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

* * *

(5)

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(b) "Average compensation", for any member who is an academic or administrative employee of a public institution of higher education, or who is an employee of the Board of Regents, the Board of Trustees for State Colleges and Universities, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, or the Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, or any other constitutionally established board which manages institutions of higher education, means his average earnable compensation for the five highest successive years of employment, or the highest five successive joined years where interruption of service occurred. The computation of such average compensation shall be in accordance with the following guidelines:

(i) The amount for the first through the twelfth month shall not exceed the compensation for the immediately preceding twelve months by more than fifteen percent.

(ii) The amount for the thirteenth through the twenty-fourth month shall not exceed the lesser of the maximum allowable compensation amount or the actual

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compensation amount for the first through twelfth month by more than fifteen percent.

(iii) The amount for the twenty-fifth through the thirty-sixth month shall not exceed the lesser of the maximum allowable compensation amount or the actual compensation amount for the thirteenth through twenty-fourth month by more than fifteen percent.

(iv) The amount for the thirty-seventh through the forty-eighth month shall not exceed the lesser of the maximum allowable compensation amount or the actual compensation amount for the twenty-fifth through the thirty-sixth month by more than fifteen percent.

(v) The amount for the final twelve months shall not exceed the lesser of the maximum allowable compensation amount or the actual compensation amount for the thirty-seventh through the forty-eighth month by more than fifteen percent.

(c) The thirty-six or sixty months used for average compensation, as the case may be, cannot cover a period when the member receives more than three years or five years of service credit respectively.

~~(c)~~ (d)(i) The limitations on the computation of average compensation in this Paragraph shall not apply to any of the twelve-month periods where compensation increased by more than the amount allowable in Subparagraph (a) of this Paragraph over the previous twelve-month period solely because of an increase in compensation by legislative act, by city/parish systemwide salary increase, or by a systemwide increase at a college or university.

(ii) Any active member or retiree whose average compensation includes or would include earnable compensation received between June 30, 1995, and June 30, 1997, as the result of a legislative act, a city/parish systemwide salary increase, or a systemwide increase at a college or university shall have his average compensation calculated without regard to the limitations on the computation of average compensation imposed in this Paragraph for that period. The provisions of this Item shall only apply to any such member or retiree whose employer filed with this

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system on or before July 1, 1998, a written request or application for coverage under this Subparagraph.

(iii) Any retiree to whom Item (ii) of this Subparagraph applies, whose benefits are based, or by reason of Item (ii) of this Subparagraph would be based, on a calculation of average compensation which includes earnable compensation between June 30, 1995, and June 30, 1997, shall have his benefits recalculated in accordance with this Subparagraph and, if an increase in benefits results, the retiree shall be paid such an amount to restore any prior benefits that would have been paid if the benefits had originally been calculated in accordance with this Subparagraph.

~~(d)~~ (e) Provided, however, in any case where a classroom teacher changes employment to that of a classroom teacher in another parish, the amount for the twelve months of earnings in the position of a classroom teacher in the second parish of employment shall not exceed the compensation for the immediately preceding twelve months by more than twenty-five percent.

~~(e)~~ (f) Notwithstanding any other provision of law to the contrary, "average compensation" shall not include any amount in excess of the limitation provided in R.S. 11:785.1.

* * *

§927. Contributions

A. Each participant shall contribute monthly to the optional retirement plan the same amount which he would be required to contribute to the regular retirement plan of the Teachers' Retirement System of Louisiana if he were a member of that retirement plan, except that R.S. 11:63 shall not be applicable to such participants. Participant contributions may be made by employer pick-up in accordance with the provisions of Section 414(h)(2) of the United States Internal Revenue Code or any amendment thereto. The entirety of each participant's contribution, less any monthly fee established by the board to cover the cost of administration and maintenance of

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the optional retirement plan, shall be remitted to the appropriate designated company or companies for application to the participant's contract or contracts.

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Section 2. The provisions of R.S. 11:403(5), 612(1), and 701(5) as amended by this Act shall not cause the average compensation of any member retiring on or after the effective date of this Act to be less than such member's average compensation as it existed before the effective date of this Act.

Section 3. As soon as practicable after the effective date of this Act, the Public Retirement Systems' Actuarial Committee shall meet to adopt a revised valuation for the system, prepared as provided in R.S. 11:102, applying provisions contained in this Act. This valuation shall include a revised employer contribution rate for each plan within the system to be utilized in the fiscal year which begins on July 1, 2011.

Section 4. Any final judgment, rendered by a court of law, declaring the provisions of this Act to be unconstitutional as applicable to members of the Louisiana State Employees' Retirement System or the Teachers' Retirement System of Louisiana who have attained a vested right with regard to the benefit provisions applicable to such members on the effective date of this Act, shall cause the provisions of this Act to be applicable solely to members of such system who have not attained such a vested right on the effective date of this Act.

Section 5. If the Act originating as House Bill No. 479 of the 2011 Regular Session of the Legislature is enacted, the provisions of this Act shall be null, void, and of no effect.

Section 6. This Act shall become effective on June 30, 2011; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on June 30, 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)]

Pearson HB No. 530

Abstract: Relative to the La. State Employees' Retirement System (LASERS) and the Teachers' Retirement System of La. (TRSL), increases employee contributions and changes from a three-year to a five-year Final Average Compensation (FAC) for state employees and higher education employees. Provides for payment of Unfunded Accrued Liability (UAL).

EMPLOYEE CONTRIBUTIONS

Present law (R.S. 11:62) establishes the employee contribution rates in the following amounts for members of LASERS and TRSL:

I. LASERS

(1) LASERS: Rank-and-file state employees - 7.5% if first employed on or before June 30, 2006; 8% if first employed on or after July 1, 2006.

(2) LASERS: Judges - 11.5% if first employed on or before Dec. 31, 2010; and 13% if first employed on or after Jan. 1, 2011.

(3) LASERS: Legislators - 11.5%.

(4) LASERS: Certain court officers - 11.5% if first employed on or before Dec. 31, 2010; and 8% if first employed on or after Jan. 1, 2011.

(5) LASERS: Governor and lieutenant governor - 11.5% if first employed on or before Dec. 31, 2010; and 8% if first employed on or after Jan. 1, 2011.

(6) LASERS: clerk of the House, scretary of the Senate, and sergeant at arms of the House and Senate - 9.5% if first employed on or before Dec.31, 2010; and 8% if first employed on or after Jan. 1, 2011.

(7) LASERS: Certain correctional employees employed by DPS&C; peace officers employed by DPS&C, office of state police, other than state troopers; and personnel employed by Dept. of Revenue, office of alcohol and tobacco control, first employed on or before Dec. 31, 2010, - 9%.

(8) LASERS: Wildlife agents first employed on or before Dec. 31, 2010, - 9.5%.

(9) LASERS: Bridge police of the Crescent City Connection Division of DOTD, first employed on or before Dec. 31, 2010, - 8.5%.

(10) LASERS: Hazardous duty personnel first employed on or after Jan. 1, 2011 - 9.5%.

(11) TRSL: 8% for regular members, 9.1% for School Lunch Plan A members, and 5% for School Lunch Plan B members.

Proposed law increases employee contributions for LASERS and TRSL members employed in higher education by an additional 1% beginning July 1, 2012, and an additional 1%

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beginning on July 1, 2013. Such increases shall not apply to TRSL members who participate in the Optional Retirement Plan (ORP).

EMPLOYER CONTRIBUTIONS

Present law (R.S. 11:102) generally provides the method for actuarially determining the employer contribution rate for state retirement systems every fiscal year. Such employer contribution shall be a percentage of the total payroll of active members in a given system. Requires each employer paying a portion of a member's salary to fund the employer contribution on that portion of the member's salary. Further provides that employee contributions shall be applied to the total normal cost for a particular fiscal year to reduce the employer portion of the normal cost.

Proposed law provides that the employee rate increase in proposed law shall not be applied toward reducing the employer portion of the normal cost.

Proposed law provides that the dollar amount of the employee contribution increase pursuant to proposed law shall be applied toward reducing the system's Unfunded Accrued Liability (UAL).

AVERAGE COMPENSATION

Present law generally provides for a benefit calculation formula for members of each state system typically consisting of: (years of service) x (accrual rate) x (final average compensation).

Present law (R.S. 11:403(5) and 701(5)), relative to LASERS and TRSL provides varying periods of FAC for members of those systems ranging from three to five years. FAC periods for LASERS and TRSL are as follows:

(1) LASERS: Rank-and-file members hired on or before June 30, 2006, have a three-year FAC. Rank-and-file members hired after such date have a five-year FAC.

(2) LASERS: Special groups such as the governor, lieutenant governor, and legislators, hired on or before Dec. 31, 2010, have a 3-year FAC. Such members hired on or after January 1, 2011, have a 5-year FAC.

(3) LASERS: Certain hazardous duty groups hired on or before Dec. 31, 2010, have a three-year FAC. Such members hired on or after January 1, 2011, have a five-year FAC.

(4) TRSL: Members hired on of before Dec. 31, 2010, have a three-year FAC. Members hired on or after Jan. 1, 2011, have a five-year FAC.

Proposed law provides that every member of LASERS and higher education employees in TRSL shall have a five-year FAC.

Proposed law further provides, as a transition provision, that proposed law shall not cause the average compensation of any member retiring on or after the effective date of proposed law to be less than such member's average compensation as it existed under present law when proposed law becomes effective.

Proposed law provides that the Public Retirement Systems' Actuarial Committee (PRSAC) shall meet as soon as practicable to adopt revised valuations and employer contribution rates for LASERS and TRSL.

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Proposed law provides that in the event proposed law is declared by a court to be unconstitutional as applied to vested members of LASERS and TRSL, proposed law shall only apply to non-vested members.

Effective June 30, 2011. However, if the Act originating as HB No. 479 of 2011 R.S. is enacted, proposed law shall be null, void, and of no effect.

(Amends R.S. 11:102(B)(2)(b)(ii), (3)(a), 403(5), 450(B), 531(A)(1)(c), 612(1), 701(5)(b), through (e), and 927(A); Adds R.S. 11:63 and 701(5)(f))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Retirement to the original bill.

1. Removes proposed changes to the State Police Pension and Retirement System.

2. Changes the employee contribution increase for members to whom proposed law applies from 1.5% on the first $50,000 of earnings and 3% on earnings over $50,000 to a flat 1% increase beginning July 1, 2012, and an additional 1% increase beginning July 1, 2013.

3. Provides that instead of being applied to reducing employer contributions derived from State General Funds, the increased employee contributions implemented by proposed law shall be applied to LASERS' and TRSL's UAL.

4. Provides that employee contribution increases implemented by proposed law shall not apply to ORP participants in TRSL.

5. Retains "anti-spiking" provisions (percentage limitations on a member's FAC period) contained in present law rather than lowering the allowable increases.

6. Provides that if proposed law is declared by a court to be unconstitutional as applied to vested members of LASERS and TRSL, proposed law shall only apply to non-vested members.

7. Changes the effective date of proposed law from July 1, 2011, to June 30, 2011, and provides further that if the Act originating as HB No. 479 of 2011 R.S. is enacted, proposed law shall be null, void, and of no effect.

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