

Regular Session, 2012

ACT No. 481

HOUSE BILL NO. 41

BY REPRESENTATIVE PEARSON

1 AN ACT

2 To amend and reenact R.S. 11:1532 and to enact R.S. 11:1518, 1521.2, 1524(C), and
3 1533(F), relative to the Clerks' of Court Retirement and Relief Fund; to provide
4 relative to federal tax qualification status; to authorize changes to be made using the
5 Administrative Procedure Act; 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. 11:1532 is hereby amended and reenacted and R.S. 11:1518, 1521.2,
11 1524(C), and 1533(F) are hereby enacted to read as follows:

12 §1518. Reemployment of a member after military service

13 A. The qualified military service of a member who has been reemployed in
14 accordance with 26 U.S.C. 414(u) shall be treated for vesting and benefit accrual
15 purposes as service completed under R.S. 11:1514 if the member remits to the fund
16 any employee contributions which would have been required but for the member's
17 leave of absence to perform qualified military service.

18 B. Effective January 1, 2007, if a member dies while on a leave of absence
19 to perform qualified military service as described in 26 U.S.C. 414(u), his
20 beneficiary is entitled to any benefits, except benefits that accrued during the period
21 of qualified military service, that would have been provided under the plan had the
22 member resumed and then terminated employment due to death, in accordance with
23 26 U.S.C. 401(a)(37).

24 * * *

1 §1521.2. Maximum compensation

2 A. For the purposes of calculating any benefit payable under this plan, any
3 compensation in excess of the limits set forth in 26 U.S.C. 401(a)(17) shall be
4 disregarded.

5 B. Subsection A of this Section shall not apply to members who enrolled in
6 the plan on or before January 1, 1996.

7 * * *

8 §1524. Optional benefit payments

9 * * *

10 C.(1) A retiree who has been married for one year or more shall elect Option
11 2, 3, 4, or 5 of Subsection A of this Section. If the retiree chooses Option 2 or 3, he
12 shall nominate his surviving spouse as the joint annuitant with the retiree. If the
13 retiree chooses Option 4, he shall select a benefit ensuring that, upon his death, no
14 less than fifty percent of the benefit shall be payable to his surviving spouse during
15 the spouse's lifetime.

16 (2) If a retiree's spouse has executed a qualified waiver of the joint and
17 survivor annuity requirements in accordance with 26 U.S.C. 417, Paragraph (1) of
18 this Subsection is not applicable to the retiree.

19 * * *

20 §1532. Direct rollover of eligible rollover distributions

21 A. Notwithstanding any provision of this pension plan to the contrary that
22 would otherwise limit a distributee's election under this Section, a distributee may
23 elect, at the time and in the manner prescribed by the board of trustees, to have any
24 portion of an eligible rollover distribution paid directly to an eligible retirement plan
25 specified by the distributee in a direct rollover. For this purpose, an eligible rollover
26 distribution is any distribution made on or after December 1, 1994, of all or any
27 portion of the balance to the credit of the distributee, except that an eligible rollover
28 distribution does not include: any equal periodic payments (not less frequently than
29 annually) made for the life (or life expectancy) of the distributee or the joint lives (or
30 joint life expectancies) of the distributee and the distributee's designated beneficiary

1 or for a specified period of ten years or more; any distribution to the extent such
2 distribution is required under Section 401(a)(9) of the Internal Revenue Code,
3 hereinafter referred to in this Section as "the Code"; and the portion of any
4 distribution that is not includable in gross income. An eligible retirement plan is an
5 individual retirement account described in Section ~~408(b)~~ 408(a) of the Code, an
6 individual retirement annuity described in Section ~~408(a)~~ 408(b) of the Code, or a
7 qualified trust described in Section 401(a) of the Code, that accepts the distributee's
8 eligible rollover distribution. In the case of an eligible rollover distribution to a
9 surviving spouse, however, an eligible retirement plan is only an individual
10 retirement account or individual retirement annuity. A distributee includes a
11 member or former member. In addition, the member's or former member's surviving
12 spouse and the member's or former member's spouse or former spouse who is an
13 alternate payee under a qualified domestic relations order, as defined in Section
14 414(p) of the Code, are distributees with regard to the interest of the spouse or
15 former spouse. A direct rollover is payment by the plan to the eligible retirement
16 plan specified by the distributee.

17 B.(1) The fund shall, within a reasonable period of time before making an
18 eligible rollover distribution as provided for in Subsection A of this Section, provide
19 a written explanation of the following to the recipient of such distribution:

20 (a) The provisions under which the recipient may have the distribution
21 directly transferred to an eligible retirement plan and that the automatic distribution
22 by direct transfer applies to certain distributions in accordance with 26 U.S.C.
23 401(a)(31)(B).

24 (b) The provision which requires the withholding of tax on the distribution
25 if it is not directly transferred to an eligible retirement plan.

26 (c) The provisions under which the distribution will not be subject to tax if
27 transferred to an eligible retirement plan within sixty days after the date on which the
28 recipient received the distribution.

29 (d) The provisions under which distributions from the eligible retirement
30 plan receiving the distribution may be subject to restrictions and tax consequences

that are different from those applicable to distributions from the plan making such distribution.

(2) For the purposes of this Subsection, the term "reasonable period of time" shall have the meaning assigned to it by 26 U.S.C. 401(a)(31) and the regulations thereunder.

* * *

§1533. Internal Revenue Code qualification requirements

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F. Amendments to the fund required for the purpose of maintaining continued compliance with the Internal Revenue Code and the regulations thereunder that do not require legislative action shall be promulgated as rules in accordance with the Administrative Procedure Act.

* * *

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____