2021 Regular Session

HOUSE BILL NO. 28

BY REPRESENTATIVES ADAMS, BACALA, BEAULLIEU, FIRMENT, HARRIS, AND NELSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

RETIREMENT/FIREFIGHTERS: Provides relative to beneficiaries within the Firefighters' Retirement System

1	AN ACT
2	To amend and reenact R.S. 11:2252(6), 2256(B)(3) and (G), 2256.2(A) and (E), and
3	2259(A)(3) and to enact R.S. 11:2256.2(F) and 2259(A)(4), relative to the
4	Firefighters' Retirement System; to provide relative to members' beneficiaries; to
5	provide for payment of benefits to estate administrators; to provide relative to
6	certification of a child's disability; and to provide for related matters.
7	Notice of intention to introduce this Act has been published
8	as provided by Article X, Section 29(C) of the Constitution
9	of Louisiana.
10	Be it enacted by the Legislature of Louisiana:
11	Section 1. R.S. 11:2252(6), 2256 (B)(3) and (G), 2256.2(A) and (E), and 2259(A)(3)
12	are here by amended and reenacted and R.S. 11:2256.2(F) and 2259(A)(4) are hereby
13	enacted to read as follows:
14	§2252. Definitions
15	The following words and phrases, as used in this Chapter, unless a different
16	meaning is plainly required by context, shall have the following meaning:
17	* * *

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1	(6) "Beneficiary" shall mean any <u>natural or juridical</u> person or <u>estate</u>		
2	administrator designated to receive a pension, an annuity, a retirement allowance, or		
3	other benefit as provided by this Chapter.		
4	* * *		
5	§2256. Benefits; refund of contributions, application, and payment		
6	* * *		
7	В.		
8	* * *		
9	(3)(a) Benefits shall be payable as specified in this Paragraph to any		
10	surviving child of a deceased member or retiree if the child has a total physical		
11	disability or an intellectual disability. The surviving child of a deceased active		
12	contributing member, a deceased disability retiree, or a deceased regular retiree,		
13	whether under or over the age of eighteen years, shall be entitled to the same		
14	benefits, payable in the same manner as are provided in this Section for minor		
15	children, if the child has a total physical disability or an intellectual disability and		
16	had such disability at the time of death of the member or retiree, and the child is		
17	dependent upon the surviving spouse or other legal guardian for subsistence.		
18	Benefits payable under the provisions of this Paragraph may be paid in trust as		
19	provided in R.S. 11:2256.2.		
20	(b) A medical determination of permanent mental or physical disability of		
21	a member's child or children that is approved by the board of trustees pursuant to		
22	R.S. 11:2259(A)(1)(Option 4) shall also be sufficient certification of such disability		
23	for purposes of this Paragraph.		
24	* * *		
25	G. Notwithstanding any other provision of law to the contrary, the board of		
26	trustees may implement a court order directing payment of any portion of a benefit		
27	to a trust or estate administrator pursuant to the provisions of R.S. 11:2256.2.		

1	§2256.2. Designation of benefits to be paid in trust payable to trust or estate
2	administrator
3	A. A member may designate all or a portion of any benefit paid in
4	accordance with R.S. 11:2256 or 2259 this Chapter to be paid in trust to his surviving
5	minor child or his child with a physical or mental disability regardless of such child's
6	age any beneficiary, if the terms of the trust so provide and if the system is provided
7	with a certified copy of the trust document. Such benefit or designated portion of a
8	benefit shall be paid to the trust for addition to the trust property.
9	* * *
10	E. A member may designate all or a portion of any benefit paid in
11	accordance with this Chapter to be paid monthly to a court appointed estate
12	administrator, on behalf of the member's surviving spouse, children, or both, for the
13	purpose of probating a valid testament wherein such spouse, children, or both are
14	named as legatees and the testament contains a provision for informal acceptance.
15	For payment to be made to an estate administrator, the system shall be furnished a
16	certified copy of the testament. This system's actuary shall determine the
17	methodology for calculating the amount and duration of monthly benefits payable
18	to the estate administrator based on the provisions of the testament. Such benefit or
19	designated portion that is paid to the estate administrator shall not be treated as an
20	addition to the estate assets and shall not be accessible to creditors for payment of
21	any estate debt or the estate administrator's fees. The estate administrator shall pay
22	such monthly benefits to the appropriate legatee in accordance with the instructions
23	set forth in the testament. The estate administrator shall immediately notify this
24	system in writing of the death of any legatee receiving benefits pursuant to this
25	Subsection. If payment of a benefit or portion pursuant to this Subsection is
26	contested by any party, the system shall withhold all disputed benefit payments and
27	institute a concursus action and deposit such benefits into the registry of the court
28	until there is a final binding legal agreement or judgement regarding the proper
29	payment.

1	\underline{F} . For purposes of this Section only, the term "child" means the issue of a		
2	marriage of a member of this system, the legally adopted child of a member of this		
3	system, a child born outside of marriage of a female member of this system, or the		
4	child of a male member of this system if acknowledged or filiated pursuant to the		
5	provisions of the Civil Code.		
6	* * *		
7	§2259. Optional allowances		
8	А.		
9	* * *		
10	(3) If a member nominates his child or children with a permanent mental or		
11	physical disability to receive a benefit pursuant to Option 4 of this Subsection, the		
12	medical determination of such disability shall be performed in immediate proximity		
13	to, but before the effective date of, such member's retirement or entry into the		
14	Deferred Retirement Option Plan. If a member requests the system to perform a		
15	medical determination of disability for his child or children and the member does not		
16	allocate to the child or children at least half of his reduced benefit, the member shall		
17	pay the cost of the medical determination by having the cost deducted from his		
18	retirement benefit.		
19	(4) For the purpose of this Subsection, the term "person" includes a trust or		
20	estate administrator as provided in R.S. 11:2256.2.		
21	* * *		

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 28 Engrossed	2021 Regular Session	Adams
8		

Abstract: Provides relative to beneficiaries of members of the Firefighters' Retirement System (FRS).

<u>Proposed law</u> authorizes payment of benefits to an estate administrator on behalf of a spouse or child if the spouse or child is a legatee and the testament contains a provision for informal acceptance. Provides procedures for such payments.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

<u>Proposed law</u> requires the estate administrator to notify the system in writing immediately upon the death of any legatee receiving a benefit. Provides that if payment is contested, the system shall withhold the disputed payment, institute a concursus action, and deposit the disputed benefit into registry of the court pending a final judgment.

<u>Proposed law</u> provides that if a member names a permanently disabled child to receive a benefit, then a medical determination of such disability shall be performed in immediate proximity to but before the member retires or enters into the Deferred Retirement Option Plan.

<u>Proposed law</u> provides if the FRS board has approved a medical determination of a member's mentally or physically disabled child or children for purposes of retirement benefits, then that determination is sufficient for the purpose of survivor benefits.

<u>Proposed law</u> provides that if the member requests the system to perform a medical determination of the disabled child and the member does not allocate at least half of his reduced benefit to the child, the member shall pay the cost of the medical determination.

(Amends R.S. 11:2252(6), 2256(B)(3) and (G), 2256.2(A) and (E), and 2259(A)(3); Adds R.S. 11:2256.2(F) and 2259(A)(4))

Summary of Amendments Adopted by House

- The Committee Amendments Proposed by <u>House Committee on Retirement</u> to the <u>original</u> bill:
- 1. Remove provisions pertaining to the removal of a former spouse as a beneficiary.
- 2. Add provisions making a disability determination for retirement purposes sufficient for survivor purposes.