

Regular Session, 2012

HOUSE BILL NO. 986

BY REPRESENTATIVE HAZEL

RETIREMENT BENEFITS: Provides for the distribution of benefits from the Firefighters' Retirement System to a trust for a child

1 AN ACT

2 To amend and reenact R.S. 11:2256(B)(2) and (3) and 2259(A) and to enact R.S.
3 11:2256(G) and 2256.2, relative to the Firefighters' Retirement System; to provide
4 for distribution of benefits of a member to a trust established for the benefit of a
5 child; to provide definitions; to provide requirements; to provide restrictions; and to
6 provide for related matters.

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 11:2256(B)(2) and (3) and 2259(A) are hereby amended and
12 reenacted and R.S. 11:2256(G) and 2256.2 are hereby enacted to read as follows:

13 §2256. Benefits; refund of contributions, application, and payment

14 * * *

15 B.

16 * * *

17 (2) Benefits shall be payable to the surviving child or children of a deceased
18 member or retiree as specified in the following:

19 (a) If any active contributing member or a disability retiree dies and leaves
20 in addition to a surviving spouse, one or more children under eighteen years of age,

1 each child under age eighteen shall be paid, on a monthly basis, an annual benefit
2 equal to ten percent of the deceased member's or retiree's average final
3 compensation, or two hundred dollars per month, whichever is greater. However,
4 benefits payable on account of each child, when added to the benefits payable to the
5 surviving eligible spouse, shall not exceed an aggregate of one hundred percent of
6 the average final compensation. Benefits for a surviving child shall cease upon the
7 child's attaining age eighteen years or upon marriage, whichever occurs first, except
8 that benefits shall continue for an unmarried surviving child who is handicapped or
9 mentally retarded as provided in Paragraph ~~(B)~~(3) of this Subsection. Additionally,
10 any unmarried surviving child, who graduates from high school and enrolls, on a
11 full-time basis, in an institute of higher education, shall have his benefit continued
12 as long as he remains enrolled on a full-time basis and remains unmarried; however,
13 the benefit payments shall not extend past four additional years nor past the
14 surviving child's twenty-second birthday. Benefits payable under the provisions of
15 this Subparagraph may be paid in trust as provided in R.S. 11:2256.2.

16 (b) If a member or a disability retiree dies and does not leave a surviving
17 spouse but leaves two or more children under the age of eighteen, each child under
18 age eighteen shall be paid, on a monthly basis, an annual benefit equal to thirty
19 percent of the deceased member's or retiree's average final compensation. Benefits
20 paid on account of all children shall not exceed, on a monthly basis, an annual
21 benefit in the aggregate of sixty percent of the average final compensation. In the
22 event the deceased member or disability retiree is survived by only one minor child,
23 the child shall be paid, on a monthly basis, an annual benefit of not less than forty
24 percent of the deceased member's or retiree's average final compensation. Benefits
25 shall continue after the minor child attains age eighteen as provided in Paragraph
26 ~~(B)~~(3) of this Subsection. Benefits payable under the provisions of this
27 Subparagraph may be paid in trust as provided in R.S. 11:2256.2.

28 (3) Benefits shall be payable to the surviving totally physically handicapped
29 or mentally retarded child or children of a deceased member or retiree as specified

1 in the following. The surviving totally physically handicapped or mentally retarded
2 child or children of a deceased active contributing member, a deceased disability
3 retiree, or a deceased regular retiree, whether under or over the age of eighteen years,
4 shall be entitled to the same benefits, payable in the same manner as are provided in
5 this Section for minor children, if the child was totally physically handicapped or
6 mentally retarded at the time of death of the member or retiree and the child is
7 dependent upon the surviving spouse or other legal guardian for subsistence.
8 Benefits payable under the provisions of this Subparagraph may be paid in trust as
9 provided in R.S. 11:2256.2.

10 * * *

11 G. Notwithstanding any other provision of law to the contrary, the board of
12 trustees may implement a court order directing payment of any portion of a benefit
13 to a trust pursuant to the provisions of R.S. 11:2256.2.

14 * * *

15 §2256.2. Designation of benefits to be paid in trust

16 A. A member may designate all or a portion of any benefit paid in accordance
17 with R.S. 11:2256 or 2259 to be paid in trust to his surviving minor child or his
18 physically or mentally handicapped child regardless of such child's age, if the terms
19 of the trust so provide and if the system is provided with a certified copy of the trust
20 document. Such benefit or designated portion of a benefit shall be paid to the trust
21 for addition to the trust property.

22 B. If the trust is contested by any party or the distribution is challenged by
23 a former spouse of the member, the system shall withhold all benefit payments or if
24 a concursus proceeding is filed deposit them in the registry of the court until there
25 is a final binding legal agreement or judgment regarding the proper payment of
26 benefits.

27 C. If the trust terminates under the terms of the trust prior to the death of a
28 designated beneficiary, then any benefit or portion thereof payable after the date of

1 termination of the trust shall be paid directly to the legal guardian of each trust
2 beneficiary.

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

6 E. For purposes of this Section only, the term "child" means the issue of a
7 marriage of a member of this system, the legally adopted child of a member of this
8 system, a child born outside of marriage of a female member of this system, or the
9 child of a male member of this system if acknowledged or filiated pursuant to the
10 provisions of the Civil Code.

11 * * *

12 §2259. Optional allowances

A.(1) With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any benefit becomes due, any member may elect to receive his benefit in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent at the time of his retirement allowance in a reduced allowance payable throughout life, with the provision that:

Option 1. If he dies before he has received in member's 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 such person as he shall nominate by written designation duly acknowledged and filed with the board of trustees; or

Option 2. 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; or

Option 3. 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

1 written designation duly acknowledged and filed with the board of trustees at the
2 time of his retirement; or

3 Option 4. Some other benefit or benefits shall be payable to any or all of the
4 following persons: the member, the member's spouse, the member's permanently
5 mentally or physically disabled child or children, or the member's dependent minor
6 child or children as he shall nominate, provided such other benefit or benefits,
7 together with the reduced retirement allowance, shall be certified by the actuary to
8 be of equivalent value to his retirement allowance and approved by the board of
9 trustees.

10 (2) For the purposes of this Subsection, the term "person" includes a trust as
11 provided in R.S. 11:2256.2.

12 * * *

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)]

Hazel

HB No. 986

Abstract: Provides for the distribution of benefits paid by the Firefighters' Retirement System (FRS) to a trust established by a member for the benefit of his minor child or his physically or mentally handicapped child of any age.

Present law provides for the distribution of retirement and survivor benefits accrued by a member of the FRS. Proposed law adds distribution to a trust, as provided in proposed law, to the mechanisms by which retirement and survivor benefits may be distributed to the children of members of FRS. Proposed law further authorizes the board of trustees for FRS to implement any court order directing payment of benefits to a trust established in accordance with proposed law.

Proposed law authorizes a member of FRS to leave all or a portion of his benefits in trust. Requires the trust to be established for the benefit of a minor child or a physically or mentally handicapped child of any age.

Proposed law provides recourse for FRS if the trust is challenged by any party or if the distribution is challenged by a former spouse. Further provides for the termination of payments for a beneficiary if the beneficiary dies. Provides for distribution of trust property to the legal guardian of each beneficiary upon termination of the trust.

Proposed law defines "child" as used in proposed law to mean any child born into wedlock, any child born of a female member of the system, any child legally filiated by a male member of the system, and any child legally adopted by a member of the system.

(Amends R.S. 11:2256(B)(2) and (3) and 2259(A); Adds R.S. 11:2256(G) and 2256.2)