

2020 Second Extraordinary Session

HOUSE BILL NO. 97 (Substitute for House Bill No. 36 by Representative Bacala)

BY REPRESENTATIVES BACALA, AMEDEE, BOURRIAQUE, CARRIER, CREWS, EDMONDS, EDMONSTON, FARNUM, GREEN, HARRIS, HORTON, MOORE, CHARLES OWEN, ROMERO, SCHAMERHORN, SEABAUGH, SELDERS, AND THOMPSON

RETIREMENT/STATE SYSTEMS: Provides relative to reemployment of retirees during a declared emergency (Item #2)

1 AN ACT

2 To amend and reenact R.S. 11:149(B) and to enact R.S. 11:416.2, 710.2, 1141.1, and 1311.1,
3 relative to retirees of the Louisiana State Employees' Retirement System, the
4 Teachers' Retirement System of Louisiana, the Louisiana School Employees'
5 Retirement System, and the Louisiana State Police Retirement System; to provide
6 relative to the reemployment of such retirees during declared emergencies; to
7 authorize such reemployment without suspension or reduction of retirement benefits;
8 to provide terms, conditions, and procedures related to such reemployment; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 11:149(B) is hereby amended and reenacted and R.S. 11:416.2,
12 710.2, 1141.1, and 1311.1 are hereby enacted to read as follows:

13 §149. Reemployment of retirees

14 * * *

15 B.(1) Any person who retires under ~~any~~ an early retirement incentive plan
16 of the state of Louisiana for state employees shall not be reemployed by any
17 department of state government for two years after the effective date of ~~their~~ his
18 retirement.

19 (2) The provisions of Paragraph (1) of this Subsection shall not apply to:
20 ~~seasonal~~

1 (a) Seasonal fire fighting personnel employed by the office of forestry in the
 2 Department of Agriculture and Forestry, ~~and election-related.~~

3 (b) Election-related personnel in the Department of State. Reemployment
 4 of election personnel shall not exceed six weeks prior to an election and two weeks
 5 following an election.

6 (c) A retiree from one of the state retirement systems if such reemployment
 7 occurs during a state of emergency declared by the governor and the employer
 8 certifies in writing to the appropriate retirement system that reemployment of the
 9 retiree is critical to the effectiveness of the employer's response to the emergency.

10 * * *

11 §416.2. Reemployment of a retiree during an emergency

12 A. Notwithstanding R.S. 11:416 or any other provision of law, the retirement
 13 benefits of a retiree of the system who engages in employment that would render him
 14 eligible for membership in the system shall not be suspended, reduced, delayed, or
 15 otherwise affected if all of the following conditions apply:

16 (1) The reemployment occurs during a state of emergency declared by the
 17 governor.

18 (2) The employer certifies in writing to the retirement system that
 19 employment of the retiree is critical to the effectiveness of the employer's response
 20 to or operations during the emergency. Such a certification shall expire six months
 21 after it is submitted to the system, but the employer may renew the certification.

22 (3) The date of the retiree's retirement is more than thirty days prior to the
 23 initial declaration of the state of emergency for which he is reemployed.

24 (4) The retiree's retirement was not based on a disability.

25 B. This Section is applicable to the employment of a retiree only while the
 26 state of emergency that the retiree is employed to respond to is in effect. Once this
 27 Section is no longer applicable, a retiree is subject to the other provisions of this
 28 Chapter.

1 C. If on the first day of any Regular Session of the Legislature, a state of
2 emergency has been in effect continuously for more than three hundred sixty-five
3 days, this Section shall cease to be applicable to the reemployment of retirees
4 pursuant to that state of emergency sixty days after final adjournment of that session.

5 D. During the period of his return to active service pursuant to this Section,
6 the retiree and his employer shall make contributions to the retirement system as
7 otherwise provided by law, but the retiree shall receive no additional service credit
8 and shall not accrue any additional retirement benefits in the retirement system.
9 Upon termination of active service, the retiree shall, upon application, be refunded
10 the employee contributions paid since reemployment covered by this Section. The
11 refund shall be without interest. The retirement system shall retain the employer
12 contributions.

13 E. R.S. 11:416(B) does not apply to an employee who is employed in
14 accordance with this Section or to his employer. However, the employer shall report
15 the date of employment and date of termination for any retiree reemployed pursuant
16 to this Section to the system.

17 * * *

18 §710.2. Reemployment of a retiree during an emergency

19 A. Notwithstanding R.S. 11:710 or 710.1 or any other provision of law, the
20 retirement benefits of a retiree of the system who returns to active service covered
21 by the provisions of this Chapter, even if such service is based on employment by
22 contract or corporate contract, shall not be suspended, reduced, delayed, or otherwise
23 affected if all of the following conditions apply:

24 (1) The hiring occurs during a state of emergency declared by the governor.

25 (2) The employer certifies in writing to the retirement system that
26 employment of the retiree is critical to the effectiveness of the employer's response
27 to or operations during the emergency. Such a certification shall expire six months
28 after it is submitted to the system, but the employer may renew the certification.

1 (3) The date of the retiree's retirement is more than thirty days prior to the
2 initial declaration of the state of emergency for which he is reemployed.

3 (4) The retiree's retirement was not based on a disability.

4 B.(1) Subsection A of this Section is applicable to the employment of a
5 retiree only until the last day of the month in which the state of emergency that the
6 retiree is employed to respond to terminates.

7 (2) Beginning on the first day of the month following the termination of the
8 declaration of emergency, the retiree's earnings shall not exceed twenty-five percent
9 of his final average compensation during such fiscal year and benefits payable to the
10 retiree shall be reduced by the amount in excess of this limit.

11 (3) Unless the retiree terminates reemployment sooner, enrollment of any
12 retiree in the system pursuant to this Section shall terminate on the last day of the
13 fiscal year in which the state of emergency terminates, and the retiree shall be subject
14 to the applicable provisions of this Chapter.

15 (4) No retiree who is enrolled under the provisions of this Section shall be
16 concurrently enrolled under any other reemployment provisions under this Chapter.

17 C. If on the first day of any Regular Session of the Legislature, a state of
18 emergency has been in effect continuously for more than three hundred and
19 sixty-five days, this Section shall cease to be applicable to the reemployment of
20 retirees pursuant to that state of emergency sixty days after final adjournment of that
21 session.

22 D. During the period of his return to active service pursuant to this Section,
23 the retiree and his employer shall make contributions to the retirement system as
24 otherwise provided by law, but the retiree shall receive no additional service credit
25 and shall not accrue any additional retirement benefits in the retirement system.
26 Upon termination of active service, the retiree shall, upon application, be refunded
27 the employee contributions paid since reemployment covered by this Section. The
28 refund shall be without interest. The retirement system shall retain the employer
29 contributions.

1 E. When any retiree returns to active service with an employer pursuant to
2 the provisions of this Section, the employing agency shall, within thirty days
3 thereafter, notify the board of trustees in writing of such employment, the date on
4 which employment commenced, and the declaration authorizing the state of
5 emergency which is the basis for the certification made pursuant to Subsection A of
6 this Section. Upon termination, the agency shall provide the same notice. In
7 addition the employing agency shall report to the retirement system, within forty-five
8 days after June thirtieth of each year, the names of all persons being paid by the
9 employing agency and all persons who received a benefit pursuant to the provisions
10 of this Section, along with their social security numbers, their positions, their
11 designations as part-time or full-time, and the amount of their earnings during the
12 previous fiscal year ending on June thirtieth of the reporting year. Additionally, the
13 employing agency shall transmit a monthly contributions report pursuant to R.S.
14 11:888(A). Such monthly reports shall be transmitted within thirty days of the last
15 day of each month and shall include the salary paid to each individual to whom this
16 Section applies.

* * *

18 §1141.1. Reemployment of a retiree during an emergency

19 A. Notwithstanding R.S. 11:1141(C)(1)(b) or any other provision of law, the
20 retirement benefits of a retiree of the system who engages in employment that would
21 render him eligible for membership in the system shall not be suspended, reduced,
22 delayed, or otherwise affected if all of the following conditions apply:

23 (1) The reemployment occurs during a state of emergency declared by the
24 governor.

25 (2) The employer certifies in writing to the retirement system that
26 employment of the retiree is critical to the effectiveness of the employer's response
27 to or operations during the emergency. Such a certification shall expire six months
28 after it is submitted to the system, but the employer may renew the certification.

1 (3) The date of the retiree's retirement is more than thirty days prior to the
2 initial declaration of the state of emergency for which he is reemployed.

3 (4) The retiree's retirement was not based on a disability.

4 B.(1) This Section is applicable to the employment of a retiree only while
5 the state of emergency that the retiree is employed to respond to is in effect. Once
6 this Section is no longer applicable, a retiree is subject to the other provisions of this
7 Chapter.

8 (2) No retiree who is enrolled under the provisions of this Section shall be
9 concurrently enrolled under any other reemployment provisions under this Chapter.

10 C. If on the first day of any Regular Session of the Legislature, a state of
11 emergency has been in effect continuously for more than three hundred and
12 sixty-five days, this Section shall cease to be applicable to the reemployment of
13 retirees pursuant to that state of emergency sixty days after final adjournment of that
14 session.

15 D. During the period of his return to active service pursuant to this Section,
16 the retiree and his employer shall make contributions to the retirement system as
17 otherwise provided by law, but the retiree shall receive no additional service credit
18 and shall not accrue any additional retirement benefits in the retirement system.
19 Upon termination of active service, the retiree shall, upon application, be refunded
20 the employee contributions paid since reemployment covered by this Section. The
21 refund shall be without interest. The retirement system shall retain the employer
22 contributions.

23 E. When a retiree returns to active service pursuant to this Section with an
24 employer covered by the provisions of this Chapter, the employing agency shall
25 notify the board of trustees in writing within ten days of such employment and the
26 date on which employment began, and the declaration authorizing the state of
27 emergency which is the basis for the certification made pursuant to Subsection A of
28 this Section. Upon termination, the employing agency shall also provide the board
29 with information and notice thereof in writing. In addition to the notice required by

1 this Subsection, the employing agency shall also report to the retirement system,
2 within forty-five days after June thirtieth of each year, the names of all retired
3 persons being paid by the employing agency, their social security numbers, and the
4 amounts of their earnings during the previous fiscal year ending June thirtieth of the
5 reporting year. Additionally, the employing agency shall transmit a monthly
6 contributions report pursuant to R.S. 11:1201. Such monthly report shall be
7 transmitted by the fifteenth day after the end of each month and shall set forth
8 necessary salary and deduction information as shall be required by the board of
9 trustees.

10 * * *

11 §1311.1. Reemployment of a retiree during an emergency

12 A. Notwithstanding R.S. 11:1311 or any other provision of law, the
13 retirement benefits of a retiree of the system who engages in employment that would
14 render him eligible for membership in the system shall not be suspended, reduced,
15 delayed, or otherwise affected if all of the following conditions apply:

16 (1) The reemployment occurs during a state of emergency declared by the
17 governor.

18 (2) The employer certifies in writing to the retirement system that
19 employment of the retiree is critical to the effectiveness of the employer's response
20 to or operations during the emergency. Such a certification shall expire six months
21 after it is submitted to the system, but the employer may renew the certification.

22 (3) The date of the retiree's retirement is more than thirty days prior to the
23 initial declaration of the state of emergency for which he is reemployed.

24 (4) The retiree's retirement was not based on a disability.

25 B. This Section is applicable to the employment of a retiree only until the
26 date two hundred forty work hours after the expiration of the state of emergency to
27 which the retiree is employed to respond. Once this Section is no longer applicable,
28 a retiree is subject to the other provisions of this Chapter.

1 C. If on the first day of any Regular Session of the Legislature, a state of
2 emergency has been in effect continuously for more than three hundred sixty-five
3 days, this Section shall cease to be applicable to the reemployment of retirees
4 pursuant to that state of emergency sixty days after final adjournment of that session.

5 D. During the period of his return to active service pursuant to this Section,
6 the retiree and his employer shall make contributions to the retirement system as
7 otherwise provided by law, but the retiree shall receive no additional service credit
8 and shall not accrue any additional retirement benefits in the retirement system.
9 Upon termination of active service, the retiree shall, upon application, be refunded
10 the employee contributions paid since reemployment covered by this Section. The
11 refund shall be without interest. The retirement system shall retain the employer
12 contributions.

13 E. When any retiree returns to active service with an employer pursuant to
14 the provisions of this Section, the employing agency shall, within thirty days
15 thereafter, notify the board of trustees in writing of such employment, the name,
16 address, and social security number of that retiree, the date on which employment
17 commenced, and the declaration authorizing the state of emergency which is the
18 basis for the certification made pursuant to Subsection A of this Section. Upon
19 termination, the agency shall provide the same notice.

20 Section 2. The cost of this Act, if any, shall be funded with additional employer
21 contributions in compliance with Article X, Section 29(F) of the Constitution of Louisiana.

22 Section 3. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 97 Reengrossed

2020 Second Extraordinary Session

Bacala

Abstract: Authorizes reemployment of retirees from the four state retirement systems, during a declared state of emergency, without suspension or reduction of retirement benefits.

Present law provides restrictions and limitations on the reemployment of a retiree from any of the four La. state retirement systems if such reemployment is covered by the same system as follows:

- (1) La. State Employees' Retirement System: Present law provides a reemployed retiree with three options: to have his retirement benefit reduced if his employment earnings exceed a specified amount, to return all received benefits and to become an active member of the retirement system, or to have his benefit suspended during such reemployment.
- (2) Teachers' Retirement System of La.: Present law provides a reemployed retiree with two options: to have his retirement benefit reduced if his employment earnings exceed a specified amount or to have his benefit suspended during such reemployment. Present law provides for other options and circumstances for a retiree who was reemployed prior to July 1, 2020.
- (3) La. School Employees' Retirement System: Present law prohibits reemployment of a retiree for five years after retirement.
- (4) La. State Police Retirement System: Present law provides for suspension of the retirement benefit if employment earnings exceed a specified amount.

Proposed law provides exceptions to present law for all four systems. Authorizes reemployment without any effect on retirement benefits if the following conditions apply to the reemployment:

- (1) The reemployment occurs during a state of emergency declared by the governor.
- (2) The employer certifies in writing to the retirement system that employment of the retiree is critical to the effectiveness of the employer's response to or operations during the emergency.
- (3) The date of the retiree's retirement is more than 30 days prior to the initial declaration of the state of emergency for which he is reemployed.
- (4) The retiree's retirement was not based on a disability.

Proposed law provides that the employee and employer make contributions to the retirement systems during such reemployment but service credit is not earned. Provides for refunding of the employee's contributions.

Proposed law provides that if on the first day of any regular session, a state of emergency has been in effect continuously for more than 365 days, proposed law ceases to be applicable to the reemployment of retirees pursuant to that state of emergency 60 days after final adjournment of that session.

Present law prohibits reemployment, by any department of state government, of a state retiree who retired under an early retirement incentive plan for two years after the effective date of his retirement. Proposed law provides an exception to present law if the reemployment occurs during a state of emergency and the employer certifies that employment of the retiree is critical to the employer's response to the emergency.

Proposed law requires that any cost of proposed law be funded with additional employer contributions in compliance with Art. X, Sec. 29(F) of the state constitution.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 11:149(B); Adds R.S. 11:416.2, 710.2, 1141.1, and 1311.1)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Make technical changes only.