

Existing law (R.S. 11:272) provides for early retirement eligibility for certain persons with service credit on Sept. 1, 1985. New law further provides that service credit originally earned prior to September 1, 1985, which has been refunded and then repurchased shall be credited back to the original date earned.

New law (R.S. 11:293) provides for the forfeiture of retirement benefits by a public employee or elected official (hired or beginning service on or after Jan. 1, 2013) convicted of a "public corruption crime". Defines "public corruption crime" as a state or federal felony committed on or after Jan. 1, 2013, in which the sentencing judge finds that the public servant acted willfully and in the course and scope of his official capacity and that any of the following apply:

- (1) The public servant realized or attempted to realize a financial gain for himself or for a third party.
- (2) The public servant committed any criminal sexual act with or upon the person of a minor, and there was a direct association between the public servant and the minor related to the public servant's employment.

Further provides that conviction occurs when all appellate review is exhausted.

New law allows the sentencing judge, in his discretion, to order forfeiture if he finds that the nature of the offense and the prior service of the public servant or any mitigating factors warrant such an order. If forfeiture is ordered, the public servant will lose his right to receive any benefits or payments from the retirement system except a return of his employee contributions without interest.

New law allows the sentencing judge, in his discretion, to order restitution to the state or any political subdivision for monetary losses incurred as a result of the public corruption crime. Allows the judge to order restitution to be paid from the public servant's refunded employee contributions.

New law allows the sentencing judge, in his discretion, to award to the public servant's spouse, former spouse, or dependent an amount from the forfeited benefits as an alternate payee. Provides factors for the court to consider when contemplating such an award:

- (1) The role, if any, of the member's spouse, dependent, or former spouse in connection with the crime.
- (2) The degree of knowledge, if any, possessed by the member's spouse, dependent, or former spouse in connection with the crime.

Requires the retirement system to calculate the spousal share of the public servant's benefit for the sentencing court. Further requires calculation by the system of a dependent's share, if applicable, in the same manner as the spousal share.

New law provides that any award to a spouse, former spouse, or dependent cannot require the system to violate its own laws or provisions, provide a benefit not otherwise available to others, or to provide increased benefits determined on the basis of actuarial value.

New law provides that all forfeited amounts not otherwise awarded to a spouse, former spouse, or dependent, shall be applied to the system's unfunded accrued liability (UAL).

New law provides that survivor benefits to an otherwise eligible unmarried spouse, minor child, or handicapped child, are to be paid based on the forfeited amounts and not based on any amounts remitted to the public servant.

Provides that new law shall not impinge on any community property interest of a current or former spouse.

New law requires every public retirement system to create an attestation form explaining the provisions of new law and to supply such forms to employing agencies. Requires employing

agencies to provide the attestation form to every member; the member shall sign the form indicating that he understands the provisions of new law.

New law provides that a parish prosecutor shall inform the secretary of DPS&C in writing when a conviction has been obtained against a person to whom new law may apply. The secretary shall then report this information to the appropriate retirement system. Relative to convictions of federal felonies, requires the secretary of state to report information to the retirement system regarding any federal convictions upon which he receives notice from the U.S. attorney for any federal felony listed in new law.

New law provides that new law shall only apply to benefits earned on or after Jan. 1, 2013.

Effective if and when the proposed amendment of Art. X of the Constitution of La. contained in Act No. 868 of the 2012 R.S. is adopted at the statewide election and becomes effective.

(Amends the heading of Subpart L of Part II of Chapter 4 of Subtitle I of Title 11 of the La. Revised Statutes of 1950; Adds R.S. 11:272(E) and 293)