

Regular Session, 2012

HOUSE BILL NO. 986

BY REPRESENTATIVE HAZEL AND SENATOR THOMPSON

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,
21 each child under age eighteen shall be paid, on a monthly basis, an annual benefit
22 equal to ten percent of the deceased member's or retiree's average final
23 compensation, or two hundred dollars per month, whichever is greater. However,
24 benefits payable on account of each child, when added to the benefits payable to the

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

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

24 (3) Benefits shall be payable to the surviving totally physically handicapped
25 or mentally retarded child or children of a deceased member or retiree as specified
26 in the following. The surviving totally physically handicapped or mentally retarded
27 child or children of a deceased active contributing member, a deceased disability
28 retiree, or a deceased regular retiree, whether under or over the age of eighteen years,
29 shall be entitled to the same benefits, payable in the same manner as are provided in
30 this Section for minor children, if the child was totally physically handicapped or

1 mentally retarded at the time of death of the member or retiree and the child is
 2 dependent upon the surviving spouse or other legal guardian for subsistence.
 3 Benefits payable under the provisions of this Subparagraph may be paid in trust as
 4 provided in R.S. 11:2256.2.

* * *

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

* * *

10 §2256.2. Designation of benefits to be paid in trust

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

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

22 C. If the trust terminates under the terms of the trust prior to the death of a
 23 designated beneficiary, then any benefit or portion thereof payable after the date of
 24 termination of the trust shall be paid directly to the legal guardian of each trust
 25 beneficiary.

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

29 E. For purposes of this Section only, the term "child" means the issue of a
 30 marriage of a member of this system, the legally adopted child of a member of this

1 system, a child born outside of marriage of a female member of this system, or the
2 child of a male member of this system if acknowledged or filiated pursuant to the
3 provisions of the Civil Code.

4 * * *

5 §2259. Optional allowances

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

13 Option 1. If he dies before he has received in member's annuity payments the
14 present value of his member's annuity as it was at the time of his retirement, the
15 balance shall be paid to such person as he shall nominate by written designation duly
16 acknowledged and filed with the board of trustees; or

17 Option 2. Upon his death, his reduced retirement allowance shall be
18 continued throughout the life and paid to such person as he shall nominate by written
19 designation duly acknowledged and filed with the board of trustees at the time of his
20 retirement; or

21 Option 3. Upon his death, one-half of his reduced retirement allowance shall
22 be continued throughout the life of and paid to such person as he shall nominate by
23 written designation duly acknowledged and filed with the board of trustees at the
24 time of his retirement; or

25 Option 4. Some other benefit or benefits shall be payable to any or all of the
26 following persons: the member, the member's spouse, the member's permanently
27 mentally or physically disabled child or children, or the member's dependent minor
28 child or children as he shall nominate, provided such other benefit or benefits,
29 together with the reduced retirement allowance, shall be certified by the actuary to

