

Regular Session, 2012

HOUSE BILL NO. 1050

BY REPRESENTATIVE RITCHIE

RETIREMENT/MUNICIPAL POL: Provides for tax qualification status of the Municipal Police Employees' Retirement System

1 AN ACT

2 To enact R.S. 11:2220(I) and 2225(B) and to repeal R.S. 11:2220.1, 2220.2, 2220.3, and
3 2234, relative to the Municipal Police Employees' Retirement System; to provide
4 relative to compliance with applicable federal tax qualification requirements; to
5 provide an effective date; and to provide for related matters.

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 11:2220(I) and 2225(B) are hereby enacted to read as follows:

11 §2220. Benefits; contribution limit

12 * * *

13 I. If a member dies on or after January 1, 2007, while performing qualified
14 military service as defined in 26 U.S.C. 414(u), eligibility for survivor benefits under
15 this Section shall be determined as if the member had resumed employment and then
16 terminated employment on account of death. The retirement system shall credit the
17 member's qualified military service as service credit for vesting purposes and for
18 eligibility computation purposes as though the member had resumed employment
19 under the Uniformed Services Employment and Reemployment Rights Act
20 immediately prior to the member's death. The time spent by the member in qualified

1 military service shall not count for benefit accrual purposes but shall count for
2 eligibility purposes under this Section.

3 * * *

4 §2225. Administration

5 * * *

6 B. The retirement system shall take all actions necessary to comply with the
7 provisions of the Internal Revenue Code applicable to qualified governmental
8 retirement plans. Amendments to the fund required for the purpose of maintaining
9 continued compliance with the Internal Revenue Code and the regulations thereunder
10 may be promulgated as rules in accordance with the Administrative Procedure Act,
11 and the plan provisions shall hereafter consist of this Chapter together with such
12 properly promulgated rules.

13 * * *

14 Section 2. R.S. 11:2220.1, 2220.2, 2220.3, and 2234 are hereby repealed in their
15 entirety.

16 Section 3.(A) The provisions of Section 2 of this Act shall become effective when
17 rules promulgated by the Municipal Police Employees' Retirement System to incorporate in
18 the Administrative Code the substance of R.S. 11:2220.1, 2220.2, 2220.3, and 2234, as
19 necessary to maintain tax qualification status become effective.

20 (B) The provisions of this Section and Section 1 of this Act shall become effective
21 upon signature of this Act by the governor or, if not signed by the governor, upon expiration
22 of the time for bills to become law without signature by the governor, as provided by Article
23 III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and
24 subsequently approved by the legislature, this Section and Section 1 of this Act shall become
25 effective on the day following such approval.

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)]

Ritchie

HB No. 1050

Abstract: Provides relative to the tax qualification status of the Municipal Police Employees' Retirement System (MPERS) and allows the system to make changes in their laws necessary for tax qualification through the administrative rules process.

Present federal law (Internal Revenue Code §401 et seq.) contains certain requirements which must be met in order for governmental and nongovernmental retirement plans to attain and maintain "tax-qualified" status.

Present federal law (the Uniformed Services Employment and Reemployment Rights Act (USERRA)) provides relative to reemployment rights and retirement benefits of retirement system members performing "qualified military service".

Present state law (R.S. 29:401 et seq.) adopts and supplements USERRA.

Present federal law (Internal Revenue Code §414(u)) requires a retirement plan to comply with USERRA in order to maintain its tax-qualified status.

Present federal law (the Heroes Earnings Assistance and Relief Tax Act (HEART)) requires a tax-qualified retirement plan to comply with several additional requirements with respect to retirement system members performing "qualified military service":

- (1) Death Benefits - for purposes of death benefits, if a member dies while performing qualified military service, the plan shall treat such member as having died during covered employment with the retirement plan.
- (2) "Differential Wage Payment" – for any member performing qualified military service, who received "differential wage payments" from his employer (the portion of wages that the employee would be receiving if he were still employed), such payments shall be treated as compensation for purposes of testing contribution limits under federal law.

Proposed state law incorporates part of USERRA into the benefits statute for MPERS. Provides that a member who dies while performing qualified military service shall be treated as having been reemployed in his civilian position and died while an active employee. Such member's qualified military service shall be applied to his years of creditable service for purposes of vesting and retirement eligibility. Specifically prohibits such service from being used in the calculation of benefit accruals.

Further authorizes MPERS to adopt provisions complying with present federal law through the administrative rules process.

Proposed state law repeals certain provisions in the MPERS statutes relative to tax qualification status in order that such provisions may be recodified through administrative rule. Proposed law effecting the repeal of certain statutes shall become effective upon completion by MPERS of amending and recodifying these statutes through administrative rules.

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

(Adds R.S. 11:2220(I) and 2225(B); Repeals R.S. 11:2220.1, 2220.2, 2220.3, and 2234)