DIGEST

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Arnold HB No. 569

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

Retention of Credits (R.S. 11:141)

Present law provides that a member of an actuarially funded retirement system, except for the Louisiana State Employees' Retirement System (LASERS), the Teachers' Retirement System of Louisiana (TRSL), and the Louisiana School Employees' Retirement System (LSERS), who transfers to another retirement system but who has at least 10 years of service in the transferring system may retain membership in the transferring system.

Proposed law excepts members of HPRS from present law.

Reciprocal Recognition of Service (R.S. 11:142)

Present law provides that members of certain retirement systems who have service credit in certain other such systems may combine service credit in all such systems, subject to certain conditions.

Proposed law adds HPRS to the list of such systems.

Transfers Between Systems (R.S. 11:143)

Present law allows members of certain public retirement systems to transfer service credit among such other retirement systems if they have at least 6 months of service credit in such a system.

Proposed law adds HPRS to the list of such systems.

Repayment of Refunded Contributions (R.S. 11:144 and 144.1)

Present law allows members of certain retirement systems with at least 6 months of service credit to repay to any such system employee contributions refunded to such members if they avail themselves of present law (R.S. 11:142 and 143).

Present law allows a member of a public retirement system who has terminated membership in such system and who has received a refund of employee contributions to repay such contributions if he regains membership in a system into which his original system has been merged.

Proposed law adds HPRS to the list of such systems.

Service Credit of Certain Elected Officials (R.S. 11:145)

Present law provides that any member of a retirement system who loses service credit by virtue of legislation shortening his term of office shall be granted any service credit lost for such cause.

Proposed law clarifies that HPRS shall be one of such systems.

Membership Age Limitations (R.S. 11:148)

Proposed law provides that membership in a public retirement system for any person under the age of 60 who is otherwise eligible for such membership shall be mandatory. Present law exempts membership in certain systems from such rule: the State Police Pension and Retirement System (STPOL), the Municipal Police Employees' Retirement System (MPERS), the Sheriff's Pension and Relief Fund (SPRF), and certain other hazardous duty plans.

Proposed law provides that HPRS shall be one of such systems exempted from present law.

Receipt of Lump Sum Benefits (R.S. 11:155)

Present law provides that in any public retirement system which provides “optional allowances”, no member, retiree, or beneficiary shall be allowed to receive a benefit in a lump-sum, except in the case of certain systems’ Deferred Retirement Option Plans (DROP).

Proposed law provides that such provisions of present law shall not apply to retirement benefits provided by HPRS under present law (R.S. 11:3685) and proposed law.

Purchase of Service Credit (R.S. 11:158)

Present law allows members of certain retirement systems to purchase service credit under the individual provisions applicable to such systems by paying certain actuarial costs. Applies only if such systems otherwise provide for the purchase of service credit.

Proposed law adds HPRS to the list of such systems.

Submission of Reports to the Legislature (R.S. 11:171 and 173)

Present law requires certain retirement systems to submit annual actuarial valuations, financial statements, and audit reports to the House and Senate committee on retirement by certain dates. Furthermore, present law requires the secretary of the Dept. of Health and Hospitals to submit to certain retirement systems, on a monthly basis, a list of all individuals who have died within the state.

Proposed law adds HPRS to the list of such systems.

Education Requirements for Boards of Trustees (R.S. 11:185)

Present law requires the members of boards of trustees of state and statewide retirement systems to receive a certain number of hours of education every year.

Proposed law provides that such education requirements shall apply to members of the HPRS board.

Definitions (R.S. 11:3682)

Present law defines "average final compensation" (FAC) for a member of HPRS as the average of the highest 3 years of a member's compensation.

Proposed law retains present law but provides that the FAC for a member hired on or after July 1, 2011, shall mean the average of the highest 5 years of a member's compensation. Further provides that for members hired on or after July 1, 2011, the earnings within the FAC period shall not increase by more than 15% each year ("anti-spiking").

Proposed law defines "contractually agree" to mean to abide by a specified set of terms as evidenced by written contract.

Proposed law defines "vested" as being eligible for a retirement, disability, or survivor benefit.

Membership

Present law (R.S. 11:3683) provides for membership in HPRS for certain employees of the Harbor Police Department of the Port of New Orleans. Provides that membership shall be

mandatory for individuals hired after August 1, 1971. Provides for the ability to opt in or opt out of HPRS for individuals hired before such date. Furthermore, provides for mandatory transfer to HPRS for an individual hired before such date who is a member of another public retirement system.

Proposed law removes the August 1, 1971, distinction, therefore removing the optional membership and mandatory transfer for members hired before such date.

Present law provides further that any employee who is employed on July 7, 2003, who was unable to join HPRS because he is a retiree of another system, may become a member of HPRS from his first date of hire. Further provides that he may purchase retroactive service credit.

Proposed law removes language relating to the purchase of such service credit for such individual.

Present law provides relative to termination of membership in HPRS. Provides that termination shall occur, for persons absent from service for more than 5 years.

Proposed law provides that termination of service shall also occur if such a member has taken a refund of employee contributions.

Creditable Service

Present law provides mechanisms whereby immediately after the establishment of the HPRS system, HPRS shall verify all prior service credit for all of its members in all previous systems. Requires the board to issue a "prior service certificate".

Proposed law removes such mechanisms and removes the ability for a member to receive service credit pursuant to a "prior service certificate". Clarifies that service credit shall *only* be credited for service rendered since a member's last becoming a member.

Proposed law clarifies the manner in which service credit shall accrue: in increments of 1/10th of a month.

Present law provides the manner in which annual leave and sick leave are to be converted to service credit.

Proposed law clarifies the manner in which annual leave and sick leave shall be converted to service credit. Unused annual and sick leave shall not be used toward attaining eligibility, but may be used for benefit calculation purposes. Establishes a leave conversion table.

Proposed law clarifies that military service may only be accrued or purchased as provided in the Military Service Relief Act pursuant to present law (R.S. 29:401 through 426).

Retirement Eligibility (R.S. 11:3685)

Present law provides for retirement for a member of HPRS if he has:

(1) Attained the age of 45 with 20 years of service credit.

(2) Attained any age with 25 years of service credit.

(3) Attained the age of 60 with 10 years of service credit.

(4) Attained the age of 55 with 12 years of service credit.

Proposed law retain present law's retirement eligibility provisions for members hired prior to July 1, 2011.

Proposed law further provides for retirement for a member of HPRS hired on or after July 1, 2011, if he has:

(1) Attained any age with 25 years of service credit.

(2) Attained the age of 55 with 12 years of service credit.

(3) Attained eligibility for early retirement with 20 years of service credit at any age, subject to an actuarial reduction of benefits.

Proposed law provides that any member hired prior to July 1, 2011, who reaches 10 years of service credit, and any member hired on or after July 1, 2011, who reaches 12 years of service credit, may leave his contributions in the retirement system and receive a retirement benefit upon attaining the requisite age for retirement.

Benefit Calculation (R.S. 11:3685(A)(1))

Present law provides that the retirement benefit of an HPRS retiree shall be equal to 3.33% x years of service x FAC.

Proposed law clarifies that the accrual rate for an HPRS retiree shall be 3.33% or whatever the accrual rate was when service was earned.

Survivor Benefits (R.S. 11:3685(A)(2))

Present law provides that if any member with at least 5 years of service credit dies before reaching retirement, his surviving spouse and/or children under the following circumstances in the following amounts:

(1) Surviving spouse without children - 40% of the member's FAC.

(2) Surviving spouse with children - 60% of FAC. Benefits cease upon children reaching

majority or remarriage of spouse.

(3) Children without surviving spouse - 60% of FAC. To be paid until youngest child reaches majority.

Proposed law provides that, effective July 1, 2011, and thereafter, if any member with at least 12 years of service credit dies before reaching retirement, his surviving spouse shall receive a benefit equivalent to the Option 2 optional allowance for the remainder of the live of the surviving spouse.

Proposed law provides further that if a member with 10 or more years of service, but less than 12 years of service, dies before reaching retirement, his surviving spouse and/or children under the following circumstances in the following amounts:

(1) Surviving spouse without children - 40% of the member's FAC.

(2) Surviving spouse with children - 40% of FAC + the greater of $200 or 10% of FAC per child for no more than a combined 60% of FAC. Benefits cease upon children reaching majority or remarriage of spouse.

(3) Children without surviving spouse - 40% of FAC for one child and 60% of FAC for two or more children. To be paid to each child until he reaches majority.

Proposed law provides that survivor benefits shall continue past majority for physically or mentally handicapped children.

Present law provides that a survivor benefit payable for a death sustained in the performance of a member's official duties shall be paid regardless of the number of years of service credit and shall be 60% of FAC payable to the surviving spouse until remarriage, or to surviving minor children in lieu of a spouse, or to his surviving parents in lieu of a spouse or children.

Proposed law retains present law.

DROP (R.S. 11:3685 (B) and (C))

Present law provides relative to Deferred Retirement Option Plan (DROP) participation for members of HPRS hired prior to July 1, 1995. Proposed law deletes such provisions.

Present law provides relative to DROP participation for members hired on or after July 1, 1995. Proposed law provides that such provisions shall apply to members hired on or after such date but prior to July 1, 2011. Provides the DROP period for such members shall not exceed 5 years. Members in DROP shall agree to cease employment upon completing DROP.

Present law provides that interest for members hired on or after July 1, 1995, but prior to July 1, 2011, shall not be earned during DROP participation, but upon completion of DROP shall be credited to the member's DROP account in an amount equal to the system's rate of return less ½ of 1%.

Proposed law provides that interest shall be earned during DROP participation.

Proposed law provides further for DROP provisions applicable to members hired on or after July 1, 2011. For such members, the DROP period shall not exceed 3 years. No interest shall be earned on such member's DROP account during the DROP period. However, interest shall be earned after participation in DROP has terminated. Such member may choose to earn at the system interest rate (subject to a waiver of his constitutional rights) or shall have his DROP funds transferred to a self-directed plan with a third party. Such member may continue his employment after participation in DROP, and shall be eligible to accrue a supplemental benefit for his post-DROP service.

Cost-of-Living Adjustments (COLAs) (R.S. 11:3685(D) and (F))

Present law allows the HPRS board to grant a COLA to retirees if either:

(1) The system's realized investment returns exceed the actuarial rate of return; or

(2) The funded ratio of HPRS is at least 90%.

Proposed law provides that in order to satisfy (1) above, HPRS' funded ratio must be at least 65% for a COLA to be granted.

Proposed law clarifies that the excess investment earnings to be used by the board in determining whether to grant a COLA in (1) above shall be the investment return on the assets of the system rather than the investment return on the reserve allocated to retirees.

Present law provides that a COLA shall not exceed 3% for every year before a retiree reaches age 65 and 5% for every year after 65.

Proposed law provides that COLAs payable to retirees under 65 shall not exceed 3% and shall

not exceed 5% for retirees over 65.

Proposed law provides that a retiree shall not receive a COLA unless he had been retired for at least one year on the effective date of the COLA (January 1st of each year). Proposed law further provides that members hired on or after July 1, 2011, must be at least 60 to receive a COLA.

Proposed law further provides for an automatic 2.5% COLA as an option upon retiring. A member choosing such automatic COLA shall have his retirement benefit actuarially reduced in order to receive such COLA.

Retroactivity of Benefit Increases (R.S. 11:3685(E))

Proposed law provides that, effective July 1, 2011, any benefit increase for HPRS members shall only be applied to service credit accruing after the effective date of the increase. Clarifies that changes in benefits shall not apply to any retirees.

Initial Benefit Option (R.S. 11:3685(G))

Proposed law provides that, effective July 1, 2011, an Initial Benefit Option (IBO) shall be available to members of HPRS as an option at retirement. Provides for the payment of a lump-sum amount upon retirement, not to exceed the amount of 36 benefit payments. Individuals selecting the IBO shall have their remaining retirement benefit payments actuarially reduced based on the lump-sum amount received.

Tax Qualification (R.S. 11:3685.1 and 3685.2)

Proposed law makes changes to certain provisions relating to HPRS in conformity with provisions of the Internal Revenue Code relative to tax-qualified plans.

Proposed law further provides that the HPRS board shall promulgate rules for administering certain tax qualification provisions in present law and proposed law.

Disability Retirement (R.S. 11:3686)

Present law provides that any member with at least 5 years of service credit, who becomes disabled, may apply for a disability retirement.

Proposed law provides instead that a member must have at least 10 years of service credit to apply for disability retirement for in-the-line of duty disability and 5 years of service credit for non-duty related disabilities.

Proposed law provides for procedures for applying for disability retirement.

Present law provides that a member becoming disabled from an injury sustained in the line of duty shall be entitled to a disability benefit equal to 60% of his FAC. Present law provides no benefit amount for disability for injuries not sustained in the line of duty.

Proposed law provides that a member becoming disabled from an injury sustained in the line of duty shall be entitled to a disability benefit equal to the greater of 60% of his FAC or what his regular retirement benefit would be given his years of service.

Present law provides that any amount received from Workers' Compensation or Social Security shall offset any disability benefit payable by HPRS.

Proposed law retains present law.

Proposed law provides that if the board determines that a disability retiree is able to engage in gainful employment , his retirement benefit shall be reduced to an amount, which combined with his earnings equals his FAC.

Proposed law provides that a disability retiree restored to active service at a salary less than his FAC shall not become a member of the system.

Present law and proposed law provide mechanisms for continued certification of eligibility for disability benefits.

Optional Allowances (R.S. 11:3687)

Present law provides an HPRS retiree with several benefit payment options for his monthly retirement benefit. A member may choose the "maximum option", whereby no benefits shall be payable to a beneficiary upon his death, or may choose from several options which actuarially reduce his monthly benefit but will provide a benefit to his designated beneficiary upon his death.

Proposed law retains present law and makes several technical clarifications.

Administration of HPRS (R.S. 11:3688)

Present law provides generally for an HPRS board of trustees. Provides that the board shall be responsible for the operation of HPRS, and may employ or appoint certain professionals to carry out such responsibility.

Proposed law retains present law but provides that all service providers for HPRS including CPAs, actuaries, attorneys, investment advisors, and plan administrators shall be chosen jointly by the board of trustees and the Board of Commissioners of the Port of New Orleans.

Proposed law removes references to a medical board responsible for certifying disability applications and instead allows the board of trustees to hire a firm to provide medical advice to the board of trustees.

Method of Financing (Employee and Employer Contributions, etc.) (R.S. 11:3690)

Present law provides that the employee contribution for members of HPRS shall be 7% of compensation.

Proposed law changes the employee contribution to 9% of compensation.

Present law provides for calculations of normal cost and accrued liability for the purposes of determining the employer contribution rate.

Proposed law makes various technical and administrative changes in making such calculations.

Present law sets a cap on the employer contribution at 13% of payroll.

Proposed law changes the employer cap to 20% of payroll.

Unclaimed Funds (R.S. 11:3690.2)

Present law provides that any funds or property in the HPRS trust that could be claimed by a member, his heirs, or his beneficiaries shall not be presumed to be abandoned and shall remain with the system continuously.

Proposed law provides that in the event of a merger of HPRS with another system, such unclaimed property shall be transferred to the new system and shall remain with that system continuously.

Errors and Omissions (R.S. 11:3696)

Proposed law provides that if any calculation error was made, which resulted in a member or beneficiary receiving the incorrect benefit amount, the HPRS board shall correct such mistake in a manner that is actuarially equivalent to the benefit that should have received. Further provides that the corrected benefit shall be paid prospectively. Further provides that the collection of overpayments or underpayments may be waived by the system if:

(1) It is deemed not to be cost effective to the system to locate a beneficiary or the estate of a member; or

(2) It is deemed by the board to be a hardship on the member or beneficiary.

Benefit Changes and Errors (R.S. 11:3698)

Proposed law provides that statutory benefit changes shall be prospective only, unless otherwise specified by the legislation enacting the changes.

Proposed law provides that should any errors in benefit calculations be discovered through an audit conducted in 2011, the errors shall be addressed pursuant to Present law and proposed law, prospectively, and in the following manner:

(1) For members hired on 9/23/70, 6/21/79, 7/9/57, 1/3/59, and 6/28/61, whose retirement eligibility erroneously included unused sick leave toward service credit, the use of such leave shall be allowed.

(2) For members hired on 8/29/1990 and 4/4/94, who were over the permissible age for membership in HPRS, such members shall continue to be allowed as members of HPRS.

(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, 9/23/70, and others, who were granted military service credit without paying for such credit, the use of such credit shall be allowed.

(4) Act 484 of the 1985 Regular Legislative Session provided for an increase in accrual rate from 3% to 3.33%. The Act provided that the increase shall be effective upon the board's approval. The board never approved such increase. Proposed law provides that such increase shall be applied as though properly adopted by the board of trustees for all members employed on July 1, 2011, and all persons retired as of such date.

(5) The increase to 3.33% and an increase in 1975 from 2.5% to 3% were implemented

without guidance as to whether the increases were for future *and* past service. Proposed law provides that the increases shall be applicable to all service.

(6) Any cumulative net overpayment error shall be forgiven and any cumulative net underpayment error shall be paid entirely in a lump sum.

(7) For members hired on 3/27/68, 7/3/68, 12/3/68, 6/28/61, 3/30/71, 4/5/67, 3/25/60, 9/29/66, 9/23/70, 12/2/68, 7/28/69, 7/8/71, 6/21/69, 11/8/56, and 10/4/69 who transferred into HPRS at an accrual rate of 2.5% and were granted an accrual rate or 3% or 3.33% shall hire percentage shall be allowed.

Proposed law the adjustments permitted under proposed law shall cease to be effective on July 1, 2012.

(Amends R.S. 11:141, 142(A), 143(A)(1), 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, 3688(A)(8), (9), (10), and (11), (B), (C), and (D), 3689, 3690, 3690.2, 3691, 3692, 3693, and 3695; Adds R.S. 11:158(B)(15), 173(A)(14), 174(B)(18), 185(D), 3684.1, 3685.2(D) and (E), 3688(A)(12) and (E), 3696, 3697, and 3698; Repeals R.S. 11:3694)

Summary of Amendments Adopted by House

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

1. Removes provision authorizing the purchase of "air time" by members, which is the purchase of service credit for which there is no corresponding public service.

2. Removes provision authorizing the purchase of military service credit by members except as already provided in present law.

3. With regard to survivor benefits when a member dies in the line of duty, removes proposed law calculation formula whereby the surviving spouse receives the greater of 60% of the members FAC or the amount payable under retirement option 2 and restores present law calculation formula whereby the surviving spouse receives 60% of the member's FAC.

4. Clarifies that the excess investment earnings to be used by the board in determining whether to grant a COLA shall be the investment return on the assets of the system rather than the investment return on the reserve allocated to retirees.

5. Removes provisions of proposed law for calculation of disability benefits for injuries not sustained in the line of duty: 40% of FAC, or the member's regular retirement benefit if he has 12 years of service and reaches retirement age.

6. Removes certain retirement options from proposed law relating to joint and survivor annuities for handicapped children.

7. Removes provision of proposed law allowing a trust to be designated as a beneficiary of retirement benefits.

8. Removes references to a medical board in present law, which is responsible for certifying disability applications and instead allows the board of trustees to hire a firm to provide medical advice to the board of trustees.

9. Removes provisions of proposed law allowing the board of trustees of the retirement system to accept an annuity from the port of commissioners (the employer) to pay for unfunded liabilities.

10. Adds several individuals to the list of calculation errors being rectified in proposed law.