

# The Louisiana Assessors' Retirement Fund

## Employee Handbook

July 1, 2024

## INTRODUCTION

The information contained in this pamphlet is valid as of July 1, 2024 and is meant to be an extract of the most important Louisiana Revised Statutes related to the Assessors' Retirement Fund effective on that date. Other sections of the state's revised statutes and/or federal codes and regulations may affect members' retirement benefits. All of this information is subject to legislative amendment and revision and/or changes that may be adopted and implemented by the fund's Board of Trustees without notice.

THIS SUMMARY PRESENTATION OF PLAN PROVISIONS IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND IN NO WAY CONSTITUTES A CONTRACT BETWEEN YOU AND THE RETIREMENT FUND. THIS IS NOT A LEGAL DOCUMENT AND IT IS NOT INTENDED TO SERVE AS A BASIS FOR LEGAL INTERPRETATION. THE LOUISIANA REVISED STATUTES AND CONSTITUTION, RELEVANT FEDERAL REGULATIONS AND LAWS, AND THE OFFICIAL BOARD POLICIES SHALL SERVE TO GUIDE DECISIONS RELATED TO MEMBERS AND EMPLOYERS PARTICIPATING IN THE ASSESSORS' RETIREMENT FUND.

Official legal references for the Assessors' Retirement Fund are found in the Louisiana Revised Statutes 11:1401 through 1494 and in the Louisiana Administrative Code Title 58. (See also Louisiana Revised Statutes 11:1 through 323. Many of these general retirement provisions apply to the Assessors' Retirement Fund.) The retirement fund and its members and employers are covered by other sections of state law and by federal laws and regulations. This booklet in no way attempts to provide a full restatement of all applicable laws or regulations. Instead, it is meant to provide convenient access to many of the statutory provisions of law. It is a tool meant to assist members and employers in making decisions related to matters of retirement planning. For questions related to specific cases and for information on matters not covered in this booklet, please contact the retirement system office. Members should not rely solely on this booklet to estimate their benefit or make final decisions related to eligibility for benefits.

This pamphlet attempts to provide a restatement of the Louisiana Revised Statutes under which the retirement fund operates. There may be specific statutes, rules, policies, or regulations which, when and where applicable, could cause results different from the rules stated herein, based on individual and/or unique factual situations. Sections or subsections of the revised statutes that in no way pertain to the Assessors' Retirement Fund are indicated by the use of the statement "Not applicable to Assessors' Retirement Fund". Although every attempt was made to avoid any typographical or formatting errors, if errors are found they will be fixed in future versions.

As a qualified public pension plan, the Assessors' Retirement Fund is subject to certain IRS codes and regulations. This handbook does not include such codes and regulations. Additionally, this handbook does not include provisions related to the Deferred Retirement Option Plan (DROP), formerly located in R.S. 11:1456. This section was repealed by Acts 2008, No. 398.

Any questions you may have regarding your rights in the Fund and any other matter involving the Fund should be directed to the fund's office, preferably in writing. Please provide your social security number and the name of your employing Assessor's office in all correspondence.

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   **P. O. Box 14699**  
   **Baton Rouge, Louisiana 70898**

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For additional information on the Louisiana Assessors' Retirement Fund, log onto:  
[www.louisianaassessors.org/assessors-retirement/](http://www.louisianaassessors.org/assessors-retirement/).

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# **PROVISIONS SPECIFIC TO ASSESSORS' RETIREMENT FUND (Found in R.S. 11:1401 through 11:1494)**

## **ESTABLISHMENT OF THE FUND**

### **Creation of Retirement Fund and of Corporate Board of Trustees; Powers of Board - R.S. 11:1401**

There is hereby created effective July 26, 1950, an "Assessors' Retirement Fund" for all parishes of the state of Louisiana, and a public corporation to be known as the "Board of Trustees of the Assessors' Retirement Fund" for the assessors and assessors' employees throughout the state of Louisiana, which corporation shall be vested with the power to administer the fund herewith provided for, to sue and be sued, to buy and sell securities for investment of the surplus monies of said fund, to allot disability payments and retirement allowances as hereinafter set forth.

### **Definitions - R.S. 11:1402**

As used in this Chapter, the following words and phrases shall have the meanings ascribed to them unless the context clearly indicates otherwise:

- (1) "Accumulated employee contributions" means the sum of all amounts deducted from a member's salary and paid to the fund.
- (2) "Board" means the board of trustees of the Assessors' Retirement Fund.
- (3) "Designated beneficiary" means the person most recently designated in writing by a member to receive any benefits to which the member may be entitled.
- (4) "Fund" means the Assessors' Retirement Fund.
- (5) "Minor child" means a child who is less than the age of eighteen years or who has a physical or mental disability, regardless of age, who is the issue of a marriage of the member or former member, the legally adopted child of a member or former member, the natural child of a female member or former member, or the child of a male member or former member if a court of competent jurisdiction has, during the lifetime of such male member or former member, issued an order of filiation declaring the paternity of such male member for the child.
- (6)(a) "Monthly average final compensation", for a member whose first employment making him eligible for membership in the system began on or before September 30, 2006, means the average of a member's monthly salary during the highest compensated thirty-six consecutive months or successive joined months if service was interrupted.
- (b) "Monthly average final compensation", for a member whose first employment making him eligible for membership in the system began on or after October 1, 2006, means the average of a member's monthly salary during the highest compensated sixty consecutive months or successive joined months if service was interrupted.
- (c) Compensation of a member in excess of one hundred fifty thousand dollars, as adjusted for increases in the cost of living under Section 401(a)(17)(B) of the Internal Revenue Code shall

not be taken into account for years beginning on or after January 1, 1994, and ending before January 1, 2002. Compensation of a member in excess of two hundred thousand dollars as adjusted for increases in the cost of living under Section 401(a)(17)(B) of the Internal Revenue Code shall not be taken into account for years beginning on or after January 1, 2002. However, in determining monthly average final compensation for a member retiring on or after January 1, 2002, compensation which is permitted to be taken into account on or after January 1, 2002, but which occurred in a prior year that was included in the averaging period shall be taken into account. This limitation may be adjusted from time to time by rules promulgated by the board in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

- (d) For purposes of compliance with federal tax-qualification requirements, the board may promulgate rules further defining "compensation" and "Section 415 compensation", in accordance with the provisions of the Administrative Procedure Act.
- (7) "Surviving spouse" means a person who is legally married to a member of the system and living with the member at the time of his death.
- (8) "Actuarial equivalent" means a benefit of equivalent value to the accumulated contributions, annuity or benefits and regular interest, as the case may be, computed on the basis of such mortality and interest tables as shall be adopted by the board of trustees in accordance with the provisions of R.S. 11:1404. In the absence of resolution by the board, the following assumptions shall be used:
  - (a) Interest shall be compounded annually at a rate of seven and one-half percent per annum.
  - (b) Annuity rates shall be determined on the basis of the mortality tables utilized for the latest system valuation approved by the Public Retirement Systems' Actuarial Committee. Acts 1989, No. 545, §1, eff. July 5, 1989; Redesignated from R.S. 47:8052 by Acts 1991, No. 74, §3, eff. June 25, 1991; Acts 1997, No. 691, §1, eff. July 1, 1997; Acts 2004, No. 794, §1; Acts 2006, No. 780, §1, eff. June 30, 2006; Acts 2011, No. 364, §1, eff. July 1, 2011; Acts 2014, No. 811, §4, eff. June 23, 2014.

NOTE: Acts 2014, No. 811 changed terminology referring to persons with disabilities throughout the La. Revised Statutes and codes of law, and included a listing of terms that were deleted and their respective successor terms (See Acts 2014, No. 811, §36). The Act provides that it is not the intent of the legislature that changes in terminology effected therein alter or affect in any way the substance, interpretation, or application of any law or administrative rule; further provides that nothing in the Act shall be construed to expand or diminish any right of or benefit for any person provided by any law or administrative rule (See Acts 2014, No. 811, §35(C) and (D)).

### **Exemption from Seizure for Debt, Taxation - R.S. 11:1403**

The right of a person to a pension, an annuity, retirement allowance, disability benefit, surviving spouse benefits, dependent child's benefit, or to a return of contributions, the pension, annuity, retirement allowance, disability benefit, surviving spouse benefit, dependent child's benefit itself, any optional benefit or any right accrued or accruing to any person under the provisions of the Assessors' Retirement Fund, and the monies in said fund are hereby exempt from any state or municipal tax, from all state income tax, and from levy and sale, garnishment, attachment, or any other process whatsoever, except as provided in R.S. 11:292.

## **Amendment of Provisions of Retirement System - R.S. 11:1404**

- A. The provisions of the retirement system established by R.S. 11:1401 may be amended by action of the legislature in the same manner as any other statute may be amended by the legislature. In addition, action of the board with respect to the payment of cost-of-living adjustments, as provided in R.S. 11:241 through 248, the payment of employee contributions, actuarial assumptions as provided in R.S. 11:1402, and any changes required for conformity with requirements of the Internal Revenue Code, shall be considered amendments to the provisions of the retirement fund.
- B. No amendment to this retirement system shall operate to deprive any member of a benefit to which he is already entitled. In the case of any merger or consolidation with, or transfer of assets or liabilities to, any other retirement system, each member in the retirement system would, if the retirement system is then terminated, receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer if the retirement system had then terminated.
- C. Upon the termination or partial termination of the retirement system, the board of trustees shall reevaluate and redetermine the benefit of each member, and the entire benefit of each member may be paid or commence to be paid and distributed to such member, or in the case of his death before such distribution, to the beneficiary or beneficiaries designated by such member, unless the member is still employed, in the case of a partial termination, in which case payment shall not be made until retirement or termination, or may be held until payment is otherwise due under the provisions of the retirement system. A member's right to his benefit is not conditioned upon a sufficiency of plan assets in the event of termination.
- D. Upon termination or partial termination of the retirement system, a member's interest in the system shall be nonforfeitable to the extent funded.
- E. Repealed by Acts 2011, No. 364, §2, eff. July 1, 2011.
- F. Amendments to the retirement system 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.

## MEMBERSHIP AND CREDITABLE SERVICE

### Membership in Fund - R.S. 11:1410

- A. Membership in the Assessors' Retirement Fund and eligibility for retirement benefits shall be determined as set forth hereunder:
- (1) Any assessor who was serving in office on July 26, 1950, or who is elected or appointed to office after July 26, 1950, shall be a member of this fund.
  - (2) Any assessor's employee who was employed in an assessor's office on July 26, 1950, or who is employed in an assessor's office after July 26, 1950, shall be a member of this fund.
  - (3) The secretary and regular employees of the Assessors' Retirement Fund and permanent employees of the Louisiana Assessors' Association and the Louisiana Assessors' Insurance Fund shall be members of this fund, provided that the Louisiana Assessors' Association and the Louisiana Assessors' Insurance Fund each pay the employer contributions for their employees who become members of this fund.
- B. (1) Membership shall not be allowed on a part-time, temporary, or intermittent basis. Membership in the fund shall be allowed only to assessors, full-time permanent employees of assessors, the secretary and regular employees of the Assessors' Retirement Fund, and permanent employees of the Louisiana Assessors' Association and the Louisiana Assessors' Insurance Fund. Each member shall start paying into the fund the first regular payroll period after employment begins. Full-time, permanent employees as used herein, shall mean those employed on a full twelve-month basis within each calendar year; provided, however, that members may be granted leaves of absence, with no creditable service to be allowed for time on leave.
- (2) Any person who is not an employee of an assessor or of one of the entities listed in Paragraph (A)(3) of this Section, who has performed services for and under the primary direction and control of an assessor or one of the entities listed in Paragraph (A)(3) of this Section or any related person determined in accordance with Section 414(n)(6) of the Internal Revenue Code, on a substantially full-time basis for a period of at least a year pursuant to an agreement between the person's employer and assessor or one of the entities listed in Paragraph (A)(3) of this Section shall not be a member of the fund.
- C. Repealed by Acts 2001, No. 96, §3, eff. July 1, 2001.

## **Creditable Service - R.S. 11:1411**

- A. Commencing October 1, 1989, and thereafter, a member shall receive credit for all service rendered as an assessor, assessor's employee, secretary and regular employees of the fund for which contributions have been paid and not withdrawn.
- B. In the computation of service rendered prior to October 1, 1989, creditable service shall be counted from January first of the calendar year in which a member first became a member of the fund.
- C. If a member's service is terminated for any cause whatsoever, such time lost shall not be counted as creditable service. If the member elects to leave his or her contributions in the fund, upon his or her return to regular active service in an assessor's office or other creditable employment, creditable service shall count from date of such return to service and be added to his or her prior service, but only if such member returns to active service within ten years after the date of withdrawal from service in an assessor's office or other creditable service.
- D. If a member takes a leave of absence governed by the Uniformed Services Employment and Reemployment Rights Act (USERRA), then upon his return to employment covered by the fund, the member shall share in employer contributions in the same manner as other members and shall not be considered to have terminated employment or to have incurred a break in service during such leave of absence. The employer shall be permitted to make an employer contribution in satisfaction of the affected employee's rights under USERRA. A member who does not return to employment shall not be affected by this provision. The board shall promulgate rules pursuant to the Administrative Procedure Act, which shall be part of the governing provisions of the fund, to implement the requirements of USERRA.
- E. The qualified military service of a member who has been reemployed in accordance with 26 U.S.C. 414(u) shall be treated for vesting and benefit accrual purposes as service completed under Subsection A of this Section if the member timely remits to the system any employee contributions which would have been required but for the member's leave of absence to perform qualified military service in accordance with the terms of federal law.

## **Credit for Non-Credited Prior Service - R.S. 11:1412**

Any person who was eligible for membership but was not enrolled as a member for whatever reason may upon application receive credit for the time such person was otherwise eligible for membership. The person's employer must certify the inclusive dates of employment and the salary earned by the member during these dates, or the person shall submit such other evidence in lieu thereof as shall be requested by the board. The person, his employer, and any other person submitting evidence on his behalf, shall certify all evidence by an affidavit in authentic form. Should any facts or evidence disqualify him from benefits, the person shall lose all rights to any benefits from this system. In order to receive this credit the person and the employer shall pay the greater of an amount equal to the employee and employer contributions which would have been paid had the person been enrolled at the time of employment, plus interest as determined by the board, which shall be not less than seven percent compounded annually, or an amount which, on an actuarial basis, totally offsets the increase in accrued liability of the system resulting from the

receipt of the credit by the person. The amount payable shall be calculated by use of the actuarial funding method, assumptions, and tables in use by the system at the time of the person's application for credit. The fund shall accept as the employee's payment of amounts payable by the employee under this Section any assets held in an individual retirement account or annuity or a plan qualified under Section 401(a) or Section 403(a) of the Internal Revenue Code or a governmental deferred compensation arrangement subject to Section 457(g) of the Internal Revenue Code or a tax sheltered annuity or other arrangement under Section 403(b) of the Internal Revenue Code.

### **Reemployment of a Retiree - R.S. 11:1413**

A retiree receiving retirement benefits from the system may be temporarily reemployed by an assessor but the retiree shall not be or become a member of the system during such reemployment. If the retiree is reemployed in any capacity for more than one hundred working days during any calendar year, or the equivalent thereof, during any calendar year, the benefits payable to the retiree shall be reduced by the amount he earned after thirty working days, or the equivalent thereof. The retiree and the assessor shall immediately notify the board of the date of reemployment, the amount of salary paid, any changes in salary, the number of hours employed per week, the estimated duration of reemployment, and the date of the termination of the reemployment. If the retiree dies during reemployment, benefits shall be paid to any other person as if death occurred regardless of reemployment pursuant to any option which may have been selected by the retiree at the time of retirement.

## **NORMAL RETIREMENT BENEFITS**

### **Eligibility for Normal Retirement - R.S. 11:1421**

- A. All members of the fund hired on or before September 30, 2013, shall be eligible for participation in the benefits of this fund upon written application for such allowance to the board of trustees if:
  - (1) The member has twelve years or more of creditable service and has attained the age of fifty-five.
  - (2) The member has thirty or more years of creditable service, regardless of age.
- B. All members of the fund hired on or after October 1, 2013, shall be eligible for participation in the benefits of this fund upon written application for such allowance to the board of trustees if:
  - (1) The member has twelve or more years of creditable service and has attained the age of sixty.
  - (2) The member has thirty or more years of creditable service and has attained the age of fifty-five.

### **Computation of Normal Retirement Benefit - R.S. 11:1422**

- A. Any member whose first employment making him eligible for membership in the system began on or before September 30, 2006, and who is eligible for normal retirement shall, upon making written application to the board of trustees, be retired, and shall be paid a monthly sum equal to three and one-third percent of the highest monthly average final compensation received during any thirty-six consecutive months while employed in an assessor's office or other creditable employment times the number of years of the member's creditable service not to exceed one hundred percent of the member's monthly average final compensation, after taking into account the reduction arising from any optional retirement selected.
- B. Any member whose first employment making him eligible for membership in the system began on or after October 1, 2006, but before October 1, 2013, and who is eligible for normal retirement shall, upon making written application to the board of trustees, be retired, and shall be paid a monthly sum equal to three and one-third percent of the highest monthly average final compensation received during any sixty consecutive months while employed in an assessor's office or other creditable employment times the number of years of the member's creditable service not to exceed one hundred percent of the member's monthly average final compensation after taking into account the reduction arising from any optional retirement selected.
- C. (1) Except as provided in Paragraph (2) of this Subsection, any member whose first

employment making him eligible for membership in the system began on or after October 1, 2013, and who is eligible for normal retirement but who has less than thirty years of creditable service shall, upon making written application to the board of trustees, be retired and shall be paid a monthly sum equal to three percent of the highest monthly average final compensation received during any sixty consecutive months while employed in an assessor's office or other creditable employment times the number of years of the member's creditable service not to exceed one hundred percent of the member's monthly average final compensation after taking into account the reduction arising from any optional retirement selected.

- (2) Any member whose first employment making him eligible for membership in the system began on or after October 1, 2013, who retires with thirty or more years of credible service shall be paid a monthly sum equal to three and one-third percent of the highest monthly average final compensation received during any sixty consecutive months while employed in an assessor's office or other creditable employment times the number of years of the member's creditable service not to exceed one hundred percent of the member's monthly average final compensation after taking into account the reduction arising from any optional retirement selected. Transferred service with an accrual rate of less than three and one-third percent shall not be used to meet the requirement of thirty or more years of creditable service unless the member exercised his right to upgrade such transferred service pursuant to R.S. 11:143(D).

### **Mode of Payment; Options; Effective Date - R.S. 11:1423**

- A. Upon application for normal retirement, any participant may elect to receive his benefit in a retirement allowance payable throughout life, or he or she may elect at that time to receive the actuarial equivalent of his retirement allowance in a reduced retirement payable throughout life with the following options:

Option 1. If a member dies before he has received in retirement payments purchased by his contributions the amount he had contributed to the fund before his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the board.

Option 2. Upon a member's death, his or her reduced retirement allowance shall be continued throughout the life of and paid to his or her surviving spouse, upon written designation by the member duly acknowledged and filed with the board of trustees at the time of his or her retirement.

Option 3. Upon the member's death, one-half of his or her reduced retirement allowance shall be continued throughout the life of and paid to his or her surviving spouse, upon written designation by the member duly acknowledged and filed with the board of trustees at the time of his retirement.



Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate provided, such other benefit or benefits together with the reduced retirement allowance shall be of equivalent actuarial value to his retirement allowance and approved by the board of trustees, at the election of the member, which benefit shall be in lieu of any other option provided herein.

- B. No option shall become effective until the date specified by the member in his or her application for retirement, and no selection of an option nor any change in the option selected shall be permitted after the application has been officially filed with the board.
- C. Should a member upon retirement select his or her spouse as his or her beneficiary under Option 2, Option 3, or Option 4, the actuarial equivalence and option reductions shall be based on the ages of the member and his or her beneficiary as of the member's sixtieth birthday. Should the member select a non-spousal beneficiary under Option 4, the actuarial equivalence and option reduction shall be based on the ages of the member and beneficiary as of the later of the date of the member's retirement or the member's sixtieth birthday. The actuarial equivalence and option reduction factors for Option 2 benefits payable upon the death of a member while the member is still in service shall be based on the ages of the member and his or her spouse as of the member's sixtieth birthday.

## **DISABILITY RETIREMENT BENEFITS**

### **Eligibility for Disability Retirement - R.S. 11:1431**

Eligibility for disability benefits, procedures for application for disability benefits, procedures for the certification of continuing eligibility for disability benefits, the authority of the board of trustees to modify disability benefits, and procedures governing the restoration to active service of an employee who formerly had a disability are specifically described and provided for in R.S. 11:201 through 224.

NOTE: Acts 2014, No. 811 changed terminology referring to persons with disabilities throughout the La. Revised Statutes and codes of law, and included a listing of terms that were deleted and their respective successor terms (See Acts 2014, No. 811, §36). The Act provides that it is not the intent of the legislature that changes in terminology effected therein alter or affect in any way the substance, interpretation, or application of any law or administrative rule; further provides that nothing in the Act shall be construed to expand or diminish any right of or benefit for any person provided by any law or administrative rule (See Acts 2014, No. 811, §35(C) and (D)).

### **Computation of Disability Retirement Benefit - R.S. 11:1432**

- A. The board of trustees shall award disability benefits to eligible members who have been officially certified as having a disability by the State Medical Disability Board. The disability benefit shall be the lesser of (1) or (2) as set forth below:
- (1) A sum equal to the greater of forty-five percent of final average compensation or the member's accrued retirement benefit at the time of termination of employment due to disability; or
  - (2) The retirement benefit which would be payable assuming accrued creditable service plus additional accrued service, if any, to the earliest normal retirement age based on final average compensation at the time of termination of employment due to disability.
- B. Upon approval for disability benefits, the member shall exercise an optional retirement allowance as provided in R.S. 11:1423 and no change in the option selected shall be permitted after it has been filed with the board. The retirement option factors shall be the same as those utilized for regular retirement based on the age of the retiree and that of the spouse, had the retiree continued in active service until the earliest normal retirement date.

## **SURVIVORS' BENEFITS**

### **Surviving Spouse's Benefit - R.S. 11:1441**

- A. If a member of this fund dies in service with less than twelve years of creditable service, and leaves a surviving spouse, his accumulated contributions shall be paid to the surviving spouse.
- B. If a member dies and has twelve or more years of creditable service and is not eligible for retirement, the surviving spouse shall receive an automatic optional benefit which is equal to the joint and survivorship amounts provided in Option 2 as provided in R.S. 11:1423, which shall cease upon a subsequent remarriage, or a refund of the member's accumulated contributions, whichever the spouse elects to receive.
- C. If a member dies and is eligible for retirement, the surviving spouse shall receive an automatic optional benefit which is equal to the Option 2 benefits provided for in R.S. 11:1423, which shall not terminate upon a subsequent remarriage.
- D. Benefits set forth in Subsection B of this Section shall cease upon remarriage and shall resume upon a subsequent divorce or death of a new spouse. The spouse shall be entitled to receive a monthly benefit equal to the amount being received prior to remarriage.
- E. If an active, contributing member dies and meets the eligibility requirements provided in R.S. 11:1456.1(B) on the day of his death and the member's surviving spouse is eligible for benefits payable pursuant to Subsection C of this Section, which are equal to the Option 2 benefits provided for in R.S. 11:1423, the surviving spouse may elect to receive such benefits in the same manner as described in R.S. 11:1456.1, as if the member had retired on the day following the member's death and elected Back-Deferred Retirement Option Program benefits, and for a Back-DROP period selected by the surviving spouse which shall not exceed the duration limitations included in R.S. 11:1456.1(C). The surviving spouse shall make the elections provided for in this Subsection at the time he applies for survivor benefits.

### **Surviving Minor Children - R.S. 11:1442**

Should a member of this fund die solely from injuries received in line of duty, or should he die from natural causes after four years creditable service, and should leave no surviving spouse, but should leave a child or children under the age of eighteen years, or a child or children over the age of eighteen years who have a physical or mental disability and who are dependent upon him or her for support, the sum of fifty dollars per month shall be paid for one child, and ten dollars per month shall be paid for each additional child until he reaches the age of eighteen years, or as long as he has a physical or mental disability.

NOTE: Acts 2014, No. 811 changed terminology referring to persons with disabilities throughout the La. Revised Statutes and codes of law, and included a listing of terms that were deleted and their respective successor terms (See Acts 2014, No. 811, §36). The Act provides that it is not the intent of the legislature that changes in terminology effected therein alter or affect in any way the

substance, interpretation, or application of any law or administrative rule; further provides that nothing in the Act shall be construed to expand or diminish any right of or benefit for any person provided by any law or administrative rule (See Acts 2014, No. 811, §35(C) and (D)).

### **Payment to Designated Beneficiary - R.S. 11:1443**

If a member dies before retiring and leaves no surviving spouse or minor or dependent children, the designated beneficiary shall be entitled to the accumulated contributions in the fund, provided that the designation of beneficiary has been previously filed with the retirement fund. However, if no beneficiary has been designated as provided herein, the accumulated contributions shall be paid to the member's estate.

### **Limitation on Payment of Benefits - R.S. 11:1444**

- A. (1) Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:
- (a) The member's life.
  - (b) The life of the member's designated beneficiary or the joint and last survivor lives of the member and his designated beneficiary.
  - (c) The member's life expectancy.
  - (d) The joint and last survivor life expectancy of the member and his designated beneficiary.
- (2) If the member is married and his spouse survives him, the designated beneficiary shall be his spouse. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death.
- B. (1) If the member dies before his benefit has commenced, the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.
- (2) Paragraph (1) of this Subsection shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of seventy and one-half years. If the designated beneficiary is the member's surviving spouse and if the surviving spouse dies before the distribution of benefits commences, then Paragraph (1) of this Subsection shall be applied as if the surviving spouse were the member. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph (1) of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age

eighteen.

- (3) Paragraph (1) of this Subsection shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection A of this Section.
- C. If a survivor benefit is payable to a specified person or persons or if a benefit is payable at death under an option elected pursuant to R.S. 11:1423, the member shall be considered to have designated such person as a designated beneficiary hereunder. If there is more than one such person, then the oldest such person shall be considered to have been so designated, or, if none, then the oldest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.
- D. Distributions from the system shall be made in accordance with the requirements set forth in Section 401(a)(9) of the Internal Revenue Code, including the minimum distribution incidental benefit rules applicable thereunder. The board may promulgate rules in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., to carry out the requirements of this Subsection, and the board may adopt provisions that amend the other provisions of this Section.
- E. (1) A member's benefits shall commence to be paid on or before the required beginning date.
- (2) The required beginning date shall be April first of the calendar year following the later of the calendar year in which the member attains seventy and one-half years of age, or the calendar year in which the employee retires.
- (3) The board may promulgate rules in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., regarding any change in the required beginning date necessary for compliance with federal tax-qualification requirements.
- F. The provisions of this Section shall be effective July 1, 1997.

### **Guaranteed Return of Accumulated Contributions - R.S. 11:1445**

- A. If the total of all benefits paid to a retiree and all benefits paid on his account after his death, if any, is less than the retiree's accumulated employee contributions, the remaining accumulated employee contributions shall be paid to the retiree's beneficiary, designated by him in writing and duly acknowledged by him and filed with the board prior to his death.
- B. Upon the death of a member or former member who has not been paid any benefits from the fund, including a withdrawal of accumulated employee contributions, and who is not survived by any person eligible for any benefits from the fund, the accumulated employee contributions of the member or former member shall be paid to his beneficiary, designated by him in writing and duly acknowledged by him and filed with the board prior to his death.
- C. A member or former member may, at any time prior to his death, withdraw, refile, or amend

the written designation of his beneficiary.

- D. If any sum becomes payable to a member's or former member's duly designated beneficiary and that beneficiary predeceased the member or former member, or if any sum would otherwise be payable to a beneficiary, but a beneficiary was not designated by the member or former member, then such sum shall be paid to the estate of the member or former member.
- E. If survivor benefits become payable upon the death of a member or former member, the survivor, in lieu of survivor benefits, may elect to be paid in one lump sum the member's or former member's accumulated employee contributions by notifying the board, in writing, and waiving the right to all other benefits. If survivor benefits are payable to more than one person, no payment of the remaining accumulated employee contributions may be made unless all persons eligible for survivor benefits agree, in writing, to the distribution of the remaining accumulated contributions.
- F. Payments made pursuant to this Section shall be paid only upon receipt by the board, of an application therefor, providing such information and in such form as the board may require. Such payment shall discharge the board and the fund from any other responsibility or liability to any other person, shall cancel all rights in the fund and cause credit for all service to be forfeited, and neither the former member nor any other person shall be entitled to any benefits on the former member's account.
- G. The board may promulgate rules in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that specify the manner of distributions and the direct rollover of such distributions.

### **Military survivor benefits - R.S. 11:1446**

Effective January 1, 2007, if a member dies while on a leave of absence to perform qualified military service as described in 26 U.S.C. 414(u), his beneficiary shall be entitled to any benefit, except benefits that accrued during the period of qualified military service that would have been provided under the plan had the member resumed and then terminated employment due to death, in accordance with 26 U.S.C. 401(a)(37); however, the member's beneficiary shall be entitled to benefits that accrued during the period of qualified military service if the beneficiary timely remits to the system any employee contributions which would have been required but for the member's leave of absence to perform qualified military service in accordance with the terms of federal law and R.S. 11:1411.

## **PAYMENT OF BENEFITS**

### **Conditions for Payment of Benefit - R.S. 11:1451**

No regular, disability, survivor, or other benefit from the fund, including a refund of accumulated employee contributions and any optional benefit, shall be payable until and unless a written application therefor is filed with the board providing such information and in such form as the board may require and until and unless all contributions by or for the member or former member have been received by the board and until and unless the member or former member has terminated service. This Section shall not preclude the payment of benefits consistent with R.S. 11:1444 and any rules promulgated by the board thereunder.

### **Deferred Retirement - R.S. 11:1452**

If the services as an employee or assessor of any member who has twelve or more years of credited service are terminated prior to the time the member becomes fifty-five years of age, the former member may leave his contributions in the fund and upon attaining the age of fifty-five years he shall be eligible for a regular retirement benefit. If the services as an employee or assessor of any member who has thirty or more years of credited service are terminated prior to the time the member becomes fifty years of age, the former member may leave his contributions in the fund and upon attaining the age of fifty years, he shall be eligible for a regular retirement benefit.

### **Application; Effective Date; Commencement of Benefits - R.S. 11:1453**

- A. Any member may retire upon written application to the board of trustees upon eligibility therefor. An application for retirement shall be officially filed with the board when received in the retirement office. Application shall be granted within thirty days if the applicant is entitled to retirement benefits.
- B. If a written application for any benefits is received by the board within ninety days of the date the applicant became eligible for the benefit, benefits shall be paid retroactive to the date of becoming eligible therefor. If an application for any benefit is received by the board after ninety days of the date the applicant became eligible therefor, benefits shall be paid only from the date the application is received by the board.

### **Dual Retirement Benefits Prohibited - R.S. 11:1454**

No member of this fund shall be eligible to draw more than one retirement from this fund at the same time, except that a surviving spouse of a member may draw retirement benefits and also surviving spouse benefits from this fund at the same time.

## **Withdrawal of Accumulated Employee Contributions; Repayment – R.S. 11:1455**

- A. If the membership of a member who is not eligible to retire is terminated, the former member may make a written application for and obtain a refund of his accumulated employee contributions. However, no refund shall be paid until and unless the accuracy of the information on the application therefor has been certified by the assessor by whom the former member was employed and the former member remains out of service for sixty days and until all contributions for the former member have been paid into the fund. Payment of such a refund to the former member cancels all rights in the fund; neither the former member nor any other person shall be entitled to any benefits on the former member's account, and credit for all service shall be forfeited.
- B. If a former member who has withdrawn his accumulated contributions again becomes a member of the fund, he may repay to the fund, in a lump sum, the amount he withdrew, plus annually compounded interest at the valuation interest rate from the date of withdrawal. Upon such repayment, the member shall be credited for all service which was canceled and forfeited at the time of the prior refund and all other rights shall be restored.
- C. The board may promulgate rules in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that permit the repayment from funds held for the member's benefit in another retirement plan or individual retirement account or annuity.

## **Back-Deferred Retirement Option Program – R.S. 11:1456.1**

- A. (1) There is hereby created an optional retirement benefit program for members of the fund called the "Back-Deferred Retirement Option Program" which shall be referred to in this Chapter as "Back-DROP".
  - (2) In lieu of receiving a normal retirement benefit pursuant to R.S. 11:1421 through 1423, an eligible member of the fund may elect to retire and have his benefits structured, calculated, and paid as provided in this Section.
- B. An active, contributing member of the fund shall be eligible for Back-DROP only if all of the following apply:
  - (1) The member has accrued more service credit than the minimum required for eligibility for a normal retirement benefit.
  - (2) The member has attained an age that is greater than the minimum required for eligibility for a normal retirement benefit, if applicable.
  - (3) The member has revoked his participation, if any, in the Deferred Retirement Option Plan pursuant to R.S. 11:1456.2.



- C. At the time of retirement, a member who elects to receive a Back-DROP benefit shall select a Back-DROP period to be specified in whole months. The duration of the Back-DROP period shall not exceed the lesser of thirty-six months or the number of months of creditable service accrued after the member first attained eligibility for normal retirement. The Back-DROP period shall be comprised of the most recent calendar days corresponding to the member's employment for which service credit in the fund accrued.
- D. (1) The Back-DROP benefit shall have two portions: a lump-sum portion and a monthly benefit portion.
- (2) The member's Back-DROP monthly benefit shall be calculated pursuant to the provisions applicable for service retirement set forth in R.S. 11:1421 through 1423, subject to the following conditions:
- (a) For purposes of this Paragraph, creditable service shall not include service credit reciprocally recognized pursuant to R.S. 11:142.
  - (b) Accrued service at retirement shall be reduced by the Back-DROP period.
  - (c) Final average compensation shall be calculated by excluding all earnings during the Back-DROP period.
  - (d) Contributions received by the retirement fund during the Back-DROP period and any interest that has accrued on employer and employee contributions received during the period shall remain with the fund and shall not be refunded to the member or to the employer.
  - (e) The member's Back-DROP monthly benefit shall be calculated based upon the member's age and service and the fund provisions in effect on the last day of creditable service before the Back-DROP period.
  - (f) At retirement, the member's maximum monthly retirement benefit payable as a life annuity shall be equal to the Back-DROP monthly benefit.
  - (g) The member may elect to receive a reduced monthly benefit in accordance with the options provided in R.S. 11:1423 based upon the member's age and the age of the member's beneficiary as of the actual effective date of retirement. No change in the option selected or beneficiary shall be permitted after the option is filed with the board of trustees.
- (3) In addition to the monthly benefit received pursuant to Paragraph (2) of this Subsection, the member shall be paid a lump-sum benefit equal to the Back-DROP maximum monthly retirement benefit multiplied by the number of months selected as the Back-DROP period.
- (4) Cost-of-living adjustments shall not be payable on the member's Back-DROP lump sum.
- (5) Upon the death of a member who selected the maximum option pursuant to R.S. 11:1423, the member's named beneficiary or, if none, the member's estate shall

receive the deceased member's remaining contributions, less the Back-DROP benefit amount.

- (6) Upon the death of a member who selected Option 1 pursuant to R.S. 11:1423, the member's named beneficiary or, if none, the member's estate, shall receive the member's annuity savings fund balance as of the member's date of retirement reduced by the portion of the Back-DROP account balance and his previously paid retirement benefits that are attributable to the member's annuity payments as provided by the annuity savings fund.
- E.
- (1) In lieu of receiving a lump-sum benefit payment as set forth in Paragraph (D)(3) of this Section, the member may elect to transfer the lump-sum payment into a self-directed account managed by a third-party provider.
  - (2) The board may hire a third-party provider to manage the self-directed accounts authorized by this Subsection. The third-party provider shall act as an agent of the fund for purposes of investing balances in the self-directed accounts of the participant as directed by the participant. The participant shall be given such options as comply with federal law for self-directed plans.
  - (3) Any participant who elects to transfer the lump-sum Back-DROP payment into a self-directed account agrees that the benefits payable to the participant are not the obligations of the state or the fund and that any returns and other rights of the plan are the sole liability and responsibility of the participant and the designated provider to which contributions have been made. Furthermore, each participant, in accordance with this provision, shall expressly waive his rights as set forth in Article X, Section 29(E)(5) of the Constitution of Louisiana as it relates to his Back-DROP account with the third-party provider. By electing to transfer the Back-DROP lump-sum payment into an account with a third-party provider, the participant agrees that he and the provider shall be responsible for complying with all applicable provisions of the Internal Revenue Code. The participant also agrees that if any violation of the Internal Revenue Code occurs as a result of the participant's decision to transfer his Back-DROP lump-sum payment into a self-directed account, it shall be the sole responsibility and liability of the participant and the provider and not of the state or the fund.
  - (4) There shall be no liability on the part of and no cause of action of any nature shall arise against the state, the fund, or the agents or employees of the state or the fund for any action taken by the participant or for choices the participant makes in relationship to the self-directed account funds in which he chooses to place his account balance.

## **Rescission of participation in the Deferred Retirement Option Plan**

### **R.S. 11:1456.2**

Notwithstanding any law to the contrary, any participant in the Deferred Retirement Option Plan (DROP) of this fund who has not severed employment and has not taken a distribution from his DROP account may make a one-time, irrevocable election to rescind all of his participation period in DROP and return to active, contributing membership in the fund on or before March 31, 2009. A person who rescinds such DROP participation shall forfeit all accumulated DROP benefits and any

interest accrued on such benefits. If contributions were not previously paid, the participant shall pay to the fund the employee contributions the fund would have received if he had not been a DROP participant during his participation period, together with any interest or other actuarial cost for such rescission. The rescinding participant shall be required to hold the fund contractually harmless in the event that a spouse, former spouse, or any other person successfully establishes a property right relative to the DROP benefit forfeited by the participant which has any adverse effect upon the fund.

**Qualified Plan; Direct Rollover; Eligible Retirement Plan; Election – R.S. 11:1457**

- A. Notwithstanding any other provision of law to the contrary that would otherwise limit a state or statewide retirement system member's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- B. Repealed by Acts 2011, No. 364, §2, eff. July 1, 2011.
- C. As used in this Section, the following terms shall mean the following:
  - (1) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.
  - (2) "Distributee" means a member or former member. In addition, the member's or former member's surviving spouse, or the member's spouse or former member's spouse with whom a benefit or return of employee contributions is to be divided pursuant to R.S. 11:291(B) are distributees with reference to an interest of the member or former spouse. The board may promulgate rules in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that change this definition in order to conform to the provisions of the Internal Revenue Code and regulations thereunder.
  - (3) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. "Eligible retirement plan" shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state agreeing to account separately for amounts transferred into such plan from this fund. A distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order shall not make the retirement plan ineligible. The board may promulgate rules in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that change this definition in order to conform to provisions of the Internal Revenue Code and regulations thereunder.

- (4) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income; however, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to account separately for amounts so transferred, including accounting separately for the portion of such distribution which is includable in gross income and the portion of such distribution which is not includable. The fund shall accept participant rollover contributions, direct rollovers of distributions made after December 31, 2001, or both, from the following types of plans: individual retirement accounts or annuities or plans qualified under Section 401(a) or Section 403(a) of the Internal Revenue Code, or governmental deferred compensation arrangements subject to Section 457(b) of the Internal Revenue Code or tax sheltered annuities or other arrangements under Section 403(b) of the Internal Revenue Code, beginning on the effective date specified; but only for the purposes of repaying prior distributions or purchasing service credits as permitted under Section 415(k)(3) and Section 415(n) of the Internal Revenue Code. The board may promulgate rules in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that change this definition in order to conform to provisions of the Internal Revenue Code and regulations thereunder.

### **Computation of Retirement Benefits - R.S. 11:1458**

- A. (1) This Section is intended to comply with Section 415 of the Internal Revenue Code.
- (2) The normal retirement benefit of a member shall not exceed the dollar amount set forth in this Section.
- (3) The board may promulgate rules in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., for purposes of compliance with Section 415 of the Internal Revenue Code which modify the requirements hereunder.
- B. (1) Maximum annual benefit. The retirement benefit of any member of the retirement system and which is not attributable to the member's after-tax employee contribution, when expressed as an annual benefit may not exceed one hundred sixty thousand dollars per year, as adjusted for increases in the cost of living pursuant to Section 415 of the Internal Revenue Code. For purposes of determining whether a member's benefit exceeds this limitation, if the normal form of benefit is other than a single life annuity,

such form shall be adjusted actuarially to the equivalent of a single life annuity. This single life annuity shall not exceed the maximum dollar limitation outlined in this Paragraph. No adjustment is required for qualified joint and survivor annuity benefits; pre-retirement disability benefits; or pre-retirement death benefits.

- (2)
  - (a) Adjustment if benefit begins before age sixty-two. If benefit distribution begins before age sixty-two, the actual retirement benefit shall not exceed the adjusted dollar limitation. The adjusted dollar limitation shall be the equivalent, determined in a manner consistent with reduction of benefits for early retirement under the federal Social Security Act, of one hundred sixty thousand dollars, as adjusted.
  - (b) Adjustment if benefit begins after age sixty-five. If benefit distribution begins after age sixty-five, the dollar limitation shall be increased to the equivalent of one hundred sixty thousand dollars beginning at social security retirement age, as adjusted for increases in the cost of living pursuant to Section 415 of the Internal Revenue Code.
  - (c) Repealed by Acts 2011, No. 364, §2, eff. July 1, 2011.
  - (d) Interest assumption. The interest rate used for adjusting the maximum limitations above shall be:
    - (i) For benefits commencing before age sixty-two, the greater of five percent or the rate specified under the fund.
    - (ii) For benefits commencing after age sixty-five, the lesser of five percent or the rate specified under the fund.
    - (iii) For purposes of adjusting benefits for those benefits payable in a form other than a straight life annuity, the greater of five and one-half percent, the rate specified under the fund, and the rate that provides a benefit of not more than one hundred five percent of the benefit that would be provided if the applicable interest rate under Section 417(e)(3) of the Internal Revenue Code were the rate being used.
- (3) Adjustment for less than ten years of participation.
  - (a) If retirement benefits are payable under this retirement system to a member who has less than ten years of participation in the retirement system, the dollar limitation referred to in Paragraph (1) of this Subsection shall be multiplied by a fraction, the numerator of which is the member's number of years of participation in the system and the denominator of which is ten.
  - (b) If retirement benefits are payable under this retirement system to a member who has less than ten years of service with the employer, the dollar limitation referred to in Paragraph (9) of Subsection E of this Section shall be multiplied by a fraction, the numerator of which is the member's number of years of service with the employer and the denominator of which is ten.
- (4) Annual adjustment. The one hundred sixty thousand dollar limitation provided in this

Subsection shall be adjusted annually to the maximum dollar limits allowable as determined by the commissioner of the Internal Revenue Service under Section 415(d) of the Internal Revenue Code.

- (5) Member or participant in more than one plan. If a member is a member or participant in more than one defined benefit pension plan maintained by the state, its agencies, or its political subdivisions, then such member's benefit, considered in the aggregate after taking into account the benefits provided by all such retirement plans, shall not exceed the limits provided in this Subsection.
  - (6) Treasury regulation applicable. That portion of the benefit designated herein which is attributable to member contributions shall be determined in accordance with Treasury Regulations §1.415-3(d)(1).
- C. Total annual benefits not in excess of ten thousand dollars. Notwithstanding the provisions of Subsection B, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitations of this Subsection if:
- (1) The retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed ten thousand dollars for the plan year, or for any prior plan year, and
  - (2) The employer has not at any time maintained a defined contribution plan in which the participant participated.
- D. Average compensation.
- (1) For purposes of R.S. 11:1422 and 1432, average compensation shall include any amounts properly considered as the regular rate of pay of the member, as defined in R.S. 11:231, and unreduced by amounts excluded from income for federal income tax purposes by reason of 26 USC 125, 132(f), 402(e)(3), 402(h)(1)(B), 403(b), 414(h), or 457, or any other provision of federal law of similar effect.
  - (2) In addition to other applicable limitations set forth in the plan, and notwithstanding any other provisions of the plan to the contrary, for plan years beginning on or after January 1, 1994, and before January 1, 2002, the annual compensation of each employee taken into account under the plan shall not exceed the Omnibus Budget Reconciliation Act of 1993 annual compensation limit. The Omnibus Budget Reconciliation Act of 1993 annual compensation limit is one hundred fifty thousand dollars, as adjusted by the commissioner of Internal Revenue for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve months, over which compensation is determined beginning in such calendar year. If a determination period consists of fewer than twelve months, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve.
  - (3) For plan years beginning on or after January 1, 2002, the annual compensation

limitation shall not exceed two hundred thousand dollars, as adjusted for cost-of- living increases under Section 401(a)(17)(B) of the Internal Revenue Code. If compensation for an earlier period is taken into account in determining an employee's benefits accruing in the current plan year, the compensation for the earlier period shall be subject to the compensation limit for the current year.

E. The provisions of this Section shall apply if any member is covered, or has ever been covered, by another plan maintained by the employer, including a qualified plan, or a welfare benefit fund, as defined in Section 419(e) of the Internal Revenue Code, or an individual medical account, as defined in Section 415(1)(2) of the Internal Revenue Code, which provides an annual addition as described in Paragraph (4) of this Subsection.

- (1) If a member is, or has ever been, covered under more than one defined benefit plan maintained by the employer, the sum of the member's annual benefits from all such plans shall not exceed the maximum permissible amount set forth in Subsection D of this Section.
- (2) If the employer maintains one or more qualified defined contribution plans covering a member of the fund, the amount allocated as an annual addition to a member shall not exceed the defined contribution dollar limitation. The board may promulgate rules in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that determine how such aggregation shall take place, what portion of the fund shall be considered a defined contribution plan, and what benefits generated by member contributions shall be considered attributable to a defined contribution plan.
- (3)
  - (a) "Defined contribution dollar limitation" shall mean forty thousand dollars as adjusted for cost-of-living increases provided in Section 415(d) of the Internal Revenue Code.
  - (b) If a member is, or ever has been covered under more than one defined contribution plan maintained by the employer, the sum of the member's annual additions to all such plans for each limitation year shall not exceed the maximum permissible amount.
  - (c) The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions.
- (4) "Annual additions" of a member for the limitation year shall mean the sum of the following amounts credited to a member's account for the limitation year:
  - (a) Employer contributions.
  - (b) Employee contributions.
  - (c) Forfeitures.
  - (d) Amounts allocated to an individual medical account, as defined in Section 415(1)(2) of the Internal Revenue Code, which is a part of a pension or annuity plan maintained by the employer, are treated as annual additions to a defined contribution plan. Additionally, amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which

are attributable to post-retirement medical benefits allocated to the separated account of a key employee, as defined in Section 419A(d)(3) of the Internal Revenue Code, or under a welfare benefit fund, as defined in Section 419(e) of the Internal Revenue Code, maintained by the employer, are treated as annual additions to a defined contribution plan.

- (e) The employee contribution shall be deemed to be a defined contribution plan. If a member has made nondeductible employee contributions pursuant to the provisions of this system, the amount of such contributions shall be treated as an annual addition to a qualified defined contribution plan, for purposes of this Section.
- (5) The amount of annual additions which may be credited to the member's account for any limitation year shall not exceed the maximum permissible amount. Contributions and benefits under any other plan of the employer, to the extent that an adjustment is required to satisfy the requirements of this Section in the aggregate, shall be limited or reduced to the extent necessary to satisfy such requirement without reducing accrued benefits; however, only after such other plans have been modified shall the benefits and contributions under this plan be reduced. As soon as it is administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year shall be determined on the basis of the member's actual compensation for the limitation year. If there is an excess amount, the excess shall be disposed of as follows:
- (a) Any nondeductible voluntary employee contribution to the extent it would reduce the excess amount shall be returned to the member.
  - (b) If, after the application of Subparagraph (a) of this Paragraph, an excess amount still exists, then any nondeductible mandatory contribution to the extent it would reduce the excess amount shall be returned to the member.
  - (c) For a limitation year beginning on or after July 1, 2007, excess amounts allocated to a member shall be corrected through the Employee Plans Compliance Resolution System or such other method permitted by the secretary of the treasury.
  - (d), (e) Repealed by Acts 2011, No. 364, §2, eff. July 1, 2011.
- (6) "Excess amount" of a member for a limitation year shall mean the excess of the member's annual additions for the limitation year over the maximum permissible amount.
- (7) The "limitation year" shall be the calendar year, or the twelve consecutive month period elected by the employer hereunder.
- (8) (a) The "maximum permissible amount" for a member for a limitation year shall be the maximum annual addition that may be contributed or allocated to a member's account under the plan for any limitation year and shall not exceed the lesser of:
- (i) The defined contribution dollar limitation.



- (ii) One hundred percent of the member's compensation for the limitation year.
- (b) The compensation limitation provided for in Item (a)(ii) of this Paragraph shall not apply to any contribution for medical benefits within the meaning of Section 401(h) or 419A(f)(2) of the Internal Revenue Code, which is otherwise treated as an annual addition pursuant to Section 415(l) or Section 419A(d)(2) of the Internal Revenue Code.

## **COST-OF-LIVING INCREASES**

### **Cost-of-Living Increase; Determination by Board of Trustees - R.S. 11:1461**

- A. The board of trustees may use excess interest earnings on investments of the system in excess of normal requirements as determined by the actuary to provide a cost-of-living increase in benefits for retired members or their beneficiaries in an amount not to exceed three percent of the original benefit, excluding any additional annuity, for each year of retirement but not to exceed three hundred dollars per year for each year of retirement. Such benefits shall be paid in such a manner and in such amount as may be determined by the board of trustees, based on funds available, and the board of trustees shall be authorized to set a maximum amount of such benefits.
  
- B. (1) Notwithstanding any provision of law to the contrary, in particular R.S. 11:242, the board of trustees is authorized to provide a permanent monthly cost-of-living adjustment for retirees or their beneficiaries who would otherwise be eligible for a cost-of-living adjustment pursuant to Subsection A of this Section. The cost-of-living adjustment shall be payable in a monthly amount not to exceed three percent of the normal monthly benefit payable to the retiree or beneficiary on the date the increase is granted but shall not be less than twenty dollars per month.  
  
(2) The authority of the board of trustees to provide the cost-of-living adjustment provided in this Subsection shall become effective July 1, 2008. The authority of the board of trustees to provide the cost-of-living adjustment shall be nonrecurring, and the board of trustees shall not grant more than one cost-of-living adjustment pursuant to Paragraph (1) of this Subsection.

## **BOARD OF TRUSTEES**

### **Membership and Organization of Board; Election of Members; Vacancies - R.S. 11:1471**

- A. The board of trustees shall be composed of seventeen members as follows:
- (1) The president, vice president, and treasurer of the Louisiana Assessors' Association.
  - (2) Twelve other members who shall be elected for terms of two years, as provided in this Paragraph, and who may be reelected:
    - (a) Eight regular member representatives, one elected from each of the eight election districts established by the Louisiana Assessors' Association. Elections for regular member representatives on the board shall be held in even-numbered years for even-numbered districts and in odd-numbered years for odd-numbered districts, in conformity with the bylaws of the association.
    - (b) Two retiree representatives, nominated by the board and elected by the retirees of the fund.
    - (c) Two assessor employee representatives who are members of the fund, nominated by the board and elected by the assessor employees who are members of the fund.
  - (3) A member of the House Committee on Retirement appointed by the speaker of the House of Representatives, or the member's designee.
  - (4) The chairman of the Senate Committee on Retirement, or his designee.
- B. (1) The president and vice president of the Louisiana Assessors' Association shall be president and vice president of the retirement board, and the treasurer of the association shall be the treasurer of the retirement board.
- (2) The vice president and the treasurer shall have no voting rights on the board. The president shall be ineligible to vote except in case of a tie.
- C. In the event of a vacancy on the board, the vacancy shall be filled within sixty days after the vacancy occurs. Any vacancy in the officer positions shall be filled as provided for in the association bylaws. Any vacancy in one of the other board positions shall be filled in the manner provided for in Subsection A of this Section.

**Secretary of Board; Records and Reports; Part-Time Employees – R.S.  
11:1472**

- A. The board of trustees shall have authority to appoint a secretary, and shall fix, at its discretion, the salary to be paid as compensation for such services, and to employ actuarial, clerical, and other help as necessary; to contract for group insurance covering the secretary, regular employees, and their dependents, as provided by the assessors' insurance act. The salaries and insurance premiums shall be paid out of the Assessors' Retirement Fund. The secretary of the board of trustees shall keep in book provided for the purpose, a full and complete record of all proceedings of the board of trustees, particularly with reference to investment of funds belonging to the said retirement fund, as hereinafter provided for. The secretary shall keep all correspondence of the board, keep minutes of all of its meetings and shall perform such other duties as may be assigned him or her by the board of trustees, including the preparation of the warrants for the various disbursements from the said fund and the keeping of an accurate record thereof.
- B. The secretary shall keep a service record of each assessor and assessor's employees who are qualified members of the fund, which shall show date of election or entry into the assessor's department, interruptions of service, and the cause thereof. The service record shall show the total number of years' service. The secretary shall keep the records of the board, and a list of retired assessors and assessors' employees receiving retirement and disability benefits, and shall file a report with the president at least once a year composed of a list of the assessors and assessors' employees receiving such benefits, and a summary of the audit of the accounts made by the board's accountant or the legislative auditor if consistent with his authority.
- C. Each assessor shall furnish the secretary with a service record, as set forth above, for all of his employees, including himself, who are eligible for participation as members of this fund, and the names of additional employees who become eligible for membership in the future, not later than thirty days after his or her service begins. Provided that the board of trustees of the fund may deny the right of membership in this fund to any class of employees who are occupying positions on a part-time or intermittent basis.

## FINANCING OF FUND

### **Financing of Fund; Deductions; Deficiencies and Surpluses; Remedies – R.S. 11:1481**

The fund shall be financed as set forth hereunder:

- (l) (a) (i) Each sheriff and ex officio tax collector of the state of Louisiana, or other official responsible for such tax collection, is hereby authorized and required to deduct one-fourth of one percent of taxes shown to be collectible by the tax rolls, including that shown on the tax rolls to be exempted by virtue of the homestead exemptions of each respective parish, and the city tax collector for the city of New Orleans, or other official responsible for such tax collection, is hereby authorized and required to deduct one-fourth of one percent of taxes shown to be collectible by the tax rolls, including that shown on the tax roll to be exempted by virtue of homestead exemptions, for the city of New Orleans and the parish of Orleans which money each respective sheriff, tax collector, or any other person performing said duties shall remit to the Assessors' Retirement Fund in a lump sum from first tax collections each year or periodically at the same time said sheriff and tax collector shall disburse funds to the tax recipient bodies of his respective parish. The amount remitted to the Assessors' Retirement Fund shall be based on the total amount of taxes shown to be collectible on the roll, including that shown on the tax roll to be exempted by virtue of homestead exemption, on the date the tax roll is filed for collection.
- (ii) (aa) All tax recipient agencies of ad valorem taxes of each and every parish and municipality of the state of Louisiana, including the police jury, council, commission, school board, levee district, special districts, municipalities and all tax recipients of any nature whatsoever of ad valorem taxes are hereby required to furnish the legislative auditor the authorizing ordinances or resolutions, the tax rolls, and the tax rate to be applied to the assessed values for ad valorem tax purposes no later than June first of every year.
- (bb) The board shall certify to each sheriff and ex officio tax collector for the state of Louisiana, other official responsible for such tax collection, or any other person performing such duties for any person, parish, city, or governmental entity that all amounts due the fund have been received. For each payment received, the certification shall include the date the fund received the payment, the amount of the payment, and the jurisdiction remitting the payment.
- (cc) The board shall calculate any shortfall in the fund and shall take reasonable steps to ascertain its cause. The board shall certify to the

legislative auditor the amount of the shortfall and its cause. In the event the shortfall is due to the failure of any person, parish, city, or other governmental entity to remit all funds required by this Section or any predecessor law, the certification shall so indicate.

- (dd) The amounts due to the Assessors' Retirement Fund pursuant to this Paragraph shall be certified as correct by the legislative auditor.
- (iii) (aa) In addition to the payment required pursuant to Item (i) of this Subparagraph, each sheriff and ex officio tax collector for the state of Louisiana, other official responsible for tax collection, or any other person performing such duties for any person, parish, city, or governmental entity certified by the board as having failed to remit all monies required by this Section, shall remit to the Assessors' Retirement Fund an amount, to be determined by the board, of revenue sharing monies otherwise due to the delinquent person, parish, city, or other governmental entity. The remittance pursuant to this Item shall be paid until the amount of the certified shortfall, including interest and any professional fees incurred through attempts at collection, has been satisfied; however, the board has the authority to negotiate a lesser amount to be paid in satisfaction of this debt. The board shall notify the sheriff and ex officio tax collector for the state of Louisiana, other official responsible for tax collection, or any other person performing such duties by November first that said remittance shall be due for the upcoming year.
  - (bb) Should the sheriff and ex officio tax collector for the state of Louisiana, other official responsible for such tax collection, or any other person performing such duties for any person, parish, city, or other governmental entity fail to comply with Subitem (aa) of this Item, the board of trustees of the Assessors' Retirement Fund is hereby empowered to make demand upon the state treasurer for the monies due to the fund. The treasurer shall pay such demand before distribution of any revenue sharing dollars to the person, parish, city, or other governmental entity. The board shall submit to the treasurer a resolution certifying the name of the governmental entity, its failure to pay, and the amount owed, and authorizing a designee or designees to act on its behalf.
  - (cc) The remedies provided in this Item are remedial and curative and may be exercised by the board at any time for any identifiable shortfall in the fund, regardless of when the shortfall initially arose.
- (b) Each assessor shall contribute three and one-half percent of the salaries of the assessor and the assessor's employees who are eligible for membership in the fund. The board of trustees of the fund shall contribute three and one-half percent of the salaries of the secretary and regular employees of the Assessors' Retirement Fund to the fund. For purposes of this Section, the term "salaries"

shall include expense allowances provided by law in addition to regular salary to be paid from the assessors' general fund. For purposes of this Section, in no event shall the expense allowance exceed ten percent of the salary of the assessor. On and after October 1, 1989, each assessor and the board of trustees of the fund shall contribute the employer contributions required by R.S. 11:103.

- (2) (a) Each assessor in the state of Louisiana shall deduct eight percent from the salaries of the assessor and the assessor's employees who are eligible for membership in this fund, and the board of trustees of the Assessors' Retirement Fund shall deduct eight percent from the salaries of the secretary and regular employees of the Assessors' Retirement Fund who are eligible for membership in this fund; said eight percent shall be deducted from the respective salaries each regular payroll period, and paid into the fund monthly; said amount to be paid by said assessor and board of trustees within ten days after the close of each month that said salaries were paid.
- (b) (i) Notwithstanding the provisions of Subparagraph (a) of this Paragraph and in addition to the amounts required to be paid by the employer, upon providing written notice to the Assessors' Retirement Fund at least fifteen days prior to the beginning of a calendar year, each assessor may elect to pay all or any portion of the contributions required in Subparagraph (a) of this Paragraph of the assessor and the assessor's employees who are eligible for membership in the fund.
- (ii) The board of trustees of the Assessors' Retirement Fund may elect to pay all or any portion of the contributions required in Subparagraph (a) of this Paragraph of the secretary and regular employees of the fund who are eligible for membership in the fund.
- (iii) Except as provided in Subparagraph (c) of this Paragraph, if the assessor or board of trustees chooses to pay a portion of the contributions required in Subparagraph (a) of this Paragraph, then the portion that is paid shall be the same proportion of the salary of each employee in the office of the assessor or board of trustees and no employee shall be able to choose the amount of such payment.
- (iv) If the assessor or board of trustees elects to pay a portion of the contributions required in Subparagraph (a) of this Paragraph, then the election shall remain in effect for one year and shall be rescinded only upon providing written notice to the Assessors' Retirement Fund at least fifteen days prior to the beginning of a calendar year. The contributions shall be paid into the fund within ten days after the close of each month.
- (c) (i) The assessor for the parish of Orleans may pay all or any portion of the contributions required in Subparagraph (a) of this Paragraph on his behalf, provided the respective assessor has elected and is paying the same portion of employee contributions for his employees who are eligible for membership in the fund that he directs the president to pay on his behalf.

- (ii) If the assessor for the parish of Orleans pays all or a portion of his employee contribution, then he shall pay from his district allotment the exact amount of any employee contributions paid on his behalf to the assessor within at least ten days after the close of each month.
- (d) (i) The failure of any assessor or the Louisiana Assessors' Association to remit all required contributions to the fund within thirty days of becoming due shall render any such applicable assessor or Louisiana Assessor's Association liable to suspension of membership and participation in the fund at the discretion of the board.
- (ii) If the board suspends any assessor pursuant to the provisions of this Subparagraph, then it shall notify the assessor of his suspension by registered mail sent to him at his address as it appears upon the records of the system and it shall prescribe the conditions and terms pursuant to which he may be reinstated.
- (iii) If any assessor continues to be delinquent in the payment of the required contributions for a period exceeding ninety days, then he shall be personally liable to the fund in his individual capacity for the delinquent contributions and for a penalty equal to twenty-five percent of all delinquent contributions. If and when the delinquent contributions and penalty are collected, both shall be paid into and constitute a part of the fund.

### **Funds to Which Assets Credited - R.S. 11:1482**

- A. The annuity savings fund shall be the fund to which shall be credited all accumulated contributions of members. From this fund shall be paid the refunded contributions because of withdrawal or death of a member, and the amounts required to be transferred to the annuity reserve funds as provided in Subsection C herein.
- B. The pension accumulation fund shall be the fund to which shall be credited all payments to the system, exclusive of payments to the annuity savings fund and including contributions from employers and taxes from sheriffs and ex officio tax collectors.
- C. The annuity reserve fund shall be the fund in which shall be held the reserves for liabilities for retirees and beneficiaries. Upon retirement or death of a member the annuity reserve fund shall be credited with the member's accumulated contributions and the required additional amount from the pension accumulation fund, so as to provide for the benefits of the member. All benefits shall be paid to retirees or beneficiaries from the annuity reserve fund, including any refund of contributions upon death after retirement. Should a member, retired for disability, return to active employment at a rate of compensation not less than his final compensation at time of his last retirement, the balance of his accumulated contributions reduced by the member's annuity payments received, shall be transferred to the annuity savings fund and credited to his individual account therein.



## **Control and Expenditure of Funds; Investments; Warrants; Expenses; Deposits - R.S. 11:1483**

- A. The board of trustees shall have complete control of the funds and shall have the power to draw such sums of money from its treasury for expenses as hereinafter provided for and to invest such funds in the name of the board of trustees of the fund in accordance with the provisions of R.S. 11:263. All securities shall be deposited with the secretary of the board of trustees of the retirement fund and shall be subject to the orders of the said board.
- B. All monies ordered to be paid from the retirement fund to any person or persons, shall be paid by the secretary of said board only upon warrants signed by the president and secretary of the board and countersigned by the treasurer thereof, except in event of physical disability of any one of these officers, then the vice president is authorized to sign provided certification is furnished by a medical doctor that said officer has a disability. No warrant shall be drawn except by orders of the board, duly entered upon the records of the proceedings of the board. In the event the said retirement fund, or any part thereof, shall by orders of said board, or otherwise, be deposited in any bank or banks, all interest or money which may be paid on account of any sum on deposit, shall belong to and constitute a part of said funds; provided that nothing herein contained shall be construed as authorizing said secretary to deposit said fund or any part thereof, unless so authorized by the board.
- C. The board of trustees shall have authority to instruct the secretary to reimburse each member for any actual expenses incurred in connection with his official duties on this board; or to pay any other incidental expenses which the board might incur in the performance of its official duties, provided said total annual expenses of the board of trustees do not exceed one per cent of the annual receipts of the assessors' retirement fund.
- D. The board shall deposit all monies received by it in the bank or banks selected by the board of trustees, which deposits are secured under the federal insurance plan to the extent thereof and the balance by collateral in like amount posted as directed by the board.

## **Reversion of Funds Prohibited - R.S. 11:1484**

- A. At no time shall it be possible for the plan assets to be used for, or diverted to, any person or purpose other than for the exclusive benefit of the members and their beneficiaries, except that contributions made by the employer may be returned to the employer if the contribution was made due to a mistake of fact and the contribution is returned within one year of the mistaken payment of the contribution.
- B. The amount of any contribution returned shall not exceed the difference between the amount actually contributed and the amount which would have been contributed had there been no mistake of fact and shall not include the earnings attributable to such contribution. The amount of the contributions returned shall be reduced by any losses attributable to the contribution, and no participant shall have his benefit payable hereunder reduced by the return of the contribution to less than such benefit would have been had the returned contribution never been made.
- C. Notwithstanding the above, if the system is terminated and all obligations under the system are fully funded and provided for, then any excess funds held by the system shall be returned to the employer.

## **EXCESS BENEFIT PLAN**

### **Establishment of Plan - R.S. 11:1491**

There is hereby created a separate, unfunded, non-qualified excess benefit plan containing the terms and provisions set forth in this Part and intended to be a qualified governmental excess benefit arrangement, as defined in Section 415(m)(3) of the Internal Revenue Code.<sup>1</sup>

<sup>1</sup> 26 U.S.C.A § 415 (m)(3)

### **Definitions - R.S. 11:1492**

- A. All definitions prescribed in Part I of this Chapter are applicable to the plan created pursuant to this Part, unless a different definition is set forth in this Part or the context in which a term is used in this Part indicates a different meaning than that prescribed in Part I of this Chapter.
- B. "Excess benefit participant" shall mean any member whose retirement benefit, as determined on the basis of all qualified plans without regard to the limitations of R.S. 11:1458 and comparable provisions of other qualified plans of the employer, would exceed the maximum benefit permitted under Section 415 of the Internal Revenue Code.
- C. "Maximum benefit" shall mean the retirement benefit a member is entitled to receive from the fund set forth in Part III of this Chapter, in any month after giving effect to R.S. 11:1458 and any similar provisions of any other qualified plans designed to conform to Section 415 of the Internal Revenue Code.<sup>1</sup>
- D. "Unrestricted benefit" shall mean the monthly retirement benefit a member, or the spouse, child, or single dependent parent of a member, would have received under the terms of all qualified plans of the employer, except for the restrictions of R.S. 11:1458 and any similar provisions of any other qualified plans designed to conform to Section 415 of the Internal Revenue Code.

<sup>1</sup> 26 U.S.C.A § 415

### **Benefit Provided - R.S. 11:1493**

- A. An excess benefit participant who is receiving benefits from the fund is entitled to a monthly benefit under this excess benefit plan in an amount equal to the lesser of:
  - (1) The member's unrestricted benefit less the maximum benefit.
  - (2) The amount by which the member's monthly benefit from the fund has been reduced because of the limitations of R.S. 11:1458.
- B. A retirement benefit payable under this excess benefit plan shall be paid in the form and at the time it would have been paid as a monthly pension under the fund, except for the

limitations under R.S. 11:1458 and Section 415 of the Internal Revenue Code.<sup>1</sup> Each optional benefit form permitted under this excess benefit plan shall be the actuarial equivalent of each other permitted benefit form.

- C. This plan shall be administered by the board. Except as provided to the contrary by this Part, the rights, duties, and responsibilities of the board shall be the same for this excess benefit plan as for the fund set forth in Part I of this Chapter.
- D. The actuary employed by the board is responsible for determining the amount of benefits that may not be provided under the fund solely because of the limitations of R.S. 11:1458 and Section 415 of the Internal Revenue Code and thus, the amount of contributions that will be made to this excess benefit plan, rather than to the fund.
- E. The actuary designated in R.S. 11:1461 shall also provide advice to the board for this excess benefit plan.

<sup>1</sup> 26 U.S.C.A § 415

### **Contributions - R.S. 11:1494**

- A. (1) Contributions may not be accumulated under this excess benefit plan to pay future retirement benefits. Instead, each payment of contributions by the employer that would otherwise be made to the fund shall be reduced by the amount, determined by the board as necessary to meet the requirements for retirement benefits under this excess benefit plan, until the next payment of contributions is expected to be made to the fund by the employer.  
  
(2) The employer shall then pay to this excess benefit plan, out of the contributions that would otherwise have been made to the fund, no later than the fourteenth day before the date of each distribution of monthly retirement benefits is required to be made from this excess benefit plan, the amount necessary to satisfy the obligation to pay monthly retirement benefits under this excess benefit plan.
- B. The board shall satisfy the obligation of this excess benefit plan to pay retirement benefits out of the employer contributions so transferred.
- C. The employer contributions otherwise required to be made to the fund and any other qualified plans of the employer shall be divided into those contributions required to pay retirement benefits pursuant to this Part, and those contributions paid into and accumulated to pay the maximum benefits required by any such other qualified plans.
- D. Employer contributions made to provide retirement benefits pursuant to this Part may not be commingled with the monies of the fund or any other qualified plan, nor may this plan ever receive any transfer of assets from the fund.

# Louisiana Administrative Code Title 58

## Part XIX. Assessors' Retirement Fund

### Chapter 1. General Provisions

#### 101. Compensation

- A. Definitions. As provided under R.S. 11:1402(6), effective for limitation years beginning on or after July 1, 2007, compensation is hereby defined as follows.

*Compensation*—the regular pay of the member, not including any overtime or bonuses;

*IRC §415 Compensation*—wages, tips and other compensation required to be reported under §§6041, 6051 and 6052 of the *Internal Revenue Code* (IRC) (wages, tips and other compensation box on IRS Form W-2), during the calendar year of the plan (the plan year or determination period).

- B. Exclusions from Compensation. Compensation shall not include:

- (1) any amounts that are not includible in IRC §415 compensation;
- (2) employer contributions to a plan of deferred compensation to the extent contributions are not included in gross income of the employee for the taxable year in which contributed, or on behalf of an employee to a simplified employee pension plan and any distributions from a plan of deferred compensation;
- (3) amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an employee becomes freely transferable or is no longer subject to a substantial risk of forfeitures;
- (4) amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;
- (5) other amounts that receive special tax benefits, or contributions made by an employer (whether or not under a salary reduction agreement) towards the purchase of a IRC § 403(b) annuity contract (whether or not the contributions are excludible from the gross income of the employee); and
- (6) pre-tax amounts contributed by the employee to an IRC §125 cafeteria plan.

- C. Determination of IRC §415 Compensation. IRC §415 compensation must be determined without regard to any rules under IRC §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC §3401(a)(2)).

- (1) For plan years beginning on and after January 1, 2001:
  - (a) IRC §415 compensation shall include elective amounts that are not includible in the gross income of the employee under IRC §§125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457.
- (2) For any plan year beginning after December 31, 2001:
  - (a) IRC §415 compensation shall not exceed the maximum amount of compensation permitted to be taken into account under IRC §401(a)(17),

\$200,000 adjusted for the cost of living increases in accordance with IRC §401(a)(17)(B).

- (i) The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.
- (3) If a determination period consists of fewer than 12 months, as a result of a change in plan year or in the year of the termination of the plan:
  - (a) the IRC §415 compensation limit is an amount equal to the otherwise applicable IRC §415 compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12;
- (4) If IRC §415 compensation for any prior determination period is taken into account in determining a participant's benefit for the current plan year, the IRC §415 compensation for such prior determination period is subject to the applicable IRC §415 compensation limit in effect for that prior period.

D. IRC §415 Compensation Paid After Severance from Employment

- (1) Adjusted Compensation. IRC §415 compensation shall be adjusted for the following types of compensation paid after a participant's severance from employment with the employer maintaining the plan (or any other entity that is treated as the employer pursuant to IRC §414(b), (c), (m) or (o)). However, amounts described in Paragraphs 2-8 of this Subsection may only be included in IRC §415 compensation to the extent such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of compensation paid after severance from employment that is not described in the following types of compensation is not considered IRC §415 compensation within the meaning of IRC §415(c)(3), even if payment is made within the time period specified above.
- (2) Regular Pay. IRC §415 compensation shall include regular pay after severance from employment if:
  - (a) the payment is regular compensation for services during the participant's regular working hours, or compensation for services outside the participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
  - (b) the payment would have been paid to the participant prior to a severance from employment if the participant had continued in employment with the employer.
- (3) Leave Cashouts. Leave cashouts shall be included in IRC §415 compensation if:
  - (a) those amounts would have been included in the definition of IRC §415 compensation if they were paid prior to the participant's severance from employment; and
  - (b) the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if:

- (i) the participant would have been able to use the leave if employment had continued.
- (4) Deferred Compensation. IRC §415 compensation will include deferred compensation if the compensation would have been included in the definition of IRC §415 compensation if:
  - (a) it had been paid prior to the participant's severance from employment; and
  - (b) the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if:
    - (i) the payment would have been paid at the same time if the participant had continued in employment with the employer and only to the extent that the payment is includible in the participant's gross income.
- (5) Qualified Military Service. IRC §415 compensation does not include payments to an individual who does not currently perform services for the employer by reason of qualified military service (as that term is used in IRC §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.
- (6) Permanently and Totally Disabled. IRC §415 compensation does not include compensation paid to a participant who is permanently and totally disabled (as defined in IRC §22(e)(3)).
- (7) Amounts Earned but not Paid. IRC §415 compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.
- (8) Lost Wages. Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an employer to compensate an employee for lost wages are IRC §415 compensation for the limitation year to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in IRC §415 compensation.

E. Limitation Year

- (1) The limitation year:
  - (a) shall be the calendar year of the fund;
  - (b) is the period that is used to apply the limitations of IRC §415.
- (2) The limitation year may only be changed by amendment to the fund.
  - (a) Furthermore, if the fund is terminated effective as of a date other than the last day of the fund's limitation year, then the fund is treated as if the fund had been amended to change its limitation year.

### 103. Actuarial Equivalent

- A. As provided under R.S. 11:1402(8), *actuarial equivalent* shall be defined using the following assumptions.
- (1) Interest shall be compounded annually at the rate of 7 1/2 percent per annum.
  - (2) Annuity rates shall be determined on the basis of RP2000 combined healthy table set back three years for males and two years for females and uninsured.
- B. Effective July 1, 2012, as provided by R.S. 11:1402(8) actuarial equivalent shall be defined by using the following assumptions.
- (1) Interest shall be compounded annually at the rate of 7.5 percent per annum.
  - (2) Mortality rates shall be based on the RP-2000 Combined Healthy Table unisexed based on 65 percent males and 35 percent females for retirees and 35 percent males and 65 percent females for beneficiaries.
- C. Effective October 1, 2015, as provided by R.S. 11:1402(8) actuarial equivalent shall be defined by using the following assumptions.
- (1) Interest shall be compounded annually at the rate of 7.25 percent per annum (except as provided below).
  - (2) For Single Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy Tables unisexed based on 35 percent males and 65 percent females.
  - (3) For Joint Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy Tables unisexed based on 65 percent males and 35 percent females for retirees and 35 percent males and 65 percent females for beneficiaries.
  - (4) For Disability Award Lifetime Equivalences, mortality rates shall be based on the RP-2000 Disabled Lives Tables unisexed based on 35 percent males and 65 percent females.
  - (5) For Drop Balance Life Annuity Conversions, mortality rates shall be based on the RP-2000 Combined Healthy Table set back 3 years and unisexed based on 100 percent males and 0 percent females with interest at 6 percent per annum.
- D. Effective October 1, 2016, as provided by R.S. 11:1402(8) actuarial equivalent shall be defined by using the following assumptions.
- (1) Interest shall be compounded annually at the rate of 7.00 percent per annum (except as provided below).
  - (2) For Single Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy Tables set forward 1 year for males with no set forward for females and unisexed based on 40 percent males and 60 percent females.
  - (3) For Joint Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy Tables set forward 1 year for males with no set forward for females and unisexed based on 65 percent males and 35 percent females for retirees and 35 percent males and 65 percent females for beneficiaries.



- (4) For Disability Award Lifetime Equivalences, mortality rates shall be based on the RP-2000 Disabled Lives Tables unisexed based on 40 percent males and 60 percent females.
  - (5) For Drop Balance Life Annuity Conversions, mortality rates shall be based on the RP-2000 Healthy Annuitant Table set back 1 year and projected to 2030 using Scale AA, and unisexed based on 100 percent males and 0 percent females with interest at 6 percent per annum.
- E. Thereafter, these assumptions shall be adopted by resolution of the board, based on recommendations of its actuary.

## **105. Accumulated Contributions, Rollovers**

- A. As provided in R.S. 11:1457(C), the following definitions are revised.

*2009 RMDs of a Participant or Beneficiary*—amounts that the participant or beneficiary would have been required to receive as a required minimum distribution under IRC §401(a)(9) for the 2009 distribution calendar year.

*Distributee*—

- (a) a person who is distributed benefits from the plan and shall include an employee or former employee. In addition:
  - (i) the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC §414(p), are *distributees* with regard to the interest of the spouse or former spouse;
  - (ii) a nonspouse beneficiary as designated by the member.

*Eligible Retirement Plan*—

- (a) an eligible plan under IRC §457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from this plan, an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a), an annuity contract described in IRC §403(b), or a qualified plan described in IRC §401(a), that accepts the distributee's eligible rollover distribution;
- (b) shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order.

*Eligible Rollover Distribution*—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

- (a) (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life

expectancy of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary; or

(ii) for a specified period of 10 years or more;

- (b) any distribution to the extent such distributions is required under IRC §401(a)(9);
- (c) any hardship distribution attributable to elective deferrals;
- (d) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and
- (e) any other distribution(s) that is reasonably expected to total less than \$200 during a year.

#### B. Eligible Retirement Plan

(1) Effective for distributions on or after January 1, 2007:

- (a) eligible retirement plan shall include the individual retirement account or annuity in the name of the deceased participant for the benefit of a nonspouse beneficiary, who receives an eligible rollover distribution from the plan on account of the death of a participant, provided that the individual retirement account or annuity is treated as an inherited IRA and that the minimum distribution rules applicable in the event the IRA owner dies before the entire interest is distributed shall apply to the transferee IRA and the transferee IRA does not provide the beneficiaries with the special rules for surviving spouse beneficiaries;
- (b) a Roth IRA is an eligible retirement plan with respect to distributions from the Fund that do not consist of designated Roth accounts, so long as the restrictions that apply to a transfer from a traditional IRA (non-Roth) to a Roth IRA are satisfied.

#### C. Eligible Rollover Distribution

- (1) If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual.
- (2) Effective January 1, 2003, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in IRC §408(a) or (b), or to a qualified defined contribution plan described in IRC §401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.
- (3) Effective January 1, 2007, eligible rollover distributions shall include:

- (a) a distribution to a nonspouse beneficiary on account of the participant's death, so long as any rollover distribution is transferred to an individual retirement account or annuity that is treated as an inherited account of the deceased participant;
  - (b) after-tax contributions held in a plan qualified under IRC §401(a).
- (4) Effective January 1, 2007, distributions from the plan that do not consist of designated Roth accounts shall be eligible rollover distributions with respect to a Roth IRA and may be rolled over to a Roth IRA, subject to the restrictions that apply to a transfer from a traditional (non-Roth) IRA to a Roth IRA.
- (5) During 2009, 2009 RMDs shall be treated as eligible rollover distributions for purposes of making available the direct rollover of eligible rollover distributions that include such amount, but not for purposes of withholding federal income taxes on the amount when it is distributed.

## **107. Definitions**

*Full-Time*—regularly scheduled to work a minimum of 35 hours per week.

## **Chapter 3. Creditable Service**

### **301. Death Benefits for Qualified Military Service**

A. As provided under R.S. 11:1411, the following shall apply.

- (l) In the case of a death occurring on or after January 1, 2007, if a participant dies while performing qualified military service (as defined in IRC §414(u)), the participant's beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment on account of death.
  - (a) Moreover, the plan will credit the participant's qualified military service as service for vesting purposes, as though the participant had resumed employment under USERRA immediately prior to the participant's death.

## **Chapter 5. Limitation on Payment of Benefits**

### **501. Suspension of Benefits**

- A. As provided in R.S. 11:1444(D), if a member has commenced to receive distributions under R.S. 11:1444 even though he is still employed with the employer, then such member shall be given the opportunity to elect to suspend such distributions so long as he is still employed. If such member later terminates employment, he shall commence to receive minimum distributions again and shall be entitled to elect the method of receiving such distributions, with his required beginning date to be determined based on the date of his termination of employment.

### **503. Required Beginning Date**

- A. As provided in R.S. 11:1444(E), any required beginning date occurring in 2009 shall be extended for one year.

### **505. Benefit Limitations**

- A. As provided under R.S. 11:1458, the following provisions shall apply for limitation years beginning on or after July 1, 2007.
- (1) Annual Benefit—Maximum Permissible Benefit. The annual benefit, otherwise payable to a participant under the plan, at any time shall not exceed the maximum permissible benefit. If the benefit the participant would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, then the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.
  - (2) Adjustment if in Two Defined Benefit Plans. If the participant is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the participant's annual benefit from all such plans may not exceed the maximum permissible benefit. Where the participant's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the maximum permissible benefit applicable at that age, the employer shall limit a participant's benefit in accordance with the terms of the plans.
  - (3) Limits Grandfathered prior to July 1, 2007
    - (a) The following sentence in Clause i of this Subparagraph applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to IRC § 415 in effect as of the end of the last limitation year beginning before July 1, 2007, as described in U.S. Treasury regulations § 1.415(a)-1(g)(4).
      - (i) The application of the provisions of this Part shall not cause the maximum permissible benefit for any participant to be less than the participant's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007.

## Chapter 7. Accumulated Contributions

### 701. Benefit Limitations

A. Definitions. For purposes of Chapter 7, the following definitions apply.

*Annual Benefit*—a benefit that is payable annually in the form of a straight life annuity.

*Defined Benefit Dollar Limitation*—effective for limitation years ending after December 31, 2001, \$160,000, automatically adjusted under IRC §415(d), effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity:

- (a) the new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year;
- (b) the automatic annual adjustment of the defined benefit dollar limitation under IRC §415(d) shall apply to participants who have had a separation from employment.

B. Annual Benefit Determination

- (1) Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Part.
- (2) For a participant who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Part as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates.
  - (a) For this purpose, the determination of whether a new annuity starting date has occurred shall be made:
    - (i) without regard to U.S. Treasury regulations §1.401(a)-20, Q and A-10(d); and
    - (ii) with regard to U.S. Treasury regulations §1.415(b)1(b)(1)(iii)(B) and (C).
- (3) The determination of the annual benefit shall take into account Social Security supplements described in IRC §411(a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to U.S. Treasury regulations § 1.411(d)-4, Q and A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

C. Actuarial Adjustment. No actuarial adjustment to the benefit shall be made for:

- (1) survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the participant's benefit were paid in another form;

- (2) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or
- (3) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to IRC §417(e)(3) and would otherwise satisfy the limitations of this Part, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Part applicable at the annuity starting date, as increased in subsequent years pursuant to IRC §415(d);
  - (a) for this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

D. Actuarial Equivalent—Straight Life Annuity

- (1) Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with Subparagraph a of this Paragraph.
  - (a) The straight life annuity that is actuarially equivalent to the participant's form of benefit shall be determined under this Subparagraph if the form of the participant's benefit is either:
    - (i) a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or
    - (ii) an annuity that decreases during the life of the participant merely because of:
      - (a) the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or
      - (b) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in IRC §401(a)(11)).
- (2) For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit computed using whichever of the following produces the greater annual amount:
  - (a) the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and
  - (b) 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.
- (3) For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

- (a) the annual amount of the straight life annuity (if any) payable to the participant under the plan commencing at the same annuity starting date as the participant's form of benefit; and
- (b) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

### **703. Rollover of Returned Contributions**

A. As provided in R.S. 11:1445(G):

- (1) distributee, eligible retirement plan and eligible rollover distribution shall be defined in provisions adopted by the board pursuant to R.S. 11:1457;
- (2) an eligible rollover distribution shall be transferred in a direct rollover to an eligible retirement plan if so directed by the distributee. The board shall provide distributees with the opportunity to direct such direct rollover.

### **705. Repayment of Withdrawn Accumulated Contributions**

A. As provided in R.S. 11:1455(B), payment may be made directly by the member or may be made on the member's behalf:

- (1) in a single sum payment by an individual retirement account; or
- (2) annuity; or
- (3) by a plan qualified under IRC §§401(a), 403(a), 403(b), or 457(g).



# **GENERAL PROVISIONS THAT APPLY TO ASSESSORS' RETIREMENT FUND (Found in R.S. 11:1 through R.S. 11:316)**

## **ACTUARIAL VALUATION METHODS**

### **Methods of Actuarial Valuation Established – R.S. 11:22**

- A. The provisions of this Section govern the funding methods utilized by state and statewide public retirement systems to determine actuarially required contributions.
  - B. The following funding methods shall be utilized to determine actuarially required contributions:
    - (1) Assessors' Retirement Fund: frozen attained age normal.
- \*\*\*
- C. For any of the systems set forth in Subsection B of this Section which have established excess benefit plans, the present value of benefits shall for funding purposes include the present value of any credits granted to employers for contributions to such excess benefit plans.
  - D. For any system set forth in Subsection B of this Section that is funded utilizing the frozen attained age normal method, the actuarial valuation method of the system shall be converted to the aggregate funding method in the system's first valuation in which the frozen unfunded actuarial accrued liability is fully amortized.

### **Unfunded Accrued Liabilities; Amortization – R.S. 11:42**

- A. The provisions of this Section govern the amortization of unfunded accrued liabilities of the state and statewide public retirement systems referenced in Subsection B hereof, as provided by said Subsection B.
- B. The provisions of this Subsection shall be implemented and accomplished by the governing authorities of the state and statewide public retirement systems as set forth herein.
  - (1) Assessors' Retirement Fund. The unfunded accrued liability, as of September 30, 1989, determined under the funding method specified in R.S. 11:22(B)(1), shall be amortized over a forty-year period, commencing with fiscal year 1989-1990, with payments forming an annuity increasing at three and one-half percent annually.

## **CONTRIBUTIONS**

### **Employee Contributions Established - R.S. 11:62**

Employee contributions to state and statewide public retirement systems shall be paid at the following rates, except as otherwise provided by law:

- (1) Assessors' Retirement Fund - 8%.

\* \* \*

### **Ad Valorem Tax Contributions Established – R.S. 11:82**

A. Ad valorem tax contributions to state and statewide public retirement systems shall be as follows:

- (1) Assessors' Retirement Fund. Dedicated funds are .25% (1% for Orleans Parish) of aggregate taxes shown to be collectible by the tax rolls of each parish.

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B. Provided, however, in the event the employer contributions become zero and employee contributions and dedicated taxes prescribed in this Section provide more than the total actuarially required contribution to any system, then the Public Retirement Systems' Actuarial Committee shall determine the amount of the aggregate taxes shown on the tax rolls of each parish that shall be remitted to such retirement system.

### **Employer Contributions; Determination; Statewide Systems - R.S. 11:103**

A. The provisions of this Section are applicable with respect to the statewide public retirement systems, whose benefits are not guaranteed by Article X, Section 29(A) and (B) of the Louisiana Constitution.

B. (1) Except as provided in Subsection C of this Section, for each fiscal year beginning with Fiscal Year 1989-1990, for each statewide retirement system, the employer contribution rate shall equal the actuarially required employer contribution as determined under Paragraph (3) of this Subsection, divided by the total projected payroll of all active members of the particular system for the fiscal year. Active member payroll shall include participants in the Deferred Retirement Option Plan, but only if direct employer contributions are made based on salaries for such participants.

(2) At the end of each fiscal year, the difference between the actuarially required employer contribution for the fiscal year, as determined under Paragraph (3) of this Subsection by the most recent actuarial valuation, and the amount of employer contributions actually received for the fiscal year, excluding any amounts received for

the extraordinary purchase of additional benefits or service, shall be determined to be that fiscal year's short fall amount.

- (3) The actuarially required employer contribution for each fiscal year shall be that dollar amount equal to the sum of:
  - (a) The employer's normal cost for that fiscal year, computed as of the first of the fiscal year using the system's actuarial funding method as specified in R.S. 11:22 and taking into account the value of employee contributions, including interest thereon, such employer's normal cost projected to the middle of the fiscal year at the assumed actuarial interest rate.
  - (b) The projected noninvestment related administrative expenses for the fiscal year.
  - (c) That fiscal year's payment, computed at the first of that fiscal year and projected to the middle of that fiscal year, at the actuarially assumed interest rate necessary to amortize previous years' shortfall amounts, if any, in the same manner as provided in Subsection (B)(3)(e)(i) of this Section if an immediate gain funding method is used; otherwise, amortized over the future working lifetime of current participants.
  - (d) That fiscal year's payment, computed as of the first of that fiscal year using that system's amortization method specified in R.S. 11:42, necessary to amortize the unfunded accrued liability as of the end of Fiscal Year 1988-1989, such unfunded accrued liability computed using the system's actuarial funding method as specified in R.S. 11:22, such payment projected to the middle of that fiscal year at the actuarially assumed interest rate.
  - (e) That fiscal year's payment, calculated as of the first of that fiscal year and projected to the middle of that fiscal year at the actuarially assumed interest rate, necessary to amortize changes in actuarial liability due to:
    - (i) (aa) Not applicable to the Assessors' Retirement Fund (bb)  
Not applicable to the Assessors' Retirement Fund (cc) Not applicable to the Assessors' Retirement Fund
    - (ii) (aa) Not applicable to the Assessors' Retirement Fund (bb)  
Not applicable to the Assessors' Retirement Fund
    - (iii) Changes in actuarial funding methods, excluding changes in methods of valuing of assets, such payments to be computed as level dollar amounts over a period of thirty years from the year of occurrence of the change.
    - (iv) (aa) Except as provided in Subitem (bb), changes in actuarial accrued liability, computed using the actuarial funding method as specified in R.S. 11:22, due to legislation changing plan provisions, such payments to be computed in the manner and over the time period

specified in the legislation creating the change or, if not specified in such legislation, as level dollar amounts over a period of fifteen years from the year of occurrence of the change.

**(bb) Not applicable to the Assessors' Retirement Fund**

- (4) At the end of the fiscal year during which the assets, excluding the outstanding balance due to Subparagraph (B)(3)(c) of this Section, exceed the actuarial accrued liability, the amortization schedules contained in Subparagraphs (B)(3)(d) and (e) of this Section shall be fully liquidated and assets in excess of the actuarial accrued liability shall be amortized as a credit in accordance with the provisions of Subparagraph (B)(3)(e) of this Section.
- C. The net direct actuarially required employer contribution for each fiscal year, beginning with Fiscal Year 1996-1997, shall be that dollar amount equal to the contribution rate specified in Subparagraph (2)(b) of this Subsection, if any, increased by the cost itemized in Paragraph (1) of this Subsection, reduced by the contributions itemized in Paragraph (2) of this Subsection, rounded to the nearest one-quarter percent:
- (1) The gross required employer contribution as provided in Paragraph (B)(1) of this Section.
- (2) Elements of the gross employer contributions:
- (a) Dedicated ad valorem taxes and revenue sharing funds.
- (b) Not applicable to the Assessors' Retirement Fund
- (c) Not applicable to the Assessors' Retirement Fund
- D. Not applicable to the Assessors' Retirement Fund
- E. Not applicable to the Assessors' Retirement Fund

**Employer Contributions; Determination Date; Notification – R.S. 11:104**

- A. The employer contribution rate as referred to in this Subpart shall be determined by the Public Retirement Systems' Actuarial Committee as soon as practicable after the first day of January but no later than the last Monday in February of each year for those systems that have a fiscal year ending on the thirtieth day of June.
- B. Within ten business days after the determination of a rate pursuant to this Section, the chairman of the Public Retirement Systems' Actuarial Committee shall notify each employer or retirement system that the referenced rate shall be recommended to the legislature for approval, or that the given rate shall be used by the employer or retirement system, whichever is appropriate under the provisions contained in R.S. 11:102 and 103.

## **Employer Contributions; Maintaining Rates – R.S. 11:105**

A. The provisions of this Section shall apply to the following statewide public retirement systems or funds, hereinafter referred to in this Section as "systems":

(1) The Assessors' Retirement Fund.

\* \* \*

B. Notwithstanding the provisions of R.S. 11:103 and 104, in any fiscal year during which the net direct employer contribution rates would otherwise be decreased for any retirement system or fund referenced in Subsection A of this Section, the board of trustees of any such system or fund is hereby authorized to maintain the net direct employer contribution rate in effect at the time that the decrease would otherwise occur according to R.S. 11:103.

C. If the board of trustees of any retirement system or fund referenced in Subsection A of this Section elects, pursuant to Subsection B of this Section, to maintain the net direct employer contribution rate in effect at the time that a decrease would otherwise occur according to R.S. 11:103, any excess funds resulting from maintaining the contribution rate shall be combined with any contribution surplus, or offset by any contribution shortfall, and the resulting balance, if greater than zero, shall be applied, until exhausted, exclusively for and in the order of the following purposes:

(1) To reduce the frozen unfunded accrued liability, if any; however, the future payments on the frozen unfunded accrued liability shall continue to be made according to the original amortization schedule established to initiate compliance with the requirements of Article X, Section 29(E)(3) of the Constitution of Louisiana until the outstanding balance is fully liquidated.

(2) To reduce the outstanding amortization charge base or bases with the greatest number of outstanding payments; however, the future payments on the base or bases shall continue to be made according to the original amortization schedule until the outstanding balance is fully liquidated.

(3) To establish a contribution surplus amortization base or add to the otherwise established contribution surplus base for the fiscal year if an immediate gain funding method is used, or to reduce the present value of future employer normal costs if a spread gain funding method is used.

D. Not applicable to the Assessors' Retirement Fund

## **Additional Employer Contributions; Increasing Rates - R.S. 11:106**

- A. The provisions of this Section shall apply to the following statewide public retirement systems or funds:
- (1) The Assessors' Retirement Fund.
- \* \* \*
- B. Notwithstanding the provisions of R.S. 11:103, 104, and 105, the board of trustees of any retirement system or fund to which this Section applies is authorized to require a net direct contribution rate of up to three percent more than the rate determined under R.S. 11:103.
- C. If the board of trustees of any retirement system or fund referenced in Subsection A of this Section elects, pursuant to Subsection B of this Section, to increase the net direct employer contribution rate determined under R.S. 11:103, any excess funds resulting from increasing the contribution rate shall be combined with any contribution surplus, or offset by any contribution shortfall, and the resulting balance, if greater than zero, shall be applied, until exhausted, exclusively for and in the order of the following purposes:
- (1) To reduce the frozen unfunded accrued liability, if any; however, the future payments on the frozen unfunded accrued liability shall continue to be made according to the original amortization schedule established to initiate compliance with the requirements of Article X, Section 29(E)(3) of the Constitution of Louisiana until the outstanding balance is fully liquidated.
  - (2) To reduce the outstanding amortization charge base or bases with the greatest number of outstanding payments; however, the future payments on the base or bases shall continue to be made according to the original amortization schedule until the outstanding balance is fully liquidated.
  - (3) To establish a contribution surplus amortization base or add to the otherwise established contribution surplus base for the fiscal year, if an immediate gain funding method is used, or to reduce the present value of future employer normal costs, if a spread gain funding method is used.

## **Additional Employer Contributions; Reducing Rate Decreases - R.S. 11:107**

- A. The provisions of this Section shall apply to the following statewide public retirement systems or funds:
- (1) The Assessors' Retirement Fund.
- \* \* \*
- B. Notwithstanding the Provisions of R.S. 11:103, 104, 105(B), in any fiscal year during which the net direct employer contribution rates would otherwise be decreased for any

retirement system or fund to which this Section applies, the board of trustees of that system or fund is hereby authorized to set the employer contribution rate at any point between the previous year's employer contribution rate and the decreased rate that would otherwise occur pursuant to R.S. 11:103 and 104. Any excess funds resulting from the additional contributions shall be applied as provided in R.S. 11:105(C).

### **Funding Deposit Account – R.S. 11:107.1**

- A. The provisions of this Section shall apply to the following statewide public retirement systems or funds, hereinafter referred to in this Section as "systems":
  - (1) The Assessors' Retirement Fund.

\* \* \*
- B. (1) There shall be established a funding deposit account for each system to which this Section applies. Such account shall be credited and charged solely as provided in this Section.
  - (2) The balance in the account shall be set equal to zero as of December 31, 2008.
  - (3) Notwithstanding any provision of this Subpart to the contrary, for any fiscal year ending on or after December 31, 2008, in which the board of trustees of a system elects or previously elected to set the net direct employer contribution rate higher than the minimum recommended rate pursuant to this Subpart, all surplus funds collected by the system shall be credited to the system's funding deposit account.
- C. The funds in the account shall earn interest annually at the board-approved actuarial valuation interest rate, and such interest shall be credited to the account at least once a year.
- D. Notwithstanding any provisions of law to the contrary, the board of trustees of each system may in any fiscal year direct that funds from the account be charged for the following purposes:
  - (1) To reduce the unfunded accrued liability as prescribed in this Subpart.
  - (2) To reduce the present value of future normal costs for systems using an aggregate funding method.
  - (3) To pay all or a portion of any future net direct employer contributions.
  - (4) (a) To provide for cost-of-living increases, in accordance with applicable law.  
(b) Notwithstanding the provisions of R.S. 11:243(G)(1), in order to exercise the authority to grant an increase pursuant to the provisions of Subparagraph (a) of this Paragraph, an increase shall satisfy the requirements of R.S. 11:243(G)(3).
- E. In no event shall the funds charged from the account exceed the outstanding account balance.

- F. If the board of trustees of a system elects to charge funds from the funding deposit account pursuant to Paragraph (D)(3) of this Section, the percent reduction in the minimum recommended employer contribution rate otherwise applicable shall be determined by dividing the interest-adjusted value of the charges from the funding deposit account by the projected payroll for the fiscal year for which the contribution rate is to be reduced.
- G. For funding purposes, any asset value utilized in the calculation of the actuarial value of assets of a system shall exclude the funding deposit account balance as of the asset determination date for such calculation.
- H. For all purposes other than funding, the funds in the account shall be considered assets of the system.



## **SPECIAL PROVISIONS RELATING TO AGE**

### **Compulsory Retirement Prohibited; Exceptions - R.S. 11:133**

- A. Except as provided in Subsection B of this Section, in accordance with the provisions of the federal Age Discrimination in Employment Act,<sup>1</sup> no employee of the state of Louisiana, or any political subdivision thereof, or of any district, board, commission, or other agency of either, or of any other such public entity shall be separated from the public service by his appointing authority because of the employee having attained any particular age following employment by the appointing authority.
- B. Not Applicable to the Assessors' Retirement Fund.

<sup>1</sup> 29 U.S.C.A § 621 et seq.

### **Membership Age Limitations – R.S. 11:148**

- A. (1) (a) The purpose of this Section is to provide uniform membership age limitations for public retirement systems and pension funds.
  - (b) The provisions of this Section are applicable with respect to all retirement systems and pension funds maintained basically for public officers and employees of the state, its agencies, and political subdivisions.
  - (c) The provisions of this Section take precedence over any conflicting provisions contained within the laws governing the retirement systems and pension funds referenced in Subparagraph (b) of this Paragraph, provided that the restrictions contained herein shall be inapplicable with respect to elected public officials.
- (2) Except as provided in Subsection B of this Section, any person under the age of sixty years, who is otherwise eligible, shall, as a condition of employment, belong to the retirement system or pension fund referenced in Subparagraph (b) of Paragraph (1), which is applicable to his employment.
- B. The provisions of Subsection A of this Section shall be inapplicable with respect to any employee whose retirement would be governed by the Louisiana State Police Retirement System, the Municipal Police Employees' Retirement System or any other public retirement system or plan maintained for law enforcement personnel or firefighters, the Sheriffs' Pension and Relief Fund, the provisions within the Louisiana State Employees' Retirement System governing employees of the Department of Public Safety and Corrections or the provisions within the Louisiana Employees' Retirement System governing wildlife and fisheries agents, R.S. 11:581 et seq.
- C. (1) Any person who on September 7, 1979, is over sixty years of age and who is not a member of a system or fund referenced in Subparagraph (b) of Paragraph (1) solely by reason of being over the former applicable age limit for membership at the time of employment, but who was less than sixty years of age at said time of employment,

may, at his option, become a member of such system or fund if it is possible for him to gain a minimum of ten years credit by the end of the fiscal year in which he attains the age of seventy years.

(2) Any person who becomes a member under authority of this Subsection may receive credit in his system or fund for such service rendered prior to becoming a member. In order to receive this credit, there shall be paid into the system or fund, within one year of becoming a member, a sum equal to the employee and employer contributions that could have been paid had such person been a member at the time the service was rendered, based on contribution rates in effect at the time of application for credit, plus five percent interest thereon, compounded annually from date of service until paid. The employer shall pay the employer contributions plus interest thereon, but only if the employer did not pay social security or any other type of retirement on behalf of the employee.

D. The mandatory membership requirements set forth in this Section shall be inapplicable with respect to any person who on September 7, 1979, was publicly employed and who on said date was under the age of sixty years but who was over the membership age limitation at the time of employment, for so long as such person continues in public employment covered by the retirement system which was applicable to his employment on September 7, 1979. Continued membership after September 7, 1979, for any such person shall be optional with such person. If an election is made to withdraw, it shall be irrevocable. If an election is made to withdraw on or before September 12, 1981, the retirement system shall return to any such person an amount equal to his employee contributions.

## **CREDITS, CREDITABLE SERVICE, RECIPROACITY**

### **Retention of Credits – R.S. 11:141**

Any person who is a member of any actuarially funded system paid for in whole or part from public funds, other than the State Employees' Retirement System of Louisiana, the Louisiana School Employees' Retirement System of Louisiana, and the Teachers' Retirement System of Louisiana, and who transfers to other public employment where he is no longer eligible for membership in the original retirement system but becomes a member of another actuarially funded system paid for in whole or part from public funds and who has creditable service in the first system for at least ten years, shall have the right to retain membership in the first system, and in the event he becomes eligible for retirement under this second system he shall be entitled to receive a pro rata benefit from each system, each such benefit to be calculated on the years of creditable service and the formula in use in the system from which the benefit is paid.

### **Reciprocal Recognition of Credited Service in State, Parochial, and Municipal Systems - R.S. 11:142**

- A. A member of any state, municipal, or parochial retirement system with membership service credit in any other state, municipal, or parochial retirement system, or an eligible survivor of a member, shall have the option of combining all service for which the member has credit in every such retirement system in order that eligibility for regular retirement, disability retirement, and survivor's benefits may be acquired, subject to the limitations of this Section; however, such other credited service shall not be recognized until and unless the member has earned at least six months service credit in the member's current system.
- B. To exercise such option, a member shall make application to the system in which he is currently contributing or to which he last contributed if he is not actively contributing to any system at the time of application, or an eligible survivor shall make application to the system in which the member last contributed. The application shall contain the name of all other retirement systems in which the member claims membership service credit and any other necessary information. When the system receives the application it shall forward a copy thereof to each other retirement system in which the member claims credit. Each such application shall contain such information as is mutually agreed upon by the retirement systems involved. Each retirement system receiving the application shall certify to each other retirement system in which the member claims membership service credit the official membership service credit in that retirement system, including specific dates of such service, provided that certification of such agreements for reciprocal service shall be approved by the board of trustees of each such system when application is made by a survivor.
- C. Each of the retirement systems shall keep and retain complete, permanent records on each member, and also shall retain and maintain all contributions and liabilities for service performed by the member in that retirement system.

- D. Eligibility for disability or regular retirement, or for survivor's benefits, shall require the member to meet the highest age and years of service requirements of each system in which he has membership service credit; however, service in any one system sufficient to meet the eligibility requirements of that system shall qualify the member for benefits from that system, but, for the purposes of benefits under this Section, no member shall be eligible to receive benefits from any system so long as he is contributing to another system.
- E. The retirement system in which a member covered by this Section is currently active or in which the member had last actively contributed shall be responsible for coordinating with other retirement systems in which credit is held by promptly notifying each such system when a covered member ceases to be an active member due to resignation, or by death in service, or by application for service or disability retirement or when an inactive member becomes eligible for benefits by reason of attainment of age.
- F. Each system in which a member has membership service credit shall compute the benefits due from that system using its benefit formula in effect on the date of retirement, or on the date of death while in service, and in addition, the following provisions shall apply:
- (1) Only the compensation and years of service actually earned or credited while in that system shall be used in this computation.
  - (2) If the benefit computation of any system requires the use of a minimum number of years, and the member has credit in the system for fewer than the minimum number of years, the benefit shall be a pro rata portion, based upon the membership service actually to his credit in this system, of what the benefit would be if he had credit for the minimum required years of membership service.
  - (3) If two or more systems provide a lump sum benefit as part of the formula benefit, as in the Louisiana State Employees' Retirement System, the Teachers' Retirement System of Louisiana, and the School Employees' Retirement System of Louisiana, but not limited to these systems, each such system shall pay only that percentage of the additional lump sum benefit that credited service in that system represents of total credited service with respect to all of the systems which provide an additional lump sum benefit; however, in no instance shall the total additional lump sum benefit payable by all of the systems be less than the greatest lump sum benefit payable by any of them, and if the total benefit payable as above provided is less than such greatest lump sum benefit, the system having the greatest lump sum benefit shall pay the difference.
  - (4) Each system shall notify each other system in which the member has membership service credit of the amount of benefits payable by it and show the computation of such benefit.
  - (5) All of the retirement systems involved may agree that benefit payments will be made by one system, and that each other system will make appropriate reimbursement to the system making the payment of the amount attributable to it.

- G. No more than one year of membership service shall be credited for any one calendar or fiscal year, and there shall be no duplication of membership service credit for any period, including military service. No more than a total of four years of military service shall be credited unless five years of such credit has been obtained under the rules applicable in a system, in which instance a maximum of five years shall be credited. In the event of duplication of military service credit in more than one system or a total credit for military service in excess of five years, the retirement systems involved shall mutually agree on an appropriate procedure to assure that maximum credit in all systems does not exceed five years.
- H. (1) The total benefits payable from all systems, plus primary employee social security benefits then available by reason of the fact that social security is a part of any of the retirement systems involved, shall not exceed:
- (a) One hundred percent of the highest average compensation on which benefits are based, computed in accordance with Subsection F above.
  - (b) The highest benefit that any one of the systems would provide if all service had been credited in that system.
- (2) If the total computation exceeds either (a) or (b) above, then each retirement system shall reduce the benefits to be paid by it in the proportion its benefits represent of total computed benefits.
- I. Membership in any state, municipal, or parochial retirement system for which his employment makes him eligible for membership shall not be denied any employee by reason of attained age if his credited service in another state, municipal, or parochial retirement system, together with his prospective employment in that system until normal retirement age, would make him eligible for regular retirement benefits.
- J. A board of trustees shall have the right to modify or terminate any transfer agreement it has entered into with another system where necessary to comply with this or any future law, or to reflect a policy of the board which is in compliance with laws enacted by the legislature and each board shall adopt such rules and regulations as are necessary to carry out the provisions and intent of this Section. Each board of trustees shall adopt such rules and regulations and establish such records and procedures of proof, not in conflict herewith, as are necessary to carry out the provisions and intent of this Section.
- K. In those retirement systems where thirty-six months or three years is used in the computation of average compensation, the average salary shall be computed on the actual time in the retirement system when the person has less than thirty-six months of service but eighteen or more months of service credit.
- L. Prior to retirement from any system, a member may cancel an application for reciprocal recognition of service credit by notifying in writing each system in which he has credit of his cancellation of his application.

## Transfers Between Systems - R.S. 11:143

- A. As provided in Subsection G of this Section, any person who is in active service and is a member of any public retirement or pension system, fund, or plan maintained primarily for officers and employees of the state of Louisiana or of any political subdivision thereof, or of any district, board, commission, or other agency of either, or of any other such public entity who has been a member of such system, fund, or plan for at least six months and who has membership credit in or who transferred service credit from any other such system, fund, or plan shall have the option of transferring all of his credit from every such system, fund, or plan to the system, fund, or plan he is currently contributing to or to the system to which he last contributed.
- B. All credit that the employee had in the system, fund, or plan from which he is transferring, whether regular service credit, prior service credit, military service credit, or other credit, shall be transferred, except as provided below:
- (1) In the event that the member has six months or more of concurrent service in the transferring and receiving systems, the concurrent service in the transferring system and the funds attributable to such service shall remain in the transferring system.
  - (2) In the event that the member has less than six months of concurrent service in the transferring and receiving systems, the concurrent service in the transferring system shall be canceled and the funds attributable to such service shall be transferred to the receiving system.
- C. Except as provided in Paragraph (D)(6) of this Section and notwithstanding any provision of law to the contrary, the system, fund, or plan from which the person transfers such credit shall transfer to the receiving system, fund, or plan an amount which is the lesser of the following:
- (1) The greater of, the actuarial cost to the receiving system for the service transferred, or all employee contributions from the transferring system.
  - (2) All employee contributions, all employer contributions, provided that in any system, fund, or plan, where the employer contribution is not a fixed percentage of the employee's earnings, an employer contribution which is equal to the employee contribution, in addition to a sum, representing interest, equal to the board-approved actuarial valuation rate of the transferring system, fund, or plan compounded annually, of all contributions per annum for each year of contribution to the date of transfer.
- D. (1) In the event that the amount of funds transferred is less than the actuarial cost of the service transferred in the receiving system, the person transferring, except as provided for herein, shall pay the deficit or difference including the interest thereon at the board-approved actuarial valuation rate of the receiving system.
- (2) In lieu of paying the deficit or difference plus interest, the person may at his option, but only at the time of transfer, be granted an amount of credit in the receiving

system, fund, or plan which is based on the amount of funds actually transferred by the transferring system, fund, or plan plus any additional funds less than the deficit paid by the member.

- (3) If the person transferring had any free service credit in the transferring system, he may transfer said service to the receiving system, but only upon payment of the employer and employee contributions that would have been paid if he had been a member of the receiving system at the time of service, plus interest thereon at the board approved actuarial valuation rate of the receiving system from date of such service until paid.
  - (4) Except as provided in Paragraph (5) of this Subsection, in the event that a person completes a transfer under the provisions of this Section, the retirement percentage factor of the transferring system shall be used to calculate his retirement benefit based on the number of years transferred.
  - (5) If the accrual rate of the receiving system is greater than the accrual rate of the transferring system, a person executing a transfer pursuant to the provisions of this Section may elect to purchase the accrual rate of the receiving system applicable to the member on the date of such purchase for the purpose of applying that accrual rate to the transferred service credit by paying an amount calculated on an actuarial basis which totally offsets the increase in accrued liability of the receiving system resulting from the accrual rate adjustment.
  - (6) Any member of the Louisiana judiciary who took office prior to July 1, 1986, and who transfers service credit from the District Attorneys' Retirement System to another retirement system shall not be required to pay the actuarial cost for such transfer between systems, and the actuarial cost of such transfer shall be paid from the interest earnings of the receiving system which exceed the actuarially projected interest earnings in the fiscal years following such transfer.
- E. After the date on which the transfer is completed, the system, fund, or plan from which the member transfers shall have no future liability with respect to the person who transferred.
- F. (1)(a) Except as provided in Paragraph (2) of this Subsection, any member who transfers credit to the system, fund, or plan to which he last contributed shall be subject to the provisions of this Paragraph.
- (b) A member shall be allowed to execute a reverse transfer only one time, and the transfer must be executed immediately prior to retirement from the receiving system.
  - (c) The request for a reverse transfer shall be accompanied by the member's application for retirement from the receiving system. On the day of the transfer, the member must terminate employment that made him eligible to be a member of the transferring system, and the member's date of retirement shall be made effective on the next business day following the transfer.

- (d) The member shall be allowed to apply such transferred credit toward attainment of the retirement eligibility requirements of the receiving system.
  - (e) Any member who would not be eligible to retire from the receiving system after the transfer shall not be eligible to execute such a transfer under the provisions of this Paragraph.
  - (f) Any member who executes a reverse transfer and is reemployed by an employer who is covered by the transferring system shall be ineligible for membership in the transferring system after the effective date of the transfer.
  - (g) After the transfer is executed, the member who is transferring credit shall be ineligible for active contributing membership in the receiving system, unless the member is both:
    - (i) Employed in a capacity which would require membership in the receiving system as a condition of employment.
    - (ii) Compliant with all applicable provisions of law regarding the reemployment of a retiree.
  - (h) A reverse transfer shall be subject to the provisions of Subsection D of this Section.
- (2) (a) The provisions of this Paragraph shall apply only to persons who are not state employees and only to applications for transfer submitted to the receiving system on or before December 31, 2013.
- (b) Any person to whom this Section applies may execute a reverse transfer from the retirement system to which he is currently contributing to any other system to which he previously contributed if at the time he began contributing to the current system he was legally permitted to elect instead to remain a contributing member of the previous system.
  - (c) The member shall be allowed to apply such transferred credit toward attainment of the retirement eligibility requirements of the receiving system.
  - (d) After the transfer is complete, the member shall be an active, contributing member of the receiving system.
- G. (1) Each board of trustees or other such governing board shall adopt such rules and regulations, not in conflict herewith, as are necessary to carry out the provisions and intent of this Section and to prevent any duplication of credit.
- (2) No governing authority shall approve a transfer in which the transferred amount is less than one hundred percent of the increase in accrued liability to the receiving system created by such transfer; however, the person can pay the difference in the assets to be transferred and the actuarial cost to the receiving system.



- (3) The transfer of service credit and funds out of a system shall be at the sole option of the member.
- H. (1) A member of a receiving system, fund, or plan must make a written application to the receiving system, fund, or plan requesting a transfer under this Section.
  - (2) (a) In the event that a member dies after a written application for a transfer under this Section is received in the office of a receiving system, fund, or plan which normally accepts such transfers, such system, fund, or plan shall complete the transfer, and it shall be considered as completed the day before the death of the member.
    - (c) A survivor, heir, or the estate of a deceased person or member shall not be allowed to request a transfer under this Section.

### **Correction of Membership Errors - R.S. 11:143.1**

- A. The provisions of this Section shall be applicable to all employees in positions covered by state and statewide public retirement systems.
- B. (1) If a person is employed in a position that on the date of employment was covered by a system to which this Section applies, but was by error enrolled in another public pension or retirement system, plan, or fund, and has not retired from or participated in the deferred retirement option plan of the incorrect system, he shall be enrolled in the correct system if he remains eligible for membership in that system, and all service credit and the funds required by Subsection C of this Section shall be transferred to the correct system.
  - (2) Within thirty days of the date the error is discovered, the incorrect system shall notify the employee and the employer of the error and shall initiate the transfer with the correct system.
  - (3) (a) If the employee previously received a refund of employee contributions from the incorrect system, the employee shall be given the opportunity to restore the forfeited service credit before the transfer by repaying to the incorrect system the refunded contributions plus interest at the board-approved actuarial valuation interest rate of the incorrect system. Upon receiving notification of the enrollment error, the employee shall have ninety days to restore the forfeited service credit as provided in this Paragraph.
    - (b) If the refund is not repaid within ninety days, then the service credit associated with the refund shall not be restored before the transfer. Once the transfer is complete, the employee may still restore the forfeited service credit by paying to the incorrect system the amount required by this Paragraph. Upon repayment, the restored service credit shall be transferred immediately to the correct system in accordance with R. S. 11:143; however, notwithstanding the provisions of R.S. 11:143(D)(4) to the contrary, the retirement percentage factor of the correct

system shall be used to calculate the retirement benefit based on the number of years transferred.

- C. (1) The correct system shall determine the employee contributions that system would have received if the employee had been properly enrolled on the date of employment. That system shall notify the incorrect system and the employee of the calculation.

(2) (a) The incorrect system shall determine the contributions made by the employee, any employee contributions paid by the employer, the employer contributions paid on the earnable compensation of the employee, and interest on those contributions compounded annually at the board-approved actuarial valuation interest rate of the incorrect system and the total of these amounts. The incorrect system shall provide these calculations to the employee, the employer, and the correct system.

(b) If the amount of employee contributions calculated pursuant to Paragraph (1) of this Subsection is less than the amount of contributions made by the employee as determined by the incorrect system in Subparagraph (a) of this Paragraph, the incorrect system shall pay to the employee the amount of the overpayment.

(c) The incorrect system shall transfer to the correct system the total calculated pursuant to Subparagraph (a) of this Paragraph less any payment to the employee pursuant to Subparagraph (b) of this Paragraph.

- D. (1) The correct system shall calculate the amount necessary to fund the receipt of the service credit as provided in this Subsection.

(2) (a) If the transfer occurs within three years of the enrollment error, the correct system shall receive an amount equal to all employee and employer contributions that would have been received by the correct system had the employee been properly enrolled on the date of employment, plus interest at the correct system's board-approved actuarial valuation interest rate.

(b) If the transfer occurs more than three years after the enrollment error, the correct system shall receive the greater of:

(i) An amount equal to all employee and employer contributions that would have been received by the correct system had the employee been properly enrolled at employment plus interest compounded annually at the correct system's board-approved actuarial valuation interest rate.

(ii) The actuarial cost to the correct system for the service credit transferred, calculated in accordance with R.S. 11:158(C)(1)(a) and (2). The employer shall pay any fee or cost for this calculation.

(3) If the amount transferred from the incorrect system pursuant to Subparagraph (C)(2)(c) of this Section is not sufficient to pay the amount required by the provisions of Paragraph (2) of this Subsection, the employer shall pay any difference to the correct system.

- (4) If the amount transferred from the incorrect system pursuant to Subparagraph (C)(2)(c) of this Section exceeds the amount required by the provisions of Paragraph (2) of this Subsection, the correct system shall credit to the employer's account the amount of the overpayment.
- E. Upon transfer of all monies required pursuant to Subparagraph (C)(2)(c) of this Section, all of the employee's service credit shall be transferred to the correct system and the employee's refundable contribution balance in the correct system shall be equal to the employee contributions that would have been paid to the correct system had the employee been properly enrolled in the correct system at employment. The retirement percentage factor of the correct system shall be used to calculate the employee's retirement benefit based on the number of years transferred.
- F. After the date on which the transfer of the funds required pursuant to Subparagraph (C)(2)(c) of this Section is completed, the system from which the employee transfers shall have no future liability with respect to the service credit, liability, or contributions transferred to the correct system.

### **Repayment of Refunded Contributions - R.S. 11:144**

- A. For purposes of R.S. 11:142 and 143, a member of any state, parochial, or municipal retirement system having credit for at least six months in any such system may repay refunded contributions, plus compounded interest at the board-approved actuarial valuation rate thereon from date of refund until paid, to any other state, parochial, or municipal retirement system in order to reestablish such credited service.
- B. Not applicable to the Assessors' Retirement Fund.

### **Military Service Credit – R.S. 11:152**

- A. The provisions of this Section are applicable to persons who become members of the public retirement systems listed in Subsection B of this Section after January, 1982.
- B. The provisions of this Section shall be applicable to all public state, parochial, and municipal retirement systems established by state law.
- C. If credit for military service is otherwise allowed by a retirement system set forth in Subsection B of this Section, it shall only be allowable for members who leave employment covered by the retirement system to which they belong to enter the military service, and who return to employment covered by a system set forth in Subsection B within one year after release from such military service. In other respects, the terms and conditions of the receipt of such credit shall be controlled by the law governing each particular retirement system.

## **Compliance with Certain Federal Laws – R.S. 11:152.1**

Notwithstanding any other provision of law to the contrary, the board of trustees of each Louisiana public retirement system, as defined in R.S. 29:403, shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.). Each board of trustees shall promulgate rules to comply with the provisions of USERRA and any rules or regulations issued by the United States Department of Labor or any other federal agency relating to USERRA. The rules so promulgated shall be considered plan provisions of the retirement system.

## **Credit for Military Service - R.S. 11:153**

- A. Any member of a state or statewide public retirement system shall be eligible to purchase credit for regular or non-regular military service, subject to the provisions of this Section.
- B. For purposes of this Section:
  - (1) Regular military service shall mean any state or federal full-time active duty military service.
  - (2) Nonregular military service shall mean any state or federal military service, which is not regular service, for which retirement points are assigned for participation in such service, and shall include but not be limited to duty served in the state national guard, coast guard, or any reserve component of the United States armed forces.
- C.
  - (1)
    - (a) Any member shall be entitled to purchase credit for up to four years of either regular or nonregular military service, or a combination of both not exceeding four years total, provided an application is filed with the appropriate retirement system, together with proof of the inclusive dates of military service performed.
    - (b) Credit for regular service shall be based on one day of retirement credit for each day of full-time active duty service.
    - (c)
      - (i) Credit for nonregular service shall be based on one day of retirement credit for each one of the member's accrued retirement points.
      - (ii) Any member seeking to purchase credit for nonregular military service shall also submit with his application to purchase such credit an official copy of the record of his retirement points as maintained by the member's respective military branch.
  - (2) In order to purchase such credit for military service, the member shall pay into the system the amount required under the provisions of R.S. 11:158. The amount to be paid shall be paid in one lump sum or in such installments as shall be agreed upon by the member and the system's board of trustees, but such amount shall be paid in full within three years after the date of application for such credit.

- D. (1) No member shall be entitled to purchase credit for military service if he has previously received credit for such service in any other public retirement system domiciled in this state if he is receiving any form of retirement benefits from that system.
- (2) (a) (i) Except as provided in Subparagraph (b) of this Paragraph, no member shall be entitled to purchase credit for military service if he has previously received credit for such service in any retirement system for members of the armed forces of the United States from which plan the member is drawing a regular retirement benefit.
- (ii) The restriction set forth in this Subparagraph shall not apply to members who are drawing disability benefits based on twenty-five percent or less disability received as a result of military service.
- (b) Any member who is receiving retirement benefits pursuant to the provisions of Chapter 1223 of Title 10 of the United States Code shall be eligible to purchase credit for military service pursuant to the provisions of this Section, and any such service being purchased may be regular or nonregular service, provided that the service being purchased was rendered prior to the initial date of employment which made him eligible to participate in the applicable Louisiana state or statewide public retirement system.
- E. (1) (a) Except as otherwise provided in this Paragraph, military service shall not be used for purposes of acquiring eligibility for disability or survivor's benefits and shall only be used for purposes of acquiring eligibility for normal retirement benefits.
- (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph or any other provision of law to the contrary, any retiree who has earned benefits equal to one hundred percent of his average compensation shall be eligible to purchase credit on an actuarial basis under the provisions of this Section, but only for the limited purpose of using such credit for survivor benefits.
- (2) In those systems which authorize retirement with twenty or more years of service at any age, or twenty or more years of service at age fifty, military service credit shall not be computed until after the completion of twenty full years of service. In addition, such military service credit shall not be used to meet the minimum eligibility requirement of any regular retirement of less than twenty years.
- F. Military service credit shall not be used as the highest thirty-six successive months, or as the highest thirty-six joined months of employment where interruption of service occurred, in computing the average compensation for retirement benefit computation.
- G. No member who has been released or discharged from service under less than honorable conditions shall be eligible to purchase credit for military service pursuant to the provisions of this Section.
- H. Not applicable to the Assessors' Retirement Fund.
- I. Each state and statewide public retirement system shall cause to be promulgated such

regulations as are necessary for the administration of purchases made pursuant to this Section.

- J. (1) All purchases of credit for regular military service and service in the state national guard or reserve forces of the United States that were transacted on or before June 30, 1999, shall be governed by the provisions of R.S. 11:153 as that law was in force and effect on the date of the purchase.
- (2) All purchases of credit for service in the state national guard, coast guard, or reserve forces, which are or were transacted between July 1, 1999 and June 30, 2001, both inclusive, shall be governed by the provisions of R.S. 11:153.1 as that law was in force and effect on the date of the purchase.
- (3) The provisions of this Section shall apply to all purchases of credit for any military service transacted on and after July 1, 2001.
- K. Not applicable to the Assessors' Retirement Fund.
- L. Creditable service for service in the uniformed services gained through the application of USERRA shall not be considered a purchase of military service credit for purposes of this Section.

**153.1. Repealed by Acts 2001, No. 419, §2, eff. July 1, 2001.**

**Tax Sheltering of Employee Contributions to Retirement - R.S. 11:154**

- A. The provisions of this Section shall be applicable to the following public retirement systems and pension funds:  
  
\*\*\*\*  
  
(6) Assessors' Retirement Fund.
- B. Each board may adopt a plan whereby the employee's contributions to the retirement system shall not be included in the employee's gross income for computation of the taxes under the provisions of the United States Internal Revenue Code. The plan shall provide that the employer pay the employee's share of the contributions directly to the retirement system. The contributions shall be treated as employer contributions only for the purposes of the Internal Revenue Code.
- C. After the adoption of the plan by the board, the employer shall pay the amount of the contribution by a reduction in the salary of the employee or an offset against future salary or a combination of both. These funds shall be paid from the same source of funds which is used in paying earnings to the employee. The employee's participation in the plan shall not be optional.
- D. Repealed by Acts 1997, No. 689, §2, retroactive to Jan. 1, 1993.

- E. Any deductions from an employee's gross income, during the highest thirty-six consecutive months of employment prior to retirement, for purposes of tax sheltering said deductions under the provisions of this Section shall be included in the base from which retirement benefits are to be computed for the purposes of ascertaining an employee's average compensation.

### **Receipt of Benefits - R.S. 11:155**

Notwithstanding any other provisions of law to the contrary and specifically the laws governing all public, state, municipal, or parochial retirement systems, allowing "optional allowances", no member, retiree, beneficiary, or survivor shall be entitled to receive his benefit in a lump sum, or actuarial equivalent lump sum, or a lump sum of equivalent actuarial value and shall only receive his benefit in equal monthly benefits payable throughout life or the legally allowed time if a shorter time is specified by the laws governing the specific retirement system, except as provided in R.S. 11:446, 783, 1150, or 1307. This Section shall not apply to the return of accumulated contributions without interest if a person terminates employment and requests such a refund under the laws applicable to the systems.

### **Deduction of Employee Benefit Contributions from Retiree Benefit Checks – R.S.11:156**

Notwithstanding any other provision of law to the contrary, the employee contributions for accident and health and life insurance coverage to be payable by any member, retiree, beneficiary, or survivor participating in the Office of Group Benefits programs pursuant to Chapter 12 of Title 42, R.S. 42:801 et seq., who receives a recurring benefit payment from any public, state, municipal, or parochial retirement system shall be deducted from the retirement benefit payment. Such deductions shall be effected by the use of computer tapes prepared and furnished by the Office of Group Benefits in a form processible by the computer facility which prepares the monthly benefit payment. The retirement system shall remit such deductions directly to the Board of Trustees of the State Employees Group Benefits Program.

### **Purchase of Service Credit in Public Retirement Systems; Price - R.S. 11:158**

- A. (1) Effective July 1, 1986, the provisions of this Section shall govern the payment required with respect to the otherwise authorized purchase of service credit in the public retirement or pension systems, funds, and plans referenced in Subsection B of this Section.
- (2) This Section does not repeal provisions relative to the purchase of service credit contained within the laws governing the covered systems, or which are otherwise applicable thereto, but it is to be controlling in cases of conflict as to the payment required in order to receive the credit.
- (3) This Section is inapplicable with respect to the purchase of service credit which is in the form of a repayment of a refund.

B. The provisions of this Section are applicable to the following public retirement or pension systems, funds, and plans:

(1) Assessors Retirement Fund.

\*\*\*

C. (1) In order for a purchase of service credit, which is otherwise authorized, to be effective, there shall be paid into the applicable retirement or pension system, fund, or plan the greater of either:

(a) An amount which, on an actuarial basis, totally offsets the increase in accrued liability of the system resulting from the purchase of the credit.

(b) The employee and employer contributions that would have been paid to the applicable system, fund, or plan, plus interest thereon, compounded annually from the time the contributions would have been paid, at the assumed actuarial valuation rate of interest of the system, fund, or plan in which the credit is being purchased.

(2) (a) The amount payable shall be calculated based on the actuarial funding method, assumptions, and tables in use by the system at the time of application for credit.

(b) The actuary may modify the assumptions utilized to reflect the effects of anti-selection.

D. Repealed by Acts 1991, No. 205, §2; ACTS 1991, No. 607, §2.

### **Funds or Benefits Payable to a Succession - R.S. 11:165**

When funds or benefits are payable to the succession of a deceased member or retiree of a state or statewide retirement system, the retirement system shall be considered an employer for purposes of R.S. 9:1515, and the funds or benefits may be paid to the surviving spouse or major child in accordance with that statute, regardless of whether the funds or benefits were payable to the deceased member or retiree himself, or only to his succession.



## **STATEMENTS AND REPORTS**

### **Submission of Reports to Legislature – R.S. 11:171**

- A. Each actuarially funded state, municipal, parochial, or other retirement system as supported in whole or in part by public funds shall submit to the chairmen of the standing committees on retirement of the House of Representatives and the Senate, at least thirty days prior to the beginning of each regular session of the legislature, a copy of the most recent official actuarial report prepared by the system's fully accredited actuarial firm, together with a financial statement of the system for the fiscal year immediately preceding each such session of the legislature. The actuarial report shall include but not be limited to an actuarial evaluation of the assets and liabilities of the system; actuarial assumptions and considerations; cost of living adjustment evaluations, where applicable; and a five-year projection of cash flow requirements, with the number of retirees and amounts of benefits based on an annual basis.
  
- B. Each state, municipal, parochial and other retirement system supported in whole or in part by public funds which is not actuarially funded shall submit to the chairman of the standing committees on retirement of the House of Representatives and the Senate, at least thirty days prior to the beginning of each regular session of the legislature, a certified statement of the condition of the system for the fiscal year immediately preceding each session of the legislature. The certified statement of condition shall include but not be limited to a statement of the assets and liabilities of the retirement system; cost of living adjustments, where applicable; and an estimated five-year projection of cash flow requirements with the number of retirees and amounts of benefits listed on an annual basis.

### **Submission of Annual Report; Penalty – R.S. 11:172**

Each reporting agency or parish or city school board shall submit to their respective state, municipal, or parochial retirement system an annual sworn statement of all enrolled employees, the amount of their earnings, and all employee and employer deductions within thirty days after the close of the fiscal or accounting year. Should the reporting agency or parish or city school board fail to submit the reports within thirty days after the close of the fiscal or accounting year, the report shall be delinquent. If any errors are found in the annual report by the retirement system, such errors shall be corrected within fifteen days after notification, or the report shall be delinquent. The board of trustees of the retirement system may certify to the state treasurer or the Department of Education, whichever is applicable, that the report is delinquent. The state treasurer or the Department of Education may withhold all monies from state funds due such reporting agency or parish or city school board. Upon submission of the report, the board of trustees of the retirement system shall notify the state treasurer or the Department of Education that the report has been submitted, whereupon the state treasurer or the Department of Education shall disburse the monies due the reporting agency or parish or city school board.

## **Audit Reports; Certified Public Accountants – R.S. 11:173**

- A. This Section shall be applicable to the following public retirement systems:

\*\*\*

(5) Assessors' Retirement Fund.

\*\*\*

- B. The board of trustees of each of the retirement systems enumerated in Subsection A shall have an annual audit of the system performed by a certified public accountant at the expense of the system or performed in accordance with R.S. 24:513. A copy of the report shall be forwarded to the chairman of the House Committee on Retirement and the chairman of the Senate Committee on Retirement.

## **Death Reports – R.S. 11:174**

- A. By the tenth day of each month, the secretary of the Department of Health and Hospitals shall send to each retirement system and pension fund enumerated in Subsection B hereof, a report, certified as correct over his signature or the signature of his authorized representative, containing the name, date of birth, date of death, address, and sex of each person who died in the state within the preceding calendar month.

- B. The provisions of Subsection A shall be applicable to the following public retirement systems and pension funds:

\*\*\*

(5) Assessors' Retirement Fund.

\*\*\*

- C. The director of the system shall have the custody and control of these reports. Such reports shall be confidential and shall not be considered as public records under R.S. 44:1, et seq. The information received by the retirement systems and pension funds listed herein shall be used for statistical and administrative purposes only and shall not be divulged to any person or persons for any reason, except that the department may authorize the Social Security Administration to share information on name, date of death, place of death, sex, race, and date of birth as necessary with federal and state agencies for the sole purpose of identifying payments erroneously issued to beneficiaries after their deaths.

## **Membership Information; Public Access – R.S. 11:175**

- A. In addition to the public records that are made accessible pursuant to the provisions of R.S. 44:16, any person of the age of majority shall be eligible to inspect, copy or reproduce, or obtain a reproduction of the following information from the records of any public retirement system, plan, or fund regarding any active member of the system, plan, or fund:
- (1) The name of the employing agency or agencies and the dates of any employment of the member in which the member has been eligible for membership in the system, plan, or fund.
  - (2) The salary reported by the member's employer or employers for the purpose of determining contributions paid or payable to the system and the number of years of service credited to the member's account.
  - (3) The amount of benefits paid or payable to the member's Deferred Retirement Option Plan account, if any.
- B. Any information requested pursuant to this Section shall be provided by the system in accordance with the laws relative to public records, R.S. 44:1 et seq.

## **Operating Budget Approval – R.S. 11:176**

- A. Each state and statewide public retirement system shall submit its proposed annual operating budget to the Joint Legislative Committee on the Budget for its review.
- B. The operating budgets of state public retirement systems shall be subject to the approval of the Joint Legislative Committee on the Budget. At no time shall a state public retirement system make any expenditures or obligate itself for items which deviate from its approved operating budget.
- C.
- (1) A state public retirement system may submit a proposed modification to its approved annual operating budget to the Joint Legislative Committee on the Budget for its review and approval at any time during the course of the fiscal year.
  - (2) A statewide public retirement system shall submit any modification to its annual operating budget proposed at any time during the course of the fiscal year to the Joint Legislative Committee on the Budget for its review.

## **RETIREMENT BOARDS**

### **Composition of Governing Boards of State and Statewide Systems; Per Diem and Expenses - R.S. 11:181**

- A. Not applicable to the Assessors' Retirement Fund.
  - B. Notwithstanding any other provision of law contained in any of the laws governing the statewide retirement systems or funds listed in this Subsection, or any other laws to the contrary, a member of the House Committee on Retirement appointed by the speaker of the House of Representatives and the chairman of the Senate Committee on Retirement, ex officio, or their designees, shall serve as voting members of the governing boards of each of the following statewide retirement systems or funds:
    - (1) The Assessors' Retirement Fund.
- \*\*\*
- C. A majority of the members shall constitute the quorum necessary for meetings of these governing boards unless a greater number is specified by statute.
  - D. Except as provided in Subsection E of this Section, the members of the governing boards of the above enumerated retirement systems or the designees of members for whom designees are authorized shall receive for attendance at meetings of the boards or committees thereof a per diem of seventy-five dollars per day plus the normal expense allowance allowed state employees by the division of administration, provided funds are available for this purpose. There shall be no such per diem payment for those meetings in excess of the number allowed by law.
  - E. The member of the House Committee on Retirement appointed by the speaker of the House of Representatives and the chairman of the Senate Committee on Retirement, or their designees if members of the legislature, shall receive for attendance at meetings of the governing boards of the above enumerated retirement systems the same per diem and expenses as they receive for attendance at legislative committee meetings, and from the same sources.

### **Boards of Trustees of State and Statewide Public Retirement Systems; Per Diem and Expenses – R.S. 11:182**

- A. (1) Notwithstanding any other provisions of law to the contrary, the members of the boards of trustees of the Louisiana State Employees' Retirement System, the Teachers' Retirement System of Louisiana, the Louisiana School Employees' Retirement System, the Municipal Police Employees' Retirement System, the Louisiana State Police Retirement System, the Parochial Employees' Retirement System of Louisiana, the Municipal Employees' Retirement System of Louisiana, the

Firefighters' Retirement System, the Assessors' Retirement Fund, the Clerks' of Court Retirement and Relief Fund, the Registrars of Voters Employees' Retirement System, the Sheriffs' Pension and Relief Fund, and the District Attorneys' Retirement System shall receive for attendance at meetings of the boards a per diem of seventy-five dollars per meeting plus the normal expense allowance, provided funds are available for this purpose.

(2) If more than one board meeting occurs during any seven calendar day period, members shall receive per diems only for such board meetings which exceed three hours in duration. However, at least one per diem shall be paid for such seven calendar day period in which there occurs at least one board meeting. No more than one per diem shall be paid for more than one board meeting in one calendar day. Mileage expenses for attendance at board meetings shall not be allowed when travel to such meetings takes place in a governmentally owned vehicle, nor shall more than one member be reimbursed for mileage when more than one member travels to a board meeting in the same vehicle.

B. The boards as enumerated herein shall receive per diem for each meeting required by law. There shall be no such per diem payments for those meetings above and beyond the number required by law.

### **Board Members Subject to Code of Governmental Ethics – R.S. 11:183**

Any member of a state or statewide retirement system board of trustees who does not hold an office by virtue of an election conducted pursuant to the Louisiana Election Code shall be deemed a public employee for purposes of compliance with Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950.

### **Meetings of State and Statewide Retirement Boards and Committees – R.S. 11:184**

By December first of each calendar year, the board of trustees of each state and statewide retirement system shall submit to the House and Senate committees on retirement a proposed schedule of all board and committee meetings for the following calendar year. The proposed schedule shall be subject to review by the committees, and the chairman of either committee may request changes in the proposed schedule of any system in order to avoid conflicting meetings or for any other purpose.

### **Educational Requirements for Members of Retirement System Boards of Trustees – R.S. 11:185**

A. Not applicable to the Assessors' Retirement Fund

B. The provisions of this Section shall apply to the following statewide retirement systems:

(1) The Assessors' Retirement Fund.

\* \* \*

C. Not applicable to the Assessors' Retirement Fund

D. (1) For purposes of this Section "actuarial science" means the application of mathematical and statistical methods to estimate future payment for benefits, to set forth an orderly and convenient way to provide the funds necessary to make those future payments, to determine the effects of asset and liability experience on pension fund costs, and to study the demographics of plan members, particularly in relation to long-term risk assessments, mortality, and morbidity.

(2) For each system to which the provisions of this Section apply, each member of the board of trustees and each designee of a member shall complete continuing education or professional development training during each twelve-month period from September first to August thirty-first as provided in this Subsection. By October fifteenth of each year, the board of trustees of each system to which this Section applies shall submit to the House and Senate committees on retirement a letter stating whether or not each member of that board has met the requirements of this Section in the previous twelve-month period and giving the date or dates upon which the required training hours were completed by each member.

(3) Each year, any member to whom this Section applies shall attend at least eight hours of investment training, four hours of actuarial science information education, two hours of education regarding the laws, rules, and regulations applicable to his system, and two hours of instruction on fiduciary duty and ethics. These training hours may be conducted by the staff of the respective retirement systems or by outside experts. Two or more systems may combine any such training. Any member who is elected or appointed to the board for the first time on or after June first shall be required to comply only with the provisions of Paragraph (4) of this Subsection.

(4) Except as otherwise provided by the constitution or in R.S. 42:3.1, no board member to whom this Section applies shall receive per diem during any calendar year unless and until he has completed the fiduciary and ethics requirement and at least one hour each of investment, actuarial science, and legal education in the current twelve-month cycle. The system shall submit evidence of training in compliance with this Paragraph to the speaker of the House of Representatives and the president of the Senate within fourteen days after the completion thereof.

(5) Additionally, no new board member to whom this Section applies shall be permitted to vote on any matter until he has completed the fiduciary and ethics requirement and one hour of education in each of the other required areas.

## **Authorization for Staff to Attend Executive Sessions – R.S. 11:186**

- A. As ex officio members of each of the state and statewide retirement system boards, the chairman of the House Committee on Retirement and the chairman of the Senate Committee on Retirement may each independently authorize legislative staff to attend any executive session of any board meeting or committee meeting of any state or statewide retirement system board or committee.
- B. (1) An authorization made pursuant to the provisions of this Section shall be made in writing, specifically name the legislative staff member or members authorized to attend such executive sessions, and be submitted to the director of the state or statewide retirement system board whose executive sessions staff shall be authorized to attend. Such authorization shall be valid for one calendar year from the date of submission, unless modified or revoked as provided in Paragraph (2) of this Subsection.  
  
(2) The chairman of the House Committee on Retirement and the chairman of the Senate Committee on Retirement are authorized to revoke or modify any written authorization made pursuant to this Section at any time by providing written notice to the director of the affected board. A revocation shall immediately terminate the authorization made pursuant to this Section. A modification shall act as a new written authorization and shall be valid for one calendar year from the date submitted.
- C. Any information or communication which, pursuant to the provisions of this Section, is provided to or presented in the presence of authorized staff shall be subject to the same rights, duties, and privileges which apply to the chairmen as members of the board, including the attorney-client privilege.
- D. A legislative staff member authorized to attend meetings pursuant to the provisions of this Section shall not be considered a "designee" as provided in R.S. 11:181 or R.S. 42:1124.2.1 and shall not be allowed to vote.

## DUAL EMPLOYMENT; DUAL MEMBERSHIP

### Dual Employment - R.S. 11:191

- A. Any person who is employed in more than one public employment within this state, except as provided in Subsection C of this Section and who, by reason of such employment is eligible, as a condition of such employment, to be a member of the public retirement system or fund applicable to employees in each of such public employments, shall be a contributing member of each such retirement system or fund during the term of his employment. In no event shall such person be allowed to earn more than one year of service credit in any one year. Service credit earned in more than one retirement system or fund in any one year shall not be transferred or recognized reciprocally to attain more than one year of service credit in any one system in any one year.
- B. Any person who is a member of any public retirement system or fund on September 6, 1991, who has been employed in any public employment within the state and who has not been allowed to become a member of and to make contributions to the retirement system or fund applicable to employees in such public employment shall be allowed to purchase the service credit to which he would have been entitled in the system had he been an active contributing member of the retirement system or fund during the full term of his employment, by paying to the retirement system or fund an amount that totally offsets the actuarial cost of the receipt of the service credit. The employer for that employment may pay one-half of the actuarial cost of the receipt of the service credit; however, if the employer pays one-half of the actuarial cost for one employee, the employer shall pay one-half of the actuarial cost for all employees purchasing service credit under this Section provided the respective retirement system has a policy, in effect prior to August 15, 1995, for purchase of such service credit. If a retirement system does not have a policy for purchase of service credit as provided in this Subsection, then the employee shall pay the entire actuarial cost of the receipt of service credit provided in this Section.
- C. (1) For any member of a state or statewide retirement system elected to the legislature for a term commencing on or after July 1, 2011, and who holds another position of public office or employment within this state making him eligible for membership in such system, the earnable or earned compensation, or its equivalent, upon which his retirement benefit is calculated, shall not include any compensation for his service in the legislature occurring on or after July 1, 2011. Furthermore, no service credit shall accrue for such service as an elected member of the legislature. Neither employee nor employer contributions shall be remitted on the compensation received for such elected service in the legislature.
- (2) The provisions of this Subsection shall not apply to any member serving in the legislature on June 30, 2011.



## **Overpayment of Benefits; Corrections; Repayment - R.S. 11:192**

Whenever any state, parochial, or municipal retirement system or pension fund pays any sum of money or benefits to a retiree, beneficiary, or survivor which is not due them, the board of trustees shall adjust the amount payable to the correct amount, and the board is hereby authorized to recover any overpayment by reducing the corrected benefit such that the overpayment will be repaid within a reasonable number of months. The board shall notify the beneficiary, or survivor, of the amount of overpayment in benefits and the amount of the adjustment in benefits, thirty days prior to any reduction from the benefit amount without the overpayment.

## **DISABILITY RETIREMENT**

### **Assessors' Retirement Fund - R.S. 11:213**

- A. A member who acquires a disability, and who files for disability benefits while in service, and who upon medical examination and certification as provided for elsewhere in this Subpart, is found to have a total disability solely as the result of injuries sustained in the performance of his official duties, or for any cause, provided the member has at least twelve years of creditable service, and provided that the disability was incurred while the member was an active contributing member in active service, shall be entitled to disability benefits under the provisions of R.S. 11:1432. However, if the application for disability benefits is not filed while the member is in service, it shall be presumed that the disability was not incurred while the member was an active contributing member in active service. Such presumption may be overcome only by clear, competent, and convincing evidence that the disability was incurred while the member was an active contributing member in active service.
- B. A member with twenty years creditable service, who after having withdrawn from service prior to reaching retirement age becomes totally and permanently disabled for any cause, is also eligible for disability benefits under the provisions of R.S. 11:1432.

### **Preexisting Conditions - R.S. 11:216**

Any disability claimed by a member of a state or statewide retirement system must have been incurred after commencement of service in the system with which the claim is filed. Disability claims shall not be honored in the case of preexisting conditions.

### **Disability Vesting - R.S. 11:217**

Any member of a state or statewide retirement system who has completed twenty years of creditable service, and who has withdrawn from active service prior to the age at which he is eligible to begin receiving retirement benefits, shall be eligible in the event of total and permanent disability, for the lesser of all nonservice related disability benefits provided by his retirement system, or the normal vested retirement benefit. Upon attaining the normal vested retirement age, his disability benefit shall cease and he shall receive his full vested regular retirement.

### **Application and Examination Procedures; Certification of Disability – R.S. 11:218**

- A. Any eligible member of a state or statewide retirement system listed in this Subpart who acquires a disability may apply for disability benefits to the board of trustees of the

retirement system of which he is a member. The board of trustees shall require the supervisor of the applicant to submit to the board a report which shall include a brief history of the case and the supervisor's opinion as to the applicant's present ability to perform the normal duties required of him.

- B. The applicant's disability case history shall be examined either by that member of the State Medical Disability Board whose area of specialty most closely relates to the nature of the claimed disability or by an outside physician designated by the board. The examining physician shall either conduct a medical examination of the applicant, or waive the medical examination if obvious and overwhelming medical evidence of disability exists to his satisfaction. The cost of the examination, including costs of laboratory tests, X-rays, and other such direct examination procedures shall be borne by the applicant's retirement system; however, all nondirect costs such as hospital room and board charges and other such expenses shall be borne by the applicant. The initial examination shall be completed within six weeks of the date of the applicant's filing for benefits.
- C. The examining physician shall submit to the appropriate board of trustees an in-depth report which shall include a medical evaluation and his conclusions as to the applicant's claimed disability. Each member of the State Medical Disability Board and any board designated physician shall have full authority to certify total disability in those applicants whom he examines. An applicant shall be considered certified as having a total disability if in the in-depth report submitted by the examining physician to the board of trustees, the physician declares the applicant to be totally incapacitated for the further performance of his normal duties and states that such incapacity is likely to be permanent. In the case of partial disability, the physician shall indicate the degree of incapacity.
- D.
  - (1) Should the examining physician's final certification decision be contested by either the applicant or the applicant's board of trustees, the contesting party shall have the right to a second medical examination if a written appeal is filed within thirty days of notification of the certification decision. This second examination shall be performed by a member of the State Medical Disability Board, or by a board designated physician and shall be at the expense of the requesting party. The second physician shall also submit an in-depth report to the applicant's board of trustees which shall include his medical evaluation and conclusions as to the applicant's claimed disability.
  - (2) If the second examining physician concurs in the findings and recommendations of the first physician, the first physician's original decision on certification shall stand as final and binding and shall not be subject to further appeal other than through the courts.
  - (3) If the second examining physician disagrees with the findings and recommendations of the first physician, the two physicians shall select a third specialist to conduct another examination and prepare and file a third report in the same manner as provided for above. The majority opinion of the three examining physicians shall be final and binding and not subject to further appeal other than through the courts. The cost of the third medical examination shall be borne by the retirement system of the

applicant if he is certified as having a disability, or by the applicant if his disability claim is denied.

- E. The board of trustees of a state or statewide retirement system shall receive a final and binding disability certification from a member of the State Medical Disability Board, or a board designated physician, and retire an eligible disability applicant within one hundred and twenty days of the applicant's date of filing for disability retirement. Disability benefits shall accrue from the filing date of the application for disability retirement, or from the day following the exhaustion of all sick leave or annual leave claimed by the applicant, whichever is the later.

### **State Medical Disability Board - R.S. 11:219**

- A. The State Medical Disability Board shall be composed of physicians appointed by the board of trustees of each state and statewide retirement system, with each physician serving at the pleasure of the board of trustees that appointed him. Each medical board member shall, according to the provisions of R.S. 11:218, be responsible for either reviewing the medical case histories of or conducting medical examinations of members of any state and statewide retirement systems who apply for disability benefits and for submitting his findings and recommendations to the appropriate boards of trustees.
- B. The board of trustees of the appropriate system may, at their discretion or upon recommendation of a physician on the State Medical Disability Board, call upon physicians in any area of medical specialty and from any area of the state either to review case histories or to conduct regular or appeal examinations of disability retirement applicants. These alternate physicians shall follow the same procedures and have the same authority as regular members of the medical board under the provisions of R.S. 11:218(D).

### **Certification of Continuing Eligibility for Disability Benefits – R.S. 11:220**

- A. Once each year during the first five years following retirement of a member of a state or statewide retirement system on a disability retirement allowance, and once in every three-year period thereafter, the appropriate board of trustees may require any disability beneficiary who has not yet attained the equivalent age of regular retirement to undergo a medical examination, at the beneficiary's expense, such examination to be made at the place of residence of said beneficiary if he is immovable or other place mutually agreed upon, by a physician on the State Medical Disability Board or a board designated specialist. The examining physician shall submit a report to the board of trustees recommending either the continuation or cessation of the beneficiary's disability status. A contested decision shall be appealed under the procedures described in R.S. 11:218.
- B. Should any disability beneficiary who has not yet attained the equivalent age of regular retirement refuse to submit to at least one medical examination in any such year by a medical board physician designated by the board of trustees, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year all his rights in and to his disability pension shall be revoked by the board of trustees.

- C. The board of trustees, upon receipt of a final and binding report from a member of the State Medical Disability Board declaring a beneficiary's total disability to have ceased, shall order the discontinuation of the disability allowance.
- D. Neither the former receipt of, nor the involuntary termination of disability benefits shall affect the right of any person to any regular retirement benefits based upon age or service to which he is eligible.

**Authority of Retirement Boards to Modify Benefits; Earnings Statements -  
R.S. 11:221**

- A. (1) Should the board of trustees of a state or statewide retirement system determine that a disability beneficiary is engaged in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation, and should the board of trustees concur in such report, then the amount of his pension shall be reduced to an amount, which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension shall be further modified; however, the new pension shall not exceed the amount of the pension originally granted nor an amount, which, when added to the amount earnable by the beneficiary together with his annuity, equals the amount of his average final compensation.  
  
(2) Not Applicable to the Assessors' Retirement Fund
- B. For the purposes of this Section, there shall be an annual cost-of-living adjustment to the average final compensation figure used in the modification computations. This cost-of-living adjustment shall be based upon and directly reflect the annual percentage increase or decrease in the Consumer Price Index for the preceding calendar year.
- C. (1) Every disability beneficiary of a state or statewide retirement system shall submit to the board of trustees by May first of every year, a notarized annual earnings statement detailing his earned income from employment in the previous tax year. Should a beneficiary refuse to submit such an earnings statement by May first, his allowance may be discontinued, without retroactive reimbursement, until the statement is filed. Should his refusal continue for the remainder of the calendar year, all his rights in and to his disability pension may be revoked by the board of trustees.  
  
(2) Not applicable to the Assessors' Retirement Fund.
- D. (1) Any disability retirement allowance, including that received under authority of R.S. 11:217, shall be modified by the board of trustees when the sum of a whole life annuity equivalent of the benefits or financial awards which accrue to a disability retiree solely as a result of his disability and the disability pension to which the retiree is entitled exceeds the amount of his average final compensation, in such a matter that the sum of the above equals the amount of average final compensation. Should these outside benefits or awards be reduced, exhausted, or terminated, the board of trustees

may increase the disability pension then being received by retirees so that the sum of the pension benefits and the outside benefits equals the amount of average final compensation; but in no case shall the disability pension be increased to an amount greater than that to which the beneficiary was originally entitled when he retired.

- (2) Individual private insurance settlements and separate private retirement accounts and other similar nonsystem resources, including disability benefits from the Social Security Administration and the Veterans Administration, other than worker's compensation, shall be specifically exempted from consideration in any of the above computations. Social security shall not be deducted if the retirement system in which the member is vested provides for joint participation and benefits with social security.
- (3) For the purposes of this Subsection, there shall be an annual cost-of-living adjustment to the average final compensation figure used in the modification computations. This cost-of-living adjustment shall be based upon and directly reflect the annual percentage increased or decreased in the Consumer Price Index for the preceding calendar year.
- (4) Notwithstanding any other law to the contrary, any member who retires while in service on a disability retirement and who has credit for the years of service required for normal retirement shall, upon attainment of the age required for normal retirement, be eligible to receive full normal retirement benefits. To receive such benefits, the member shall file an application with the board of trustees of the retirement system. Upon commencement of regular retirement benefits, disability benefits shall cease.

E. Not applicable to the Assessors' Retirement Fund.

### **Restoration to Active Service - R.S. 11:224**

If any disability retiree of a state or statewide retirement system who is under the age of sixty years is restored to active service, his retirement allowance shall cease, he shall again become a member of the retirement system, and he shall contribute thereafter at the current rate in effect at the time he is restored to service, and if he contributes for at least three years, the period of time on disability shall be counted as accredited service for purposes of establishing retirement eligibility, but not for computation of benefits. Any prior service certificate on which his service was computed at the time of his retirement shall be restored to full force and effect and, in addition, upon his subsequent retirement he shall be credited with all his service as a member. This Section shall apply to all disability retirees, regardless of the date they qualified for a disability retirement benefit.

## **RETIREMENT BENEFIT COMPUTATION**

### **Average Compensation - R.S. 11:231**

A. Notwithstanding any other provisions of law to the contrary, the provisions of this Section shall be applicable, unless specifically exempted in Subsection C of this Section, to all members of the following public retirement systems:

(1) Assessors' Retirement Fund.

\* \* \*

B. For purposes of retirement benefit computation, average compensation, or its equivalent, shall be based on the thirty-six highest successive months of employment, or on the highest thirty-six successive joined months of employment where interruption of service occurred. The earnings to be considered for the thirteenth through the twenty-fourth month shall not exceed one hundred twenty-five percent of the earnings of the first through the twelfth month. The earnings to be considered for the final twelve months shall not exceed one hundred twenty-five percent of the earnings of the thirteenth through the twenty-fourth month. Nothing in this Subsection, however, shall change the method of determining the amount of earned compensation received.

C. (1) Not applicable to the Assessors' Retirement Fund

(2) Not applicable to the Assessors' Retirement Fund

(3) This Section shall not apply to members of the Assessors' Retirement Fund whose first employment making them eligible for system membership began on or after October 1, 2006.

**232. Repealed by Acts 2001, No. 436, §1, eff. July 1, 2001.**

### **Earnable Compensation - R.S. 11:233**

A. The provisions of this Section shall apply to the following public retirement or pension systems, funds, and plans:

\*\*\*

(4) Assessors Retirement Fund.

- B. (1) Except as provided in Paragraph (4) of this Subsection, and without repealing comparable provisions contained within the individual laws governing retirement or pension systems, funds, and plans referenced in Subsection A hereof but superseding any such provisions which conflict with the provisions of this Section, for purposes of calculation of the amount of contributions payable by an employer and employee and for computation of average compensation, earnings or earned or earnable compensation, or its equivalent, shall mean the full amount earned by an employee for a given pay period.
- (2) Earnings or earned or earnable compensation shall not include:
- (a) Overtime unless it is required to be worked in the employee's regular tour of duty;
  - (b) Operating expenses;
  - (c) Use of automobile or motor vehicles;
  - (d) The cost of any insurance paid by the employer;
  - (e) Any allowance for expenses incurred as an incident of employment;
  - (f) Payments made in lieu of unused annual or sick leave; and
  - (g) Bonuses, terminal pay, severance pay, deferred salary, or any other type of irregular or nonrecurring payment.
- (3) Notwithstanding the provisions of Subparagraph (2)(g) of this Subsection amounts deducted for deferred salary shall be included to calculate the amount of contributions payable by an employer and employee and to compute average compensation with respect to the Firefighters' Retirement System, the Sheriffs' Pension and Relief Fund, and the Parochial Employees' Retirement System of Louisiana.
- (4) (a) To the extent there is a conflict between the provisions of this Subsection and R.S. 11:1902 as to "earnings", the provisions of R.S. 11:1902 shall prevail.
- (b) To the extent there is a conflict between the provisions of this Subsection and R.S. 11:2252 as to "earnable compensation", the provisions of R.S. 11:2252 shall prevail.
- C. Contributions required to be made by the employer shall not be considered as part of the employee's rate of pay or compensation.
- D. (1) In addition to other applicable limitations set forth in the plan, and notwithstanding any other provision of the plan to the contrary, for plan years beginning on or after January 1, 1994, the annual compensation of each employee taken into account under the plan shall not exceed the annual compensation limit provided in Internal Revenue Code Section 401(a)(17), of one hundred fifty thousand dollars, as adjusted by the Commissioner of Internal Revenue for increases in the cost-of-living in accordance with Internal Revenue Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve months, over



which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve months, the annual compensation limit provided in Internal Revenue Code Section 401(a)(17) will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve.

- (2) (a) For plan years beginning on or after January 1, 1994, any reference in this plan to the limitation under Internal Revenue Code Section 401(a)(17) shall mean the annual compensation limit of Internal Revenue Code Section 401(a)(17) as set forth in this Subsection.
- (b) If the compensation for a prior determination period is taken into account in determining an employee's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the annual compensation limit provided in Internal Revenue Code Section 401(a)(17) in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1994, the annual compensation limit provided in Internal Revenue Code Section 401(a)(17) is one hundred fifty thousand dollars.
- (c) Effective for plan years beginning before January 1, 1997, the annual compensation limit provided in Internal Revenue Code Section 401(a)(17) shall apply in the aggregate to highly compensated employees and family members, and the allocation of compensation among such family members as spouses and children under age of nineteen years, shall be made in proportion to their compensation before the application of this Section, except that family members who are not eligible to participate in the plan, who participate but are not eligible to share in the benefit accrual because such persons are not members of the eligible class of employees or have completed fewer than the requisite number of hours of service or have terminated employment with the employer, shall not be allocated any portion of the Internal Revenue Code Section 401(a)(17) compensation limit for the year. The aggregation of compensation among family members shall not apply for plan years beginning on or after January 1, 1997.

## **SURVIVOR BENEFITS**

### **Survivor Benefits – R.S. 11:234**

A. The provisions of this Section shall be applicable to all members of the following public retirement systems:

(1) Assessors' Retirement Fund.

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B. Notwithstanding any other provision of law to the contrary, any person who, after June 22, 1993, is receiving survivor benefits or becomes eligible to receive survivor benefits shall not have their benefits discontinued upon remarriage if such remarriage occurs after their attaining age fifty-five.

### **Minor's Benefit Placed in Trust; Payable Under Trust Instrument – R.S. 11:235**

A. If a state or statewide retirement system provides for payment of benefits to the minor child of a deceased member, when there is no surviving spouse or when the surviving spouse does not have legal custody of the minor child, then, notwithstanding any other provision of law to the contrary, benefits shall be paid to such minor child in accordance with the law of the respective state or statewide retirement system except as provided in Subsection B of this Section.

B. If a trust has been created under Louisiana law by the deceased member for the benefit of the child, the terms of the instrument creating the trust so provide, and the respective system has been provided with a certified copy of the trust document, then the survivor benefit due the minor child shall be paid to the trustee for addition to the trust property. If the trust is contested by any party, the respective retirement system shall withhold all survivor benefit payments or deposit them in the registry of the court if a concursus proceeding is filed, until there is a final binding legal agreement or judgment regarding the proper payment of the survivor benefits.

## **COST-OF-LIVING ADJUSTMENTS**

### **Purpose; Formula for Distribution - R.S. 11:241**

- A. The purpose of this Subpart is to provide with respect to a system of cost-of-living adjustments for retirees of public retirement systems, funds, and plans as specified herein. The provisions of this Subpart do not repeal provisions relative to cost-of-living adjustments contained within the individual laws governing the systems, funds, and plans affected by the Subpart; however, the provisions of this Subpart are to be controlling in cases of conflicts with the individual laws.
  
- B. Any increase of benefits granted by the legislature or by a state or statewide public retirement system shall be distributed in accordance with the provisions of this Subsection, if the legislature or system does not otherwise specify the terms for such distribution. Any such increase shall be a monthly increase of the benefit of each recipient in the dollar amount equal to the total of the number of years of credited service accrued at retirement or at death of the member or retiree plus the number of years since retirement or since death of the member or retiree to the system's fiscal year end preceding the payment of the benefit increase. If there are not sufficient funds to fund the benefit at the rate of one dollar per year for such total number of years, then the rate shall be reduced in proportion to the amount of funds that are available to fund the cost-of-living adjustment.

### **Cost-of-Living Adjustments; Restrictions - R.S. 11:242**

- A. The provisions of this Section do not repeal provisions relative to cost-of-living adjustments contained within the individual laws governing the systems, funds, and plans set forth in Subsection B of this Section. However, the provisions of this Section are to be controlling in cases of conflicts with the individual laws.
  
- B. The power of the respective governing authorities to amend the respective retirement systems to provide cost-of-living adjustments for each of the following public retirement systems:
  - (1) The Assessors' Retirement Fund.

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shall only be effective in calendar years during which the legislature fails to enact legislation granting cost-of-living adjustments, unless in the legislation granting a cost-of-living adjustment, the legislature specifically authorized the aforementioned systems to amend the respective retirement systems to provide an additional cost-of-living adjustment to retirees or survivors of retired public employees of particular systems, funds, and plans set forth in this Subsection.

- C. The governing authorities of the systems, funds, and plans set forth in Subsection B of this Section shall not amend the respective retirement systems to provide a cost-of-living adjustment to any retiree, beneficiary, or survivor during any calendar year prior to the final adjournment of the regular session of the legislature and shall not do so during the same year within which the legislature has granted a cost-of-living adjustment, unless in the legislation granting a cost-of-living adjustment, the legislature specifically authorizes the governing bodies of the aforementioned systems to amend the respective retirement systems to provide an additional cost-of-living adjustment to a particular system, plan, or fund. The restrictions contained in this Subsection shall be inapplicable with respect to any system, fund, or plan relative to which the legislature has failed to grant a cost-of-living adjustment.
- D. Disability retirees and surviving children or surviving spouses shall not be subject to the restrictions set forth in this Section.
- E. Notwithstanding any other provision of law to the contrary, commencing at the end of the retirement system's 1985-1986 fiscal year, unless thereafter specifically provided for by the legislature, any public retirement or pension system, fund, or plan covered by this Section shall not provide a cost-of-living adjustment or permanent benefit increase during any fiscal year until the lapse of at least one-half of the fiscal year, and unless either the funds for such increase are provided as authorized from a credit balance in that system's funding deposit account or the actuary for the system and the legislative auditor certify that the funded ratio of the system, fund, or plan as of the end of the previous fiscal year equals or exceeds the target ratio as of that date for that system, fund, or plan. If the legislative auditor disagrees with the determination of the system's actuary, the matter shall be determined by majority vote of the Louisiana Public Retirement Systems' Actuarial Committee. For purposes of this Subsection, the funded ratio and target ratio are as defined below:
- (1) The "funded ratio" as of any fiscal year end shall be the ratio of the actuarial value of assets to the actuarial accrued liability under the funding method prescribed by the office of the legislative auditor. The actuarial value of assets and actuarial accrued liability for a system shall be those amounts reported to the office of the legislative auditor in the Annual Report for Public Retirement Systems.
  - (2) The "target ratio" as of any fiscal year end shall be the lesser of (a) or (b) below:
    - (a) One hundred percent.
    - (b) The sum of (i), (ii), (iii), and (iv) below:
      - (i) The funded ratio as of the 1986 fiscal year end.
      - (ii) The number of fiscal years elapsed since the 1986 fiscal year end multiplied by one-thirtieth of the difference between one-hundred percent and the funded ratio of the system as of the 1986 fiscal year end.
      - (iii) The amount of each change in funded ratio due to mergers or changes in actuarial methods or assumptions occurring after the fiscal 1986 year end.

- (iv) For each change in funded ratio due to mergers or changes in actuarial methods or assumptions occurring after the 1986 fiscal year end, an amount of opposite arithmetic sign from such change in funded ratio equal in absolute value to the number of fiscal years since the change in funded ratio multiplied by one-thirtieth of the original change in funded ratio due to the merger or change in actuarial methods or assumptions.
- F. The power of the governing authority of a system listed in Subsection B of this Section to grant benefit increases pursuant to the provisions of this Section shall cease when the governing authority makes an irrevocable election pursuant to R.S. 11:243(B)(1) to have future benefit increases for retirees, survivors, and beneficiaries governed by R.S. 11:243.

**Cost-of-living Adjustments; Permanent Benefit Increases; Restrictions; Funding Criteria-R.S. 11:243**

A. The provisions of this Section shall apply to the following retirement systems:

- (1) The Assessors' Retirement Fund.

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- B. (1) On or before December 31, 2013, the governing authority of each of the retirement systems listed in Subsection A shall in a public meeting make an irrevocable election to have future benefit increases for retirees, survivors, and beneficiaries governed by R.S. 11:242 or this Section. In the event that the governing authority takes no action by the specified date, the provisions of this Section shall not apply and the benefit increases of that system shall continue to be subject to the provisions of R.S. 11:242.
- (2) After the governing authority has made its election, the board of trustees shall inform the speaker of the House of Representatives, the president of the Senate, and the Louisiana State Law Institute of its election in writing.
- C. The provisions of this Section do not repeal provisions relative to cost-of-living adjustments or permanent benefit increases contained within the individual laws governing the systems listed in Subsection A of this Section. However, the provisions of this Section are to be controlling in case of any conflict with the individual laws.
- D. The power of the governing authority of a system covered by this Section to provide a cost-of-living adjustment or permanent benefit increase shall be effective in a particular calendar year only if the legislature fails to enact legislation granting a cost-of-living adjustment, unless in the legislation granting the cost-of-living adjustment, the legislature specifically authorized the governing authority to provide an additional cost-of-living adjustment to retirees, beneficiaries, or survivors of retired public employees of that system.
- E. No governing authority to which this Section applies shall provide a cost-of-living adjustment or permanent benefit increase to any retiree, beneficiary, or survivor during any

calendar year prior to the final adjournment of the regular session of the legislature and shall not do so during the same year within which the legislature has granted an increase, unless in the legislation granting the increase, the legislature specifically authorizes the governing body to provide an additional increase to retirees, beneficiaries, and survivors of that system. The restrictions contained in this Subsection shall be inapplicable with respect to any system for which the legislature has failed to grant an increase.

- F. Disability retirees and surviving children or surviving spouses shall not be subject to the restrictions set forth in this Section.
- G. (1) Notwithstanding any other provision of law to the contrary, no system covered by this Section shall provide a cost-of-living adjustment or permanent benefit increase during any fiscal year until the lapse of at least one-half of the fiscal year, and unless either the funds for such increase are provided as authorized from a credit balance in that system's funding deposit account or the actuary for the system and the legislative auditor certify that the funded ratio of the system meets the requirements of one or more of the Subparagraphs in Paragraph (3) of this Subsection. If the legislative auditor disagrees with the determination of the system's actuary, the matter shall be determined by majority vote of the Public Retirement Systems' Actuarial Committee.
- (2) For purposes of this Subsection, a system's "funded ratio" as of any fiscal year end shall be the ratio of the actuarial value of assets to the actuarial accrued liability under the funding method prescribed by the office of the legislative auditor. The actuarial value of assets and actuarial accrued liability for a system shall be those amounts reported to the office of the legislative auditor in the Annual Report for Public Retirement Systems.
- (3) The governing authority of a system covered by this Subsection may grant a benefit increase to retirees, survivors, and beneficiaries if any of the following apply:
  - (a) The system has a funded ratio of ninety percent or more and has not granted a benefit increase to retirees, survivors, and beneficiaries in the most recent fiscal year.
  - (b) The system has a funded ratio of eighty percent or more and has not granted a benefit increase to retirees, survivors, and beneficiaries in either of the two most recent fiscal years.
  - (c) The system has a funded ratio of seventy percent or more and has not granted a benefit increase to retirees, survivors, and beneficiaries in any of the three most recent fiscal years.

**244. Repealed by Acts 1999, No. 402, §2, eff. July 1, 1999.**

**245. Repealed by Acts 1999, No. 402, §2, eff. July 1, 1999.**

## **Additional Cost-of-Living Adjustments; Retirees and Beneficiaries Over Age Sixty-Five - R.S. 11:246**

- A. Notwithstanding any other provision of law to the contrary, the provisions of this Section shall apply to the following public retirement systems:
- (1) Assessors' Retirement Fund.
- \*\*\*
- B. In addition to any other cost-of-living increases which the systems and funds enumerated in Subsection A are authorized by law to provide, the board of trustees may provide, on July 1, 1981 and thereafter, from interest income from investments, a supplemental cost-of-living adjustment to all retirees and beneficiaries who are sixty-five years of age or over, which shall consist of an amount equal to two percent of the benefit being received on October 1, 1977, or on the date the benefit is originally received if retirement commenced after October 1, 1977. No board shall provide such additional increases unless the board has received a rate of return in excess of the valuation interest rate based on the actuarial value of assets for the current fiscal year and the cost-of-living increase provided therein shall be payable only from the investment income in excess of that determined by the application of the valuation interest rate to the actuarial value of assets.

## **Automatic Cost-of-Living Adjustments – R.S. 11:247**

- A. (1) Upon application for retirement or participation in the Deferred Retirement Option Plan, any member of a state or statewide retirement system may elect to receive an actuarially reduced retirement allowance plus an annual two and one-half percent cost-of-living adjustment. Such an election shall be irrevocable after the effective date of retirement or after the beginning date of participation in the Deferred Retirement Option Plan. The retirement allowance together with the cost-of-living adjustment shall be certified by the system actuary to be actuarially equivalent to the member's maximum or optional retirement allowance and shall be approved by the system's board of trustees.
- (2) The annual cost-of-living adjustment of such retirees shall be based on the retirement allowance received pursuant to the retirement plan option selected by the member and the monthly benefit being paid pursuant thereto on the effective date of the increase, inclusive of cost-of-living adjustments paid pursuant to this Section, but exclusive of cost-of-living adjustments or permanent benefit increases paid pursuant to any other provision of law.
- (3) (a) The annual cost-of-living adjustment of any Deferred Retirement Option Plan participant shall be credited to the participant's Deferred Retirement Option Plan subaccount during the participation period.

- (b) Following participation in the Deferred Retirement Option Plan, the annual cost-of-living adjustment shall be applied to the monthly benefit allowance amount determined by the retirement plan option selected, inclusive of cost-of-living adjustments paid pursuant to this Section, but exclusive of cost-of-living adjustments or permanent benefit increases paid pursuant to any other provision of law. The monthly benefit allowance upon retirement shall reflect the annual benefit adjustments set forth in this Paragraph.
  - (c) Upon retirement of a Deferred Retirement Option Plan participant, the annual cost-of-living adjustment shall also be applied to any supplemental benefit earned after the participation period in accordance with applicable law.
  - (d) The provisions of this Section shall not apply to any participant in a Back-Deferred Retirement Option Plan or Program.
- (4) If a retiree or Deferred Retirement Option Plan participant has chosen an optional retirement allowance wherein a spouse who has been designated as beneficiary will receive a continuing benefit upon the retiree's or Deferred Retirement Option Plan participant's death, the spouse's cost-of-living adjustment shall be payable based on the spouse's allowance on the effective date of the increase.
- B. The annual cost-of-living adjustment authorized by Subsection A of this Section shall be effective annually on the retirement anniversary date of the retiree and shall be payable to any retiree who is age fifty-five or older and not before the retiree would have attained such age if his spouse is receiving the retirement allowance as his designated beneficiary.
- C. Additional cost-of-living adjustments or permanent benefit increases granted by the system's board of trustees, as otherwise provided by law, shall be computed on the basis of the retiree's benefit amount on the date such cost-of-living adjustment or permanent benefit increase is granted. If an additional cost-of-living adjustment or permanent benefit increase is scheduled to be effective on the same day as the annual cost-of-living adjustment, the annual cost-of-living adjustment shall be calculated first.
- D. Upon application for retirement or participation in the Deferred Retirement Option Plan and upon certifying that he is contemplating availing himself of the provisions of this Section, a member of a state or statewide retirement system may request that the system provide actuarial estimates of the benefits that such member would receive pursuant to Subsection A of this Section for the fifth, tenth, and fifteenth year following the member's anticipated retirement date. The system shall provide such actuarial estimates to the member upon request.
- E. This Section shall not be applicable to recipients of disability retirement benefits pursuant to R.S. 11:461 et seq. All other persons receiving disability retirement benefits pursuant to the provisions of this Title shall be eligible to elect this retirement option upon conversion to a service retirement, if applicable, under the provisions of this Title for each state or statewide retirement system.



## **PROFESSIONAL PERSONNEL**

### **Legal Counsel, Certified Public Accountants, Professional Investment Personnel – R.S. 11:251**

Notwithstanding any other provisions of law to the contrary, the boards of trustees of the Louisiana State Employees' Retirement System, the Teachers' Retirement System of Louisiana, the Louisiana School Employees' Retirement System, the Municipal Police Employees' Retirement System, the Louisiana State Police Retirement System, the Parochial Employees' Retirement System of Louisiana, the Municipal Employees' Retirement System of Louisiana, the Firefighters Retirement System, the Assessors' Retirement Fund, the Clerks of Court Retirement and Relief Fund, the Registrars of Voters Employees' Retirement System, the Sheriffs' Pension and Relief Fund, and the District Attorneys' Retirement System are hereby authorized, jointly or otherwise, to at their option either employ or appoint at their own cost and expense legal counsel, certified public accountants, and professional investment personnel who shall be full-time in-house staff members of said systems, who may be members of the appropriate public retirement system, and who may participate in the state's group life, health, and hospitalization insurance program, or to retain legal counsel to represent said systems who shall not be a member of any of the above systems.

### **Actuary; Appointment; Duties – R.S. 11:252**

Notwithstanding any other provision of law to the contrary, the board of trustees of any state or statewide retirement system is hereby authorized to appoint an actuary or actuaries, independently or jointly. However, any duties the board assigns to the actuary shall relate only to the practice of actuarial science or ministerial duties that do not require the exercise of supervision or discretionary control over the administration or management of the system.

## **FIDUCIARY AND INVESTMENT RESPONSIBILITIES**

### **Purpose – R.S. 11:261**

The legislature recognizes that the fiscal integrity of various governments of and within this state and the financial security of employees and citizens of these various governments require that the public retirement or pension systems, funds, and plans maintained primarily for officers and employees of the governments be maintained on a sound actuarial basis. It is further recognized that the fiduciary responsibilities and the investment practices of these systems, funds, and plans are an integral part of such maintenance. It is also recognized that the legislative branch of state government bears a responsibility with respect to this maintenance. Accordingly, the purpose of this Subpart is to provide for the governing of fiduciary responsibilities and investments by public retirement or pension systems, funds, and plans.

### **Applicability – R.S. 11:262**

The provisions of this Subpart are applicable to the following public retirement or pension systems, funds, and plans:

(1) Assessors' Retirement Fund

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### **Prudent-Man Rule; Investments - R.S. 11:263**

- A. The prudent-man rule shall be applied by the systems, funds, and plans governed by this Subpart.
- B. The prudent-man rule shall require each fiduciary of a retirement system and each board of trustees acting collectively on behalf of each system to act with the care, skill, prudence, and diligence under the circumstances prevailing that a prudent institutional investor acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.
- C. This standard requires the exercise of reasonable care, skill, and caution, and is to be applied to investments not in isolation, but in the context of the trust portfolio, and as part of an overall investment strategy, which shall include an asset allocation study and plan for implementation thereof, incorporating risk and return objectives reasonably suitable to that trust. The asset allocation study and implementation plan shall include the examination of market value risk, credit risk, interest rate risk, inflation risk, counterparty risk, and concentration risk. The investment policy of each system, plan, or fund shall preserve and enhance principal over the long term and provide adequate liquidity and cash flow for the payment of benefits. The investments shall be diversified to minimize the risk of significant losses unless it is clearly prudent not to do so.

- D. (1) Notwithstanding the prudent-man rule, no governing authority of any system or fund governed by this Subpart shall invest more than fifty-five percent of the total portfolio in equities, except as provided in Paragraph (2) of this Subsection.
- (2) The governing authority of any system may invest more than fifty-five percent of the total portfolio in equities, so long as not more than sixty-five percent of the total portfolio is invested in equities and at least ten percent of the total equity portfolio is invested in one or more index funds which seek to replicate the performance of the chosen index or indices.
- (3) When contemplating any investment, action, or asset allocation the following factors shall be given weight:
- (a) The availability of public pricing to value each investment.
  - (b) The ability to liquidate each investment at a fair market price within a reasonable time frame for the size of investment that is being considered.
  - (c) The degree of transparency that accompanies each investment.
  - (d) The risk of fluctuations in currency that may accompany each investment.
  - (e) The experience of the professionals who will manage each investment and the financial soundness of the business entity employing such professionals.
  - (f) The degree of diversification which exists within each investment and that such investment itself may provide relative to the other existing investments in the system's portfolio.
  - (g) Whether leverage is involved.
  - (h) The potential for unrelated business taxable income as defined in Section 512 of the Internal Revenue Code.
  - (i) The jurisdiction of the laws that govern each investment.
  - (j) The net return that is expected relative to the risk that is associated with each investment.
- E. Repealed by Acts 2010, No. 1004, §2, eff. July 1, 2010.
- F. Notwithstanding the prudent-man rule, a system board of trustees may but is not required to divest itself of any holding in a company having facilities or employees or both located in a prohibited nation as that term is defined in R.S. 11:312(B)(2).
- G. (1) Each system, plan, or fund governed by this Subpart shall submit to the House and Senate committees on retirement and to each other state and statewide retirement system electronically transmitted quarterly reports beginning with the quarter ending June 30, 2010, which shall be submitted no later than thirty calendar days after the end of the quarter.

- (2) Each report submitted pursuant to this Subsection shall contain, at a minimum, the following:
  - (a) The investment return net of investment fees and expenses expressed as a percentage return and dollar amount.
  - (b) The amount of administrative expenses.
  - (c) The board-approved target asset allocation.
  - (d) The current actual asset allocation of the system portfolio.
- (3) Investment returns reported pursuant to this Subsection shall be by total fund and particular asset class over the quarter reported, fiscal year-to-date, one year, three year, five year, and ten year periods.

### **Fiduciary Relationships - R.S. 11:264**

With respect to the systems, plans, and funds governed by this Subpart, each of the following persons shall be deemed to be in a fiduciary relationship with the respective funds:

- (1) Any person who exercises any discretionary authority or discretionary control with respect to the management of system funds or assets.
- (2) Any person who renders investment advice or services for compensation, direct or indirect, with respect to system funds or assets.

### **Liabilities; Discretionary Control – R.S. 11:264.1**

Legislators, state officials, system attorneys, accountants, and actuaries shall not be considered fiduciaries unless they exercise discretionary control over the management or administration of the system or some authority or control over system assets.

### **Fiduciary Restriction; Felony Conviction – R.S. 11:264.2**

Any person who has been convicted of a felony offense shall be restricted from serving as a system fiduciary for a period of five years after the conviction or after the end of imprisonment, whichever is later.

### **Basic Fiduciary Duty – R.S. 11:264.3**

The basic duty of a fiduciary is to discharge his duties with respect to the system in the exclusive interest of the members and beneficiaries.

### **Exclusive Interest Rule – R.S. 11:264.4**

A fiduciary must discharge his duties within the law solely in the interest of system members and beneficiaries for the exclusive purpose of providing benefits to participants and beneficiaries, and paying the expenses of administering the plan.

### **Breach of Fiduciary Duty – R.S. 11:264.5**

- A. Any person who is a fiduciary with respect to a plan who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Subpart shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits of such fiduciary which have been made through use of assets of the plan by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.
- B. No fiduciary shall be liable with respect to a breach of fiduciary duty under this Subpart if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.
- C. It shall not be a breach of fiduciary duty for a board of trustees or any member of such a board to take action to divest the system of any holding in a company having facilities or employees or both located in a prohibited nation as that term is defined in R.S. 11:312(B)(2); however, nothing in this Subsection shall require a board to divest itself of any such holding.

### **Cofiduciary Liability – R.S. 11:264.6**

- A. Any fiduciary who participates in a breach committed by a cofiduciary, or who tries to conceal a cofiduciary's breach, shall be held liable jointly for breach of fiduciary duty. Cofiduciary liability also results from a fiduciary's failure to use reasonable care to prevent a cofiduciary from committing a breach.
- B. Any fiduciary who has knowledge of a cofiduciary's breach has a duty to remedy the breach.

### **Remedies; Jurisdiction; Authority; Attorney Fees - R.S. 11:264.7**

- A. A member, beneficiary, or survivor who can demonstrate a personal interest in a retirement system may bring civil action to enforce the provisions of this Subpart. In any enforcement proceeding the plaintiff may seek and the court may grant any appropriate form of relief, including but not limited to the following:
  - (1) A writ of mandamus.
  - (2) Injunctive relief.

- (3) A declaratory judgment.
  - (4) A judgment rendering certain actions of the board of trustees as void.
  - (5) A judgment awarding civil damages.
  - (6) A judgment requiring payment of the amounts in R. S. 11:269.
- B. Exclusive original jurisdiction for proceedings under this Subpart shall be in the Nineteenth Judicial District Court of Louisiana. In any enforcement proceeding the court has jurisdiction and authority to issue all necessary orders to require compliance with, or to prevent noncompliance with, or to declare the rights of parties under the provisions of this Subpart. Any noncompliance with the orders of the court may be punished as contempt of court.
- C. If a person who brings an enforcement proceeding prevails, he shall be awarded reasonable attorney fees and other costs of litigation. If such person prevails in part, the court may award him reasonable attorney fees or an appropriate portion thereof. If the court finds that the proceeding was of a frivolous nature and was brought with no substantial justification, it may award reasonable attorney fees to the prevailing party.

### **System Policy Regarding Breach of Fiduciary Duty – R.S. 11:264.8**

No retirement system may submit a proposed regulation, or approve any internal policy to relieve a fiduciary from responsibility for breach of fiduciary duty. However, a system may purchase insurance to cover liability or losses due to acts or omissions of fiduciaries. Any such insurance shall maintain the insurance company's right of subrogation. A fiduciary may purchase insurance to cover his own liability, without condition.

### **Compensation of Investment Advisors – R.S. 11:265**

Each board of trustees of the various public retirement systems, plans, or funds is hereby authorized, in requesting proposals for investment advisory services, to require that fees shall be quoted as a fixed fee, a fee based on market value of assets, or a performance fee.

### **Investment Performance Standards – R.S. 11:266**

- A. The provisions of this Section shall be applicable to all Louisiana public retirement or pension systems, funds, and plans, and shall not apply to any investment manager or investment advisor who does not have an office for investment managers or investment advisors domiciled in the United States.
- B. Investment performance reports submitted by any investment manager or investment advisor of any entity covered by Subsection A of this Section shall be in compliance with the current Performance Presentation Standards as amended and published by the Association for Investment Management and Research or any successor entity.

- C. (1) Investment performance composite data submitted in response to a request for proposal or any other solicitation or selection process used by any system, fund, or plan covered by this Section for hiring an investment manager or investment advisor shall be in compliance with the current Performance Presentation Standards as amended and published by the Association Standards as amended and published by the Association for Investment Management and Research or any successor entity.
- (2) Each such system, plan, or fund shall require, at least annually, the investment managers or investment advisors employed or otherwise retained by such system, plan, or fund to submit investment performance composite data, which contains such systems, plans, or funds portfolio that is subject to a Level I verification as defined in the Performance Presentation Standards as amended and published by the Association for Investment Management and Research or any successor entity.
- D. The Investment Performance Standards required in Subsections B and C of this Section shall not be required for investments in limited partnerships, limited liability partnerships, private placements, and natural resource portfolios.

**Investment Through Louisiana Incorporated and Domiciled Broker-Dealer –  
R.S. 11:266.1**

- A. The provisions of this Section shall be applicable to every state public retirement or pension system, plan, or fund.
- B. Each state public retirement or pension system, plan, or fund shall direct at least ten percent of the commissions on all trades of domestic equities in separately, actively managed portfolios and shall direct at least ten percent of all trades of domestic investment grade fixed income investments in separately managed accounts through broker-dealers selected on a best bid and offer basis who have been incorporated and domiciled in or who have had their principal trading operations in Louisiana for at least two years, who are registered and in good standing with the Financial Industry Regulatory Authority, and who have demonstrated the ability to execute institutional domestic equity and fixed income transactions. The broker-dealers defined in this Subsection shall negotiate commission recapture agreements with the systems. The commissions recaptured under any such agreement shall not be a majority of the total value of the commissions required to be directed to the broker-dealers pursuant to the provisions of this Section.
- C. All trades shall be subject to best efforts and best executions as defined by the Securities and Exchange Commission and the Financial Industry Regulatory Authority.
- D. The provisions of Subsections A, B, C, and D of this Section shall be implemented as a temporary pilot program and shall be null, void, and of no effect after June 30, 2010. An interim cost analysis of the provisions of this Section shall be performed by the systems and shall be presented to the speaker of the House of Representatives, the president of the

Senate, the chairmen of the House of Representatives and Senate committees on retirement, the Public Retirement Systems' Actuarial Committee, and the Commission on Public Retirement at least fourteen days before the convening of the regular legislative session in 2007, and again at least fourteen days before the convening of the regular legislative session in 2010.

- E. Each system to which this Section applies shall submit to the House and Senate committees on retirement quarterly and annual progress reports detailing the system's investments which comport with the provisions of this Section. Such reports shall continue notwithstanding the June 30, 2010, expiration of Subsections A, B, C, and D of this Section and shall be submitted as follows:
- (1) An annual report for the year ending June 30, 2004, to be submitted on or before July 30, 2004.
  - (2) Quarterly reports beginning with the quarter ending September 30, 2004, to be submitted no more than thirty days after the end of the quarter.
  - (3) Annual reports beginning with the year ending June 30, 2005, to be submitted no more than thirty days after the end of the year.

### **Disclosure; Consultants; Money Managers - R.S. 11:269**

- A. (1) Consultants and money managers shall provide full disclosure to the sponsor of each Louisiana public retirement or pension system, plan, or fund of conflicts of interest, including non-pension sponsor sources of revenue. Consultants also shall provide full disclosure of any payments they receive from money managers, in hard or soft dollars, for any services they provide, including but not limited to performance measurement, business consulting, and education.
- (2) Each consultant and money manager shall submit a written disclosure report semiannually to each system beginning July 1, 2005. A report shall be submitted regardless of whether the consultant or money manager has any conflict or payment to report. Should a reportable agreement be effected during any reporting period, the consultant or money manager shall notify the system of the agreement within seven business days.
- B. (1) Any consultant or money manager found to be in violation of Subsection A of this Section shall pay to the system, plan, or fund an amount of money equal to the value of the revenue or payments he failed to disclose together with any damages caused by the failure to disclose. Additionally, if the failure to disclose is intentional, the consultant or money manager shall pay to the system an amount equal to three times the value of the revenue or payment he failed to disclose as a penalty, in addition to any damages actually caused by the failure to disclose.
- (2) If the consultant or money manager provides services for more than one Louisiana public retirement or pension system, plan, or fund, the amounts in Paragraph (1) of this Subsection shall be paid to each such system to which he fails to make the required disclosure.



## **UNFUNDED ACCRUED LIABILITY**

### **Purpose; Elimination of Unfunded Accrued Liability – R.S. 11:271**

- A. It is recognized that the legislative and executive branches of state government bear a responsibility with respect to the fiscal integrity of the state; that, in connection therewith, it is imperative that the public retirement systems of the state be maintained on a sound actuarial basis, and that such maintenance requires that the unfunded accrued liability of these systems be eliminated. The purpose of this Section is to provide for the furnishing of accurate actuarial data in order to facilitate the effective execution of this responsibility.
  
- B. The provisions of this Section are applicable to the following public retirement systems:
  - (1) Assessors' Retirement Fund.  
\*\*\*
  
- C. (1) On an annual fiscal year basis, at least ninety days prior to the convening of the legislature in regular session, using calculation methods and forms prescribed by the legislative auditor, the governing authority of each public retirement system referenced in Subsection B hereof shall submit to the legislative auditor the amount of funding, stated as a percentage of payroll, which is necessary to meet the system's normal cost and to amortize, at the valuation rate of interest, the system's unfunded accrued liability over a thirty-year period.
  - (2) The legislative auditor shall review, and, when necessary, revise, and submit same to the governor and the legislature, along with his certification of the correctness thereof, and a report detailing the financial and actuarial history of the system and his recommendations relative thereto.

### **Early Retirement Eligibility - R.S. 11:272**

- A. Notwithstanding any other provision of law to the contrary, the provisions of this Section shall be applicable to all members of the following public retirement systems:
  - \*\*\*
  - (5) Assessors' Retirement Fund  
\*\*\*
  
- B. Any member who, on September 1, 1985, has earned sufficient service credit to be eligible for a normal retirement on or before August 31, 1995, but has not, on September 1, 1985, attained the normal retirement age, shall, during the ten year period from September 1, 1985, through August 31, 1995, be eligible for an early retirement, regardless of age, with benefits reduced to a level which would be actuarially equivalent to a retirement at the normal retirement age using the normal retirement formula.

- C. The actuary for each of the systems specified in Subsection A of this Section shall develop reduction factors for use in computing the reduced benefit applicable to early retirement. However, in no event shall such benefit reduction be less than one percent for each calendar quarter by which the effective date of retirement is advanced before normal retirement eligibility.
- D. Any member who, on January 1, 1982, had earned ten years of service credit, shall be eligible for an early retirement, regardless of age, with benefits reduced to a level which would be actuarially equivalent to a retirement at the normal retirement age using the normal retirement formula and subject to the provisions contained in Subsection C of this Section.
- E. Notwithstanding any provision of law to the contrary, service credit originally earned on or before September 1, 1985, in a retirement system named in Subsection A of this Section shall be utilized to determine applicability of the provisions of Subsection B of this Section, even if the member received a refund of contributions for such service, provided that the member has repaid the refund prior to application for retirement.

## DELINQUENT CONTRIBUTIONS

### Failure to Timely Remit Contributions; Effect - R.S. 11:281

- A. Notwithstanding any other provisions of law to the contrary, the provisions of this Section shall be applicable to all members of the following public retirement systems:

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- (4) Assessors' Retirement Fund.

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- B. (1) Except as provided in Paragraph (2) of this subsection, all payments of employers' contributions and employees' contributions, including any payments due from the state of Louisiana which are paid after becoming delinquent, shall include interest to be paid to the retirement system at the rate of legal interest computed from the date the payment became delinquent.

- (2) This subsection is no longer applicable.

## **APPLICABILITY OF CERTAIN COURT ORDERS**

### **Community Property Interest - R.S. 11:291**

- A. Notwithstanding any other provision of law to the contrary, any benefit or a return of employee contributions shall be subject to a temporary restraining order or injunction issued by a court in connection with an action which would result in a termination of the community property regime or partition of community assets and liabilities after such termination, which order or injunction involves a member or retiree of a state or statewide retirement system and his/her spouse or former spouse, and provides that community assets not be disbursed, disposed of, alienated, or otherwise incumbered, but only after a certified copy of such order or judgment is received by the retirement system.
- B. Notwithstanding any other provision of law to the contrary, any benefit or a return of employee contributions shall be subject to a court order issued by a court upon or after termination of a community property regime, which order recognizes the community interest of a spouse or former spouse of a member or retiree of the retirement system and provides that a benefit or a return of employee contributions be divided by the retirement system with the spouse or former spouse, but only after a certified copy of such order has been received by the retirement system and has been determined by the retirement system to be in compliance with applicable laws, rules, and regulations governing the retirement system.
- C. Repealed by Acts 1995, No. 592, §2, eff. July 1, 1995.
- D. In connection with Subsection B of this Section, each state or statewide retirement system may promulgate rules establishing requirements with which a court order must comply.
- E. In those instances in which no certified copy of an injunction, temporary restraining order, or court order for division of a benefit or a return of employee contributions has been received and/or approved as required by this Section, a state or statewide retirement system shall pay the entire amount of any benefit or return of employee contributions to the member, retiree, designated beneficiary, survivor benefit recipient, or the estate of a deceased member and payment so made shall constitute a release of all accrued rights of every kind and nature against the retirement system, including but not limited to community property rights of a spouse or former spouse and any rights of an heir or legatee of such spouse or former spouse.
- F. In those instances in which the spouse or former spouse with whom a retirement system is to divide a benefit or a return of employee contributions under the provisions of this Section dies, the retirement system shall pay the entire amount of the benefit or return of employee contributions to the member, retiree, designated beneficiary, survivor benefit recipient, or the estate of a deceased member and payment so made shall constitute a release of all accrued rights of every kind and nature against the retirement system including but not limited to any rights of an heir or legatee of the spouse or former spouse.

- G. A state or statewide retirement system shall not pay any funds to any persons until such funds normally become payable as provided by the laws governing the retirement system.

### **Seizure for Child Support; Garnishment or Seizure Related to Felony Convictions – R.S. 11:292**

- A. Notwithstanding any other provision of law to the contrary, any retirement allowance, benefit, or refund of accumulated contributions paid to any member, former member, or retiree under the provisions of any public retirement system, or the portion of a retirement allowance, benefit, or refund of accumulated contributions paid to a spouse or former spouse under the provisions of R.S. 11:291, shall be subject to garnishment or court-ordered assignment to pay child support.
- B. (1) Notwithstanding any other provision of law to the contrary, any pension, retirement allowance, or benefit, or any refund of accumulated contributions payable to any member, former member, or retiree under the provisions of any public pension or retirement system, plan, or fund shall be subject to garnishment under a writ of fieri facias to pay any court-ordered restitution or fine, or any costs of incarceration, probation, or parole, imposed on such member, former member, or retiree as a result of a conviction of or a plea of guilty or nolo contendere to the commission of a felony for misconduct associated with such person's service as an elected official or public employee for which credit in the system, plan, or fund was earned or accrued, the commission of which felony occurred on or after July 1, 2010.
- (2) Notwithstanding any other provision of law to the contrary, a garnishment authorized pursuant to this Subsection shall not impinge on the community property interest of a spouse or former spouse not subject to the garnishment.
- (3) Notwithstanding any other provision of law to the contrary, a garnishment authorized pursuant to this Subsection may be continuing in nature as necessary to pay the court-ordered restitution or fine in full.

### **Forfeiture of Retirement Benefits; Public Corruption Crimes – R.S.11:293**

- A. As used in this Section, the following words or phrases shall have the following meanings:
- (1) "Conviction" or "convicted" means a criminal conviction, guilty plea, or plea of nolo contendere that is final, and all appellate review of the original trial court proceedings is exhausted.
- (2) "Public corruption crime" means a state or federal felony committed on or after January 1, 2013, in which the sentencing judge finds the public servant acted willfully and in the course and scope of his official capacity and the evidence establishes either of the following:

- (a) The public servant realized or attempted to realize a financial profit or a financial gain for himself or for a third party.
  - (b) 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.
- (3) "Public retirement system" means any state, statewide, or any local public retirement system, plan, or fund.
- (4) "Public servant" means a public employee or an elected official as defined in R.S. 42:1102 who is a member, former member, deferred retirement option plan participant, or retiree under the provisions of any public retirement system and who meets any of the following criteria:
- (a) His first employment making him eligible for membership in a public retirement system began on or after January 1, 2013.
  - (b) He was employed in a position making him eligible for membership in a public retirement system prior to January 1, 2013, but he terminated his service prior to that date and is reemployed in such a position on or after that date.
  - (c) He assumes an elective office on or after January 1, 2013, and by virtue of that service or previous public service he is eligible for membership in a public retirement system.
- B. (1) Following the conviction of a public corruption crime, the sentencing court shall determine if the conviction warrants forfeiture as provided in this Subsection or garnishment as provided in R.S. 11:292. In order to determine the appropriate remedy the sentencing court shall review the following factors:
- (a) The nature of the offense.
  - (b) The prior service of the public servant and the appropriateness of any mitigating factors.
- (2) (a) If the court determines that forfeiture is appropriate, the court may order the forfeiture of the public servant's right to receive any benefit or payment of any kind under this Title except a return of the amount contributed by the public servant to the retirement system without interest, subject to Subparagraph (b) of this Paragraph.
- (b) If the court orders the public servant to make restitution to the state or any political subdivision of the state for monetary loss incurred as a result of the public corruption crime for which he is convicted, the court may order restitution to be paid from the amount contributed by the public servant to the retirement system.
- (c) Subject to the requirements of Paragraph (3) of this Subsection, the court may award to the member's spouse, dependent, or former spouse, as an alternate payee, some or all of the amount that, but for the order of forfeiture under Subparagraph (a) of this Paragraph, may otherwise be payable. Upon order of

the court, the retirement system shall provide information concerning the member's membership that the court considers relevant to the determination of the amount of an award under this Subparagraph. The system shall also calculate the spousal share of the public servant's benefit for the sentencing court in accordance with existing community property law. Any dependent's share shall be calculated in the same manner as a spousal share. In determining the award, the court shall consider the totality of the circumstances, including but not limited to:

- (i) The role, if any, of the member's spouse, dependent, or former spouse in connection with the crime.
  - (ii) The degree of knowledge, if any, possessed by the member's spouse, dependent, or former spouse in connection with the crime.
- (3) An award ordered under Subparagraph (2)(c) of this Subsection may not require the retirement system to:
- (a) Provide a type or form of benefit or an option not otherwise provided by the retirement system.
  - (b) Provide increased benefits determined on the basis of actuarial value.
  - (c) Take an action contrary to the system's governing laws or plan provisions other than the direct payment of the benefit awarded to the spouse, dependent, or former spouse.
- (4) All of the convicted public servant's service credit attributable to employer contributions and interest on those contributions that are not otherwise assigned pursuant to Subparagraph (2)(c) of this Subsection shall be forfeited, and any dollar amount of such employer contributions and interest, together with any funds in the individual's deferred retirement option plan account, shall be applied to reducing the balance of the unfunded accrued liability of the system in a manner determined by the system's board of trustees. If the system has no unfunded accrued liability, the employer contributions and interest shall revert to the system's trust.
- C. Notwithstanding the provisions of Subsection B of this Section, survivor benefits being received by the surviving unmarried spouse, the surviving minor child, or the surviving child with a physical or mental disability who is entitled to a survivor benefit of a deceased public servant convicted of a public corruption crime shall be based solely on the amount of the public servant's benefit forfeited to the retirement system and shall not be based on any amount remitted to the public servant.
- D. No provision of this Section shall impinge on any judicially recognized community property interest of a current or former spouse.
- E. Each public retirement system shall create an attestation form explaining the provisions of this Section and shall provide such attestation form to each employing agency. Each employing agency shall provide every public servant with such attestation form and such public servant shall be required to sign the form indicating that he has read it and understands the contents thereof.

- F. (1) A parish prosecutor shall inform the secretary of the Department of Public Safety and Corrections in writing when a conviction for a state public corruption crime is entered against a person who the prosecutor knows, or has reason to believe, is a member of a public retirement system and who is subject to the provisions of this Section. The secretary shall compile such information and transmit it to the appropriate public retirement system.
  - (2) The secretary of state, upon being notified by a United States attorney of a felony conviction for a federal public corruption crime, whether or not such conviction qualifies as a conviction as defined by this Section, shall promptly transmit to each public retirement system information pertaining to such conviction.
- G. The provisions of this Section shall apply only to benefits earned on or after January 1, 2013.



## **INVESTMENTS IN PROHIBITED NATIONS**

### **Purpose of This Subpart – R.S. 11:311**

The purpose of this Subpart is to assure the members and retirees of the state and statewide retirement systems, the state and her political subdivisions as employers, and the taxpayers of Louisiana that the monies held in trust for the benefit of public employees are not used directly or indirectly to support terrorist activities.

### **Application and Definitions – R.S. 11:312**

- A. The provisions of this Subpart shall apply to the following public retirement or pension systems, plans, or funds:
  - (1) Assessors' Retirement Fund.\*\*\*
- B. As used in this Subpart, the following terms shall have the following meanings, unless a different meaning is clearly required by context:
  - (1) "Company" means any foreign domiciled or based entity, real or juridical, which is not a subsidiary of nor owned in whole or in part by any domestic company, and which is engaged in an enterprise for financial gain.
  - (2) "Prohibited nation" means Iran, North Korea, Sudan, or Syria.
- C.
  - (1) Each system or fund to which this Subpart applies shall provide semiannual written reports to the House of Representatives and Senate committees on retirement regarding any investments of that system in any company having facilities or employees or both located in a prohibited nation. The report shall include the name of each such company, the asset allocation class and sector to which it belongs pursuant to the board's asset allocation policy, and the amount of system funds invested therein.
  - (2) The first report shall be due October 31, 2005, and shall contain information for the six-month period ending September 15, 2005. The second report shall be due August 15, 2006, and shall contain information for the period from September 16, 2005 through June 30, 2006. Beginning February 15, 2007, and thereafter, reports shall be due by the fifteenth day of February, containing information for the six-month period ending December thirty-first, and by the fifteenth of August, containing information for the six-month period ending June thirtieth in each calendar year.

- (3) Each system's money managers shall be responsible for supplying to the system all information necessary to complete the reports in a timely manner as required by this Subsection.
- D. Each system shall adopt rules necessary to implement the provisions of this Subpart, including the provisions of Paragraph (C)(3) of this Section.

### **Prudent-Man Rule; Investments – R.S. 11:313**

Notwithstanding the prudent-man rule, a system board of trustees may but is not required to divest itself of any holding in a company having facilities or employees, or both, located in a prohibited nation as that term is defined in R.S. 11:312(B)(2).

### **Constructive Engagement; Direct Ownership of Securities – R.S. 11:314**

- A. Each system, plan, or fund, referred to in this Section as "system", to which this Subpart applies shall adopt and implement a corporate governance strategy of constructive engagement of each company, in which the system has a direct ownership of securities, having facilities or employees or both located in a prohibited nation. Such corporate governance strategy of constructive engagement shall contain a plan of system action to cause any such company to remove facilities, employees, or both from any prohibited nation. Such plan of system action shall be implemented by not later than one hundred twenty days after August 15, 2007. The system shall continue to implement such plan of system action with respect to a particular company for the period of time that the system continues to possess an ownership interest in the company. As part of each system's corporate governance strategy of constructive engagement, the system shall make its best efforts to identify all such companies. Such efforts shall include all of the following:
- (1) Reviewing and analyzing publicly available information regarding companies having facilities or employees or both located in a prohibited nation, including information provided by but not limited to nonprofit organizations, research firms, international organizations, and government entities.
  - (2) Contacting and obtaining information from asset managers contracted by the systems who invest on behalf of the system in companies having facilities or employees or both located in a prohibited nation.
  - (3) Contacting and obtaining information from other institutional investors, including other public pension systems, that have divested themselves of investments in companies having facilities or employees or both located in a prohibited nation.
- B. Such corporate governance strategy of each system to which this Section applies shall require the system to form strategic shareholder alliances, whether formal or informal, with other public pension systems that have a common ownership interest with the system in any company having facilities or employees or both in a prohibited nation for the purpose

of effecting change in the company's policy so as to cause the company to remove its facilities, employees, or both from any prohibited nation. In pursuing such shareholder alliances, the following provisions shall apply:

- (1) The systems to which this Section applies shall semiannually provide to each other a list of companies in which the system invests that have facilities or employees or both located in a prohibited nation. If any systems to which this Subpart applies possess common ownership interests in such companies, those systems shall form a strategic shareholder alliance, whether formal or informal, for the purpose of influencing such companies to cease having facilities or employees or both located in a prohibited nation.
  - (2) Each system to which this Section applies shall, separately or jointly with another system that is a member of a strategic shareholder alliance under this Section, submit semiannually, to each such company having facilities or employees or both located in a prohibited nation, a notice that provides for all of the following:
    - (a) Informs such company of the requirements of this Subpart and of the company's status as having facilities or employees or both located in a prohibited nation.
    - (b) Requests that such company refrain from continuing to have facilities or employees or both located in a prohibited nation.
    - (c) Details the nature of any strategic shareholder alliance of which the system is a member pursuant to this Section, which notice shall include a list of systems, whether this Subpart applies to those systems or not, making up such alliance.
    - (d) Details the percentage of shares that each member of the strategic shareholder alliance possesses.
    - (e) Informs such company that it may become subject to divestment by the systems in the shareholder alliance if such company continues having facilities or employees or both located in a prohibited nation.
- C. Each system to which this Section applies shall adopt rules necessary to implement the provisions of this Section.
- D. Each system to which this Section applies shall report compliance with this Section to the House of Representatives and Senate committees on retirement as part of the report submitted pursuant to R.S. 11:312(C).

### **Constructive Engagement; Securities Held in a Collective Fund – R.S. 11:315**

- A. Each system, plan, or fund, referred to in this Section as "system", to which this Subpart applies shall adopt and implement a corporate governance strategy of constructive engagement of any collective fund investment manager or advisor, requesting such manager or advisor to constructively engage each company having facilities or employees or both located in a prohibited nation in which the system possesses an indirect ownership

interest through investment in any such collective fund, excluding private equities and hedge funds. Such corporate governance strategy of constructive engagement shall contain a plan of system action to cause any such collective fund to in turn cause any such company to remove facilities, employees, or both from any prohibited nation. Such plan of system action shall be implemented by not later than one hundred twenty days after August 15, 2007. The system shall continue to implement such plan of system action with respect to a particular collective fund for the period of time that the system continues to possess an indirect ownership interest in the company through the collective fund investment. As part of each system's corporate governance strategy of constructive engagement, the system shall make its best efforts to identify all such companies. Such efforts shall include:

- (1) Reviewing and analyzing publicly available information regarding companies having facilities or employees or both located in a prohibited nation, including information provided by but not limited to nonprofit organizations, research firms, international organizations, and government entities.
- (2) Contacting and obtaining information from asset managers contracted by the systems who invest on behalf of the system in companies having facilities or employees or both located in a prohibited nation.
- (3) Contacting and obtaining information from other institutional investors, including other public pension systems, that have divested themselves of investments in companies having facilities or employees or both located in a prohibited nation.

B. Such corporate governance strategy of each system to which this Section applies shall require the system to form strategic alliances, whether formal or informal, with other public pension systems that have a common ownership interest with the system in any company having facilities or employees or both in a prohibited nation through participation in the same collective fund, excluding private equities or hedge funds, for the purpose of effecting change in the company's policy so as to cause the company to remove its facilities, employees, or both from any prohibited nation. In pursuing such alliances, the following provisions shall apply:

- (1) The systems to which this Section applies shall semiannually provide to each other a list of companies that have facilities or employees or both located in a prohibited nation in which the system invests through participation in the same collective fund, excluding private equities or hedge funds. If any systems to which this Subpart applies possess such common ownership interests in such companies, those systems shall form a strategic alliance, whether formal or informal, for the purpose of influencing such companies to cease having facilities or employees or both located in a prohibited nation.
- (2) Each system to which this Section applies shall, separately or jointly with another system that is a member of a strategic alliance under this Section, submit semiannually to the investment manager or advisor of any collective fund, requesting any such collective fund manager or advisor to submit to each such company having facilities or employees or both located in a prohibited nation, a notice that provides for all of the following:

- (a) Informs such company of the requirements of this Subpart and of the company's status as having facilities or employees or both located in a prohibited nation.
  - (b) Requests that such company refrain from continuing to have facilities or employees or both located in a prohibited nation.
  - (c) Details the nature of any strategic alliance of which the system is a member pursuant to this Section, which notice shall include a list of systems, whether this Subpart applies to those systems or not, making up such alliance.
  - (d) Details the percentage of shares that each member of the strategic alliance possesses.
  - (e) Informs such company that it may become subject to divestment by the systems in the strategic alliance if such company continues having facilities or employees or both located in a prohibited nation.
- C. Each system to which this Section applies shall adopt rules necessary to implement the provisions of this Section.
- D. Each system to which this Section applies shall report compliance with this Section to the House of Representatives and Senate committees on retirement as part of the report submitted pursuant to R.S. 11:312(C).

### **Terror-Free Index Fund – R.S. 11:316**

- A. As used in this Section, the following terms shall have the following meaning unless a different meaning is clearly required by the context:
- (1) "Screened equities" means stocks or other ownership interest in a company identified as having facilities or employees or both located in a prohibited nation, which equities are excluded from the terror-free index fund.
  - (2) "Terror-free equities" means equities in companies not identified as having facilities or employees or both located in a prohibited nation.
  - (3) "Terror-free index fund" means an international index fund which identifies equities in companies having facilities or employees or both located in a prohibited nation and excludes them from the fund.
- B. Each system or fund to which this Subpart applies that has an investment strategy which includes allocation to international markets shall, within sixty days after August 15, 2007, communicate with investment managers with international investment experience for the establishment of an international terror-free index fund which identifies and excludes from the fund companies having facilities or employees or both in a prohibited nation. The communication shall stipulate that, as part of managing such fund, the manager will replace the screened equities with comparable equities or will adjust the weighting of remaining equities held in a system's portfolio. Each system having an investment strategy which

includes allocation to international markets shall, within one hundred eighty days after August 15, 2007, allocate a portion of its international investments to such terror-free index.

- C. If a system having an investment strategy which includes allocation to international markets does not possess sufficient assets to meet the minimum investment required by the manager to create a terror-free index fund on the system's behalf alone, such system shall join an existing terror-free index fund established pursuant to this Section, or shall join with another system to meet such minimum investment requirements for the purpose of establishing a terror-free index fund common to those systems.
- D. Each system shall adopt rules necessary to implement the provisions of this Section.
- E. Each system shall report compliance with this Section to the House of Representatives and Senate committees on retirement as part of the report submitted pursuant to R.S. 11:312(C).
- F. Nothing in this Section shall require a system to invest in international markets or to utilize collective funds or index funds for such purpose unless otherwise part of the investment strategy adopted by the system. If a system invests in international markets and utilizes collective funds or index funds for such purpose, this Section shall apply.

## **Certain Provisions That Affect the System Not Found in Title 11**

### **Medical Records of Persons Applying for Disability Retirement Through any State or Statewide Public Retirement System or Pension Plan or Fund – R.S. 44:15**

- A. All medical records, application forms, doctor's reports and evaluations, agency certifications, and all other health records of persons applying for disability retirement from any state or statewide public retirement system or pension plan or fund pursuant to the provisions of the applicable laws governing disability retirement for these systems, plans, or funds, and all regulations promulgated pursuant thereto, which are in the custody or control of the board of trustees of any state or statewide public retirement system or pension plan or fund or any duly appointed representative thereof, are exempt from the provisions of this Chapter.
- B. All other records pertaining to membership in or retirement under any state or statewide public retirement system or pension plan or fund which are in the custody or control of the board of trustees of any state or statewide public retirement system or pension plan or fund or any duly appointed representative thereof, are subject to the provisions of this Chapter.

### **Personal Data Records for Certain Members of Public Retirement Systems, Plans, or Funds - R.S. 44:16**

- A. All records of retired members of public retirement systems, plans, or funds or of members who are participating in or who have participated in the Deferred Retirement Option Plan are exempt from the provisions of this Chapter except for the amount of the retired member's retirement allowance, final average compensation, and years of creditable service, and the names of the agencies with which he was employed and the dates of such employment.
- B. The exemption for records of retired members of the public retirement systems, plans, or funds or members who are participating in or who have participated in the Deferred Retirement Option Plan provided in Subsection A of this Section shall not apply to requests for such records by members of the Louisiana Legislature, by any state agency or employer reporting information to the public retirement systems, plans, or funds, or by any association of individuals receiving a retirement allowance or benefit from the public retirement systems, plans, or funds.

### **Right to Examine Records - R.S. 44:31**

- A. Providing access to public records is a responsibility and duty of the appointive or elective office of a custodian and his employees.

- B. (1) Except as otherwise provided in this Chapter or as otherwise specifically provided by law, and in accordance with the provisions of this Chapter, any person of the age of majority may inspect, copy, or reproduce any public record.
- (2) Except as otherwise provided in this Chapter or as otherwise specifically provided by law, and in accordance with the provisions of this Chapter, any person may obtain a copy or reproduction of any public record.
- (3) The burden of proving that a public record is not subject to inspection, copying, or reproduction shall rest with the custodian.

### **Exceptions; Authority of the Custodian – R.S. 44:31.1**

For the purposes of this Chapter, person does not include an individual in custody after sentence following a felony conviction who has exhausted his appellate remedies when the request for public records is not limited to grounds upon which the individual could file for post-conviction relief under Code of Criminal Procedure Article 930.3. Notwithstanding the provisions contained in R.S. 44:32, the custodian may make an inquiry of any individual who applies for a public record to determine if such individual is in custody after sentence following a felony conviction who has exhausted his appellate remedies and the custodian may make any inquiry necessary to determine if the request of any such individual in custody for a felony conviction is limited to grounds upon which such individual may file for post-conviction relief under Code of Criminal Procedure Article 930.3.

### **Public Records Awareness Program – R.S 44:31.2**

The attorney general shall establish a program for educating the general public, public bodies, and custodians regarding the provisions of this Chapter. Such program may include brochures, pamphlets, videos, seminars, and internet access to information which provides training on the provisions of this Chapter, including the custodian's responsibilities in connection with a request for records, the possibility that information submitted to a public body may become public record pursuant to the provisions of this Chapter, and the right of a person to institute court proceedings if access to a record is denied by the custodian.

### **Duty to Permit Examination; Prevention of Alteration; Payment for Overtime; Copies Provided; Fees – R.S. 44:32**

- A. The custodian shall present any public record to any person of the age of majority who so requests. The custodian shall make no inquiry of any person who applies for a public record, except an inquiry as to the age and identification of the person and may require the person to sign a register and shall not review, examine or scrutinize any copy, photograph, or memoranda in the possession of any such person; and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted by this Chapter; provided that nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any record while it is being examined; and provided further, that examinations of records under the authority of this Section must be conducted during regular office or working hours, unless the custodian shall authorize examination of records



in other than regular office or working hours. In this event the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public body having custody of such record, out of funds provided in advance by the person examining such record in other than regular office or working hours.

B. If any record contains material which is not a public record, the custodian may separate the nonpublic record and make the public record available for examination.

C. (1) (a) For all public records, except public records of state agencies, it shall be the duty of the custodian of such public records to provide copies to persons so requesting. The custodian may establish and collect reasonable fees for making copies of public records. Copies of records may be furnished without charge or at a reduced charge to indigent citizens of this state.

(b) For all public records in the custody of a clerk of court, the clerk may also establish reasonable uniform written procedures for the reproduction of any such public record. Additionally, in the parish of Orleans, the recorder of mortgages, the register of conveyances, and the custodian of notarial records may each establish reasonable uniform procedures for the reproduction of public records.

(c) The use or placement of mechanical reproduction, microphotographic reproduction, or any other such imaging, reproduction, or photocopying equipment within the offices of the clerk of court by any person described in R.S. 44:31 is prohibited unless ordered by a court of competent jurisdiction.

(d) Any person, as provided for in R.S. 44:31, may request a copy or reproduction of any public record and it shall be the duty of the custodian to provide such copy or reproduction to the person so requesting.

(2) For all public records of state agencies, it shall be the duty of the custodian of such records to provide copies to persons so requesting. Fees for such copies shall be charged according to the uniform fee schedule adopted by the commissioner of administration, as provided by R.S. 39:241.

Copies shall be provided at fees according to the schedule, except for copies of public records the fees for the reproduction of which are otherwise fixed by law. Copies of records may be furnished without charge or at a reduced charge to indigent citizens of this state or the persons whose use of such copies, as determined by the custodian, will be limited to a public purpose, including but not limited to use in a hearing before any governmental regulatory commission.

(3) No fee shall be charged to any person to examine or review any public records, except as provided in this Section, and no fee shall be charged for examination or review to determine if a record is subject to disclosure, except as may be determined by a court of competent jurisdiction.

D. In any case in which a record is requested and a question is raised by the custodian of the record as to whether it is a public record, such custodian shall within three days, exclusive of Saturdays, Sundays, and legal public holidays, of the receipt of the request, in writing for such record, notify in writing the person making such request of his determination and the

reasons therefor. Such written notification shall contain a reference to the basis under law which the custodian has determined exempts a record, or any part thereof, from inspection, copying, or reproduction.

### **Availability of Records - R.S. 44:33**

- A. (1) When a request is made for a public record to which the public is entitled, the official, clerks of court and the custodian of notarial records in and for the parish of Orleans excepted, who has responsibility for the record shall have the record segregated from other records under his custody so that the public can reasonably view the record.
- (2) If, however, segregating the record would be unreasonably burdensome or expensive, or if the record requested is maintained in a fashion that makes it readily identifiable and renders further segregation unnecessary, the official shall so state in writing and shall state the location of the requested record.
- B. (1) If the public record applied for is immediately available, because of its not being in active use at the time of the application, the public record shall be immediately presented to the authorized person applying for it. If the public record applied for is not immediately available, because of its being in active use at the time of the application, the custodian shall promptly certify this in writing to the applicant, and in his certificate shall fix a day and hour within three days, exclusive of Saturdays, Sundays, and legal public holidays, for the exercise of the right granted by this Chapter.
- (2) The fact that the public records are being audited shall in no case be construed as a reason or justification for a refusal to allow inspection of the records except when the public records are in active use by the auditor.

### **Retirement Credit - R.S. 29:411**

- A. Any employee, who completes his service in the uniformed services and applies for reemployment upon release from service in the uniformed services or discharge from hospitalization incidental to his service in uniformed service, shall be entitled to receive creditable service for such period of service in the uniformed services toward vesting and computation of benefits in the retirement system, pension fund, or employee benefit plan applicable to his employment, as provided in this Subpart.
- B. No employee shall receive more than a total of four years of military service credit in the retirement system, pension fund, or employee benefit plan applicable to his employment, pursuant to this Part.

## **Contributions; Payment During Military Service - R.S. 29:412**

Any employee may, at his option, pay the required employee contributions to the retirement system, pension fund, or employee benefit plan applicable to his employment, during his period of service in the uniformed services and if the payment of contributions is permitted by the Internal Revenue Code, if the plan is a qualified plan. The employee shall timely furnish his employer with sums equal to that which would have been deducted from his compensation for

retirement system coverage, as required under the public retirement system or employee benefit plan. Upon such receipt, the employer shall remit the employee contributions to the applicable system or plan, including the employer contributions that would have been contributed on behalf of the employee. The employee shall notify his employer of his election to pay the required employee contributions to the applicable system or plan at the time he enters service in the uniformed services.

## **Public Retirement Systems; Payment of Contributions; Interest – R.S. 29:414**

- A. Any employee, who did not elect to make employee contributions pursuant to R.S. 29:412 to the public retirement system applicable to his employment during his period of service in the uniformed services, shall be entitled to receive credit for his service in the uniformed services toward establishing retirement eligibility and for computation of benefits, upon payment into the system an amount equal to the employee contributions that would have been paid had the employee continued in employment and not been called to service in the uniformed services, together with interest thereon at the valuation interest rate of the system or plan in effect at the time payment is made. The contributions shall be based on the salary, including any increases in compensation that the employee would have received had he remained in employment during the period of service in the uniformed services.
- B. Upon payment by the employee of the employee contributions and interest as provided in Subsection A, the employer shall pay to the retirement system an amount equal to the employer contributions that the employer would have paid to the retirement system had the employee remained in service, together with interest thereon, at the valuation interest rate in effect at the time payment is made. The contributions shall be based on the salary the employee would have received during the period of service in the uniformed services, including any increases in compensation that the employee would have received had he remained in employment during the period of service in the uniformed services. The employer contributions and interest due to the system shall be paid within thirty days after the employee has paid all of the contributions due to the system or fund.
- C. All employee contributions and interest due thereon made in payment for service in the uniformed services credit in accordance with Subsection A must be received by the system within four years of his reemployment.
- D. Should the employee fail to make the required contributions within four years, or a time period authorized in accordance with Subsection E of this Section, service in the uniformed services shall be used only for determining eligibility for retirement benefits. Any unpaid actuarial cost to the retirement system shall be borne by the employers through reflection in

the employer contribution rate established pursuant to R.S. 11: or 103, or as provided by the actuarial funding requirements and any other laws, rules, or regulations applicable to the public retirement system in which the employee receives credit under the provisions of this Subpart.

- E. Notwithstanding Subsection D of this Section, if any employee fails to make the required contributions within four years of his reemployment, the retirement system, pension fund, or employee benefit plan may permit such employee to make such contributions within the time period allowable under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)<sup>1</sup>.

<sup>1</sup>38 U.S.C. 4301 et seq.

### **Payment of Death and Survivor Benefits; Public Retirement – R.S. 29:415**

- A. The employee's period of service in the uniformed services shall be counted as creditable service in the public retirement system in which he was a member, for determining eligibility for death and survivor benefits and in the computation of benefits, provided that the following conditions are satisfied:
  - (1) The beneficiary of the death or survivor benefits shall provide payment of the unpaid portion of the contributions of the deceased member. The beneficiary may agree in writing to have the payment of the unpaid portion of the contributions of the deceased member deducted from the benefits over a period not to exceed four years. The beneficiary may pay, in the alternative, the actuarial cost of such additional credit in a lump sum prior to the distribution of benefits.
  - (2) If there is more than one beneficiary, a written agreement to pay the unpaid contributions of the deceased member shall be unanimous. In the event that a recipient is a minor child, the legal guardian of the minor child shall express consent for the minor child.
  - (3) The board of trustees of every public retirement system defined in R.S. 29:403, shall adopt a written policy covering all beneficiaries' and survivors' rights to pay the required contributions in order to have the employee's military service computed in the computation of any death or survivor benefits payable under the system.
- B. If all of the conditions of Subsection A are satisfied, the employer shall pay the employer contributions in a manner consistent with this Subpart.
- C. If the beneficiary of the death or survivor benefits of the deceased member elects not to pay the employee contributions due the system on account for such service in the uniformed services credit, the computation of death and survivor benefits shall be based on the actual service of the reservist in the system prior to his call to service in the uniformed services. The death or survivor benefits provided for herein shall be due and payable upon the death of the reservist.

- D. If the application of any provision set forth in this Section results in an unpaid actuarial cost to the retirement system, it shall be borne by the employers through reflection in the employer rate established pursuant to R.S. 11:102 or 103, or as provided by the actuarial funding requirements and any other laws, rules, or regulations applicable to the public retirement system in which the employee receives credit pursuant to the provisions of this Part.

### **Inapplicability to Deferred Retirement Option Plans; Public Retirement – R.S. 29:415.1**

The provisions of this Subpart are inapplicable with respect to employees who are participants in a deferred retirement option plan.

### **Payment to Surviving Spouse or Children of Deceased; Last Wages Due by Employers - R.S. 9:1515**

- A. Any employer may pay to the surviving spouse of a deceased employee any wages, sick leave, annual leave, or other benefits due to a deceased employee, provided neither spouse has instituted a divorce proceeding. In the event the deceased employee leaves no surviving spouse or if either spouse has instituted a divorce proceeding, the employer may pay the last wages and other benefits to any major child of the deceased employee.
- B. Before making such payment to the person requesting same, the employer shall require such person to execute an instrument before two witnesses which shall give the name, address, date and place of death of the deceased employee, the relationship of the person requesting payment to said employee, the name and address of the surviving spouse, or children, if any, of said deceased employee and such other information as the employer may require.
- C. The employer may make the payments referred to in this Section, without any court proceedings, order, or judgment authorizing the same and without determining whether or not any inheritance taxes may be due or whether the funds belong to the separate estate of decedent or to the community which existed between the decedent and the surviving spouse, but only if the employer forwards an affidavit stating the name of the deceased, the amount paid, the name of the recipient, and a copy of the release document substantiating the release to the secretary of the Department of Revenue within ten calendar days of the release of the funds.
- D. The execution of the instrument referred to in Subsection B and the receipt of such person for such payment shall constitute a full release and discharge of the employer for the amount paid and for all inheritance taxes which may be determined to be due. No person natural or juridical shall have any right or cause of action against such employer because of such payment. R.S. 47:2410 does not apply in such cases.
- E. The term "employer" as used in this Section includes the state and any of its political subdivisions which employed such deceased employee and owed him any wages, sick leave, annual leave, or other employment benefits at the time of death.

## **Community Property; Allocation and Assignment of Ownership – R.S. 9:2801.1**

When federal law or the provisions of a statutory pension or retirement plan, state or federal, preempt or preclude community classification of property that would have been classified as community property under the principles of the Civil Code, the spouse of the person entitled to such property shall be allocated or assigned the ownership of community property equal in value to such property prior to the division of the rest of the community property. Nevertheless, if such property consists of a spouse's right to receive social security benefits or the benefits themselves, then the court in its discretion may allocate or assign other community property equal in value to the other spouse.

## **Financial Disclosure; Retirement Systems – R.S. 42:1114.2**

- A. Each person who has or is seeking to obtain contractual or other business or financial relationships with a state or statewide public retirement system shall file with the Board of Ethics, in the manner provided in this Section, a report of all expenditures for a retirement official or retirement officials.
- B. A report shall be filed semiannually as follows:
  - (1) By August fifteenth for the period from January first through June thirtieth.
  - (2) By February fifteenth for the period from July first through December thirty-first.
- C. The report shall be filed on forms prescribed by the board, shall be signed by the person filing, and shall include a certification of accuracy by the person responsible for filing the report.
- D. Each report shall include, in the manner prescribed by the Board of Ethics, the following:
  - (1) The total of all expenditures per retirement system made during each reporting period, which shall include all expenditures for retirement officials associated with that system whether such expenditures are attributable to an individual retirement official or not.
  - (2) The aggregate total of expenditures attributable to an individual retirement official as provided in Subsection E of this Section during each reporting period, including the name of the retirement official.
  - (3) The aggregate total of expenditures per retirement system for all reporting periods during the same calendar year, which shall include all expenditures for retirement officials associated with that system whether such expenditures are attributable to an individual retirement official or not.
  - (4) The aggregate total of all expenditures attributable to an individual retirement official as provided in Subsection E of this Section for all reporting periods during the same calendar year, including the name of the retirement official.
- E. When the aggregate expenditure for any one retirement official exceeds the sum of fifty dollars on any one occasion, or when the aggregate expenditure for any one retirement

official exceeds the sum of two hundred fifty dollars in a reporting period, then the total amount of expenditures for the retirement official during the reporting period shall be attributable to the individual retirement official.

- (1) For the purposes of this Section "retirement official" shall mean a member of a board of trustees of a state or a statewide public retirement system, a public employee of such a system, or an employee of the Department of the Treasury whose function is to assist any such system or systems.
  - (2) For the purposes of this Section "expenditure" shall mean a purchase, payment, donation, advance, deposit, or gift or payment of money or anything of economic value or the purchase, donation, or gift of promotional items, food, drink, or refreshment, transportation, and entertainment for a retirement official.
- F. (1) The chairman of the board of trustees of each state or statewide public retirement system shall provide notice to every person associated with his system whom such chairman knows or reasonably should know is required to file a report pursuant to this Section. The chairman shall forward a copy of each such notification to the Board of Ethics no later than fifteen days after the original notification was sent. The failure of a chairman to give notice as required by the provisions of this Subsection shall not relieve any person from the reporting requirements of this Section or any penalties as provided in this Section.
- (2) The contents of the notice required to be given pursuant to this Subsection shall be prescribed by the Board of Ethics.
- G. (1) Failure to file a report, failure to timely file a report, failure to disclose required information, or filing a false report shall subject a person required to file to penalties as provided by this Chapter.
- (2) Whoever fails to file a report required by this Section, or knowingly and willfully fails to timely file any such report, or knowingly and willfully fails to disclose or to accurately disclose any information required by this Section shall be assessed a civil penalty pursuant to R.S. 42:1157 for each day until such report or the required accurate information is filed. The amount of the penalty shall be one hundred dollars per day.
- H. Notwithstanding any other provision of this Section to the contrary, if a person makes expenditures as defined in this Section of less than five hundred dollars in a calendar year, such person shall not be required to file a report pursuant to this Section.