

Regular Session, 2012

SENATE BILL NO. 47

BY SENATOR GUILLORY

RETIREMENT SYSTEMS. Provides relative to final average compensation. (6/30/12)

1 AN ACT

2 To amend and reenact R.S. 11:403(5) and 701(5)(b) through (e) and to enact R.S.
3 11:701(5)(f) and Subpart P of Part II of Chapter 4 of Subtitle I of Title 11 of the
4 Louisiana Revised Statutes of 1950, to be comprised of R.S. 11:331, relative to
5 certain members of the Louisiana State Employees' Retirement System and certain
6 postsecondary education members of the Teachers' Retirement System of Louisiana;
7 to provide with respect to benefit calculation; to provide an effective date; and to
8 provide for related matters.

9 Notice of intention to introduce this Act has been published.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 11:403(5) and 701(5)(b) through (e) are hereby amended and
12 reenacted and R.S. 11:701(5)(f) and Subpart P of Part II of Chapter 4 of Subtitle I of Title
13 11 of the Louisiana Revised Statutes of 1950, comprised of R.S. 11:331, are hereby enacted
14 to read as follows:

15 **SUBPART P. LEGISLATIVE INTENT**

16 **§331. Legislative intent; certain acts**

17 **The Legislature of Louisiana hereby declares that the intent of the**

provisions of this Title that were enacted by the Act that originated as Senate Bill No. 47 of the 2012 Regular Session of the Legislature is to attain and maintain the actuarial soundness of the state and statewide systems as required by the Constitution of Louisiana, Article X, Section 29.

* * *

§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~~ any of the following members 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.:

(aa) Public safety services employees referred to as "member" or "members" in R.S. 11:601(B).

(bb) Peace officers employed by 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).

(cc) Personnel employed by the Department of Revenue, office of alcohol and tobacco control, as provided in R.S. 11:444(A)(2)(c).

(dd) Wildlife agents.

1 **(ee) Bridge police.**

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

9 (b)(i) "Average compensation", for a ~~member~~ **any member not covered by**
10 **the provisions of Subparagraph (a) of this Paragraph** ~~whose first employment~~
11 ~~making him eligible for membership in the system began on or after July 1, 2006,~~
12 ~~and subject to the limitations provided in this Subparagraph,~~ means the average
13 annual earned compensation of a ~~state employee~~ **member** for the sixty highest
14 months of successive employment or for the highest sixty successive joined months
15 of employment where interruption of service occurred; however, average
16 compensation for part-time employees who do not use sixty months of full-time
17 employment for average compensation purposes shall be based on the base pay the
18 part-time employee would have received had he been employed on a full-time basis.
19 ~~This Item shall also be applicable to any judge, court officer, governor, lieutenant~~
20 ~~governor, clerk or sergeant-at-arms of the House of Representatives, secretary or~~
21 ~~sergeant-at-arms of the Senate, or state treasurer whose first employment making~~
22 ~~him eligible for membership in one of the state systems occurred on or after January~~
23 ~~1, 2011.~~

24 (ii) The earnings to be considered for persons to whom Item (i) of this
25 Subparagraph applies for the thirteenth through the twenty-fourth month shall not
26 exceed one hundred fifteen percent of the earnings of the first through the twelfth
27 month. The earnings to be considered for the twenty-fifth through the thirty-sixth
28 month shall not exceed one hundred fifteen percent of the earnings of the thirteenth
29 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 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.~~

~~(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.~~

* * *

§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)

* * *

(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 Supervisors for the**

University of Louisiana System, 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 postsecondary education, notwithstanding any provision of Subparagraph (a) of this Paragraph, means his average earnable compensation for the sixty highest months of successive employment or for the highest sixty successive joined months of employment 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 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.

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

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

10 (ii) Any active member or retiree whose average compensation includes or
11 would include earnable compensation received between June 30, 1995, and June 30,
12 1997, as the result of a legislative ~~act~~ **Act**, a city/parish systemwide salary increase,
13 or a systemwide increase at a college or university shall have his average
14 compensation calculated without regard to the limitations on the computation of
15 average compensation imposed in this Paragraph for that period. The provisions of
16 this Item shall only apply to any such member or retiree whose employer filed with
17 this system on or before July 1, 1998, a written request or application for coverage
18 under this Subparagraph.

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

26 ~~(d)~~ (e) Provided, however, in any case where a classroom teacher changes
27 employment to that of a classroom teacher in another parish, the amount for the
28 twelve months of earnings in the position of a classroom teacher in the second parish
29 of employment shall not exceed the compensation for the immediately preceding

1 twelve months by more than twenty-five percent.

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

5 * * *

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

10 Section 3. R.S. 11:403 as amended by this Act shall not apply to a judge during the
11 term of office he is serving on June 30, 2012. After that term, R.S. 11:403 as amended by
12 this Act shall apply to a member holding that office.

13 Section 4. (A) On June 30, 2012, this Act shall become applicable to members of
14 the Louisiana State Employees' Retirement System and the Teachers' Retirement System of
15 Louisiana who are not eligible for retirement on or before September 30, 2012.

16 (B) On October 1, 2012, the provisions of this Act shall become applicable to other
17 members of the Louisiana State Employees' Retirement System and the Teachers' Retirement
18 System of Louisiana.

19 Section 5. (A) As soon as practicable after the effective date of this Act, the Public
20 Retirement Systems' Actuarial Committee shall meet to adopt a revised valuation for each
21 system prepared as provided in R.S. 11:102. This valuation shall include a revised employer
22 contribution rate for each plan within the system to be utilized in the fiscal year which begins
23 on July 1, 2012. This valuation shall incorporate all changes enacted by the legislature in the
24 2012 Regular Session.

25 (B) The Public Retirement Systems' Actuarial Committee is hereby authorized to
26 adopt an actuarial valuation or revised employer contribution rate to be utilized in the fiscal
27 year which begins on July 1, 2012, calculated in accordance with R.S. 11:102, which has
28 been prepared on behalf of the division of administration by a member of the American
29 Academy of Actuaries who meets the qualification requirements of the academy to issue a

1 particular statement of actuarial opinion.

2 Section 6. Because the legislature finds and declares that questions of law may be
3 raised by some persons with respect to the constitutionality of some of the provisions of this
4 Act, the public welfare requires that such questions of law be resolved with expedition prior
5 to such time as its provisions take effect in order to avoid disruption of the orderly
6 implementation of its provisions. Therefore, the legislature finds that an expedited hearing
7 schedule for actions filed relative to the constitutionality of any provision of this Act should
8 be immediately made available in order to avoid confusion by the public. Therefore, any
9 domiciliary of this state may institute an action in the Nineteenth Judicial District Court
10 seeking a declaratory judgment to determine the constitutionality of the provisions of this
11 Act. The attorney general and the governor shall be served with a copy of the proceeding and
12 shall be entitled to be heard. In the interest of further expediting this procedure, the
13 Nineteenth Judicial District Court, First Circuit Court of Appeal, and Louisiana Supreme
14 Court are urged to minimize all unnecessary delays in order to resolve any questions of law
15 no later than thirty days prior to the prefiling deadline for retirement legislation for the 2013
16 regular legislative session, and the courts may suspend all applicable rules of court for this
17 limited purpose.

18 Section 7. If a final judgment declares any of the provisions of this Act
19 unconstitutional or unconstitutional as applied to a particular class of employees, the other
20 provisions of this Act shall remain in effect and also shall be applicable to all other classes
21 of employees unrelated to the judgment.

22 Section 8. The provisions of this Act shall become effective on June 30, 2012; if
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
24 effective on June 30, 2012, or on the day following such approval by the legislature,
25 whichever is later.

The original instrument was prepared by Laura Gail Sullivan. The following digest, which does not constitute a part of the legislative instrument, was prepared by Margaret M. Corley.

DIGEST

Guillory (SB 47)

Proposed law provides that it is the legislative intent of proposed law to attain and maintain the actuarial soundness of state and statewide retirement systems as required by present constitution (Art. X, §29).

Present law generally provides for a benefit calculation formula for members of each state system including the Louisiana State Employees' Retirement System (LASERS) and the Teachers' Retirement System of Louisiana (TRSL), typically consisting of:

(years of service) x (accrual rate) x (final average compensation (FAC))

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 three-year FAC. Such members elected on or after Jan. 1, 2011, have a five-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 Jan. 1, 2011, have a five-year FAC.
4. TRSL: Members hired on or 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 all members of LASERS who are in "hazardous duty" jobs and hired prior to June 30, 2006, shall retain the three-year FAC. For purposes of proposed law, "hazardous duty" jobs are:

1. Public safety services employees referred to as "member" or "members" in R.S. 11:601(B); peace officers employed by the Dept. 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 Dept. of Revenue, office of alcohol and tobacco control, as provided in R.S. 11:444(A)(2)(c).
2. Wildlife agents.
3. Bridge police.

Proposed law further provides that all "non-hazardous duty" employees in LASERS, as defined in proposed law, shall have a five-year FAC, regardless of the date of hire. Further provides that higher education employees, as defined in proposed law, in TRSL shall have a five-year FAC.

Proposed law requires the Public Retirement Systems' Actuarial Committee to meet to adopt a revised valuation for the systems, prepared as provided in R.S. 11:102, applying provisions contained in proposed law. The new 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,

2012.

Present law provides that valuations shall be presented to the committee for consideration by the legislative auditor's office and the retirement system. Proposed law expands the agencies which may present actuarial valuations to the Public Retirement Systems' Actuarial Committee for consideration to include the division of administration, for purposes of determining the employer contribution rate to be remitted for the fiscal year beginning July 1, 2012.

Expands the agencies which may present actuarial valuations to the committee for consideration to include the division of administration, for purposes of determining the employer contribution rate to be remitted for the fiscal year beginning July 1, 2012.

Proposed law provides for an expedited hearing process if proposed law is subjected to legal challenges. Provides for severability if a court declares any provisions of proposed law to be unconstitutional as applicable to certain members of LASERS and TRSL, retaining application of the Act to the remaining members of the system.

Effective June 30, 2012.

(Amends R.S. 11:403(5) and 701(5)(b)-(e); adds R.S. 11:701(5)(f) and 331)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Retirement to the original bill

1. Makes technical corrections.
2. Provides for an expedited hearing process.
3. Expands the agencies which may present actuarial valuations to the Public Retirement Systems' Actuarial Committee for consideration to include the division of administration, for purposes of determining the employer contribution rate to be remitted for the fiscal year beginning July 1, 2012.