

Regular Session, 2013

HOUSE BILL NO. 68

BY REPRESENTATIVE PEARSON

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

RETIREMENT/STATE SYSTEMS: Relative to the retirement of persons employed in state government positions on or after July 1, 2013

1 AN ACT

2 To amend and reenact R.S. 11:1399.1 through 1399.7 and to enact R.S. 11:1399.8, relative  
3 to the retirement of persons employed in state government positions on or after July  
4 1, 2013; to provide relative to benefits, participation, reemployment, service credit,  
5 eligibility, credits, contributions, and membership in a retirement system for such  
6 persons; to provide relative to administration of a plan for retirement for such  
7 persons; and to provide for related matters.

8 Notice of intention to introduce this Act has been published  
9 as provided by Article X, Section 29(C) of the Constitution  
10 of Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 11:1399.1 through 1399.7 are hereby amended and reenacted and  
13 R.S. 11:1399.8 is hereby enacted to read as follows:

14 §1399.1. Cash balance plan creation

15 A. There is hereby created within each of the following state retirement  
16 systems a cash balance plan:

17 (1) Louisiana State Employees' Retirement System.

18 (2) Teachers' Retirement System of Louisiana.

19 (3) Louisiana School Employees' Retirement System.

1           B. For the purposes of this Chapter, the following words and phrases shall  
2           have the meanings ascribed to them in this Section unless a different meaning is  
3           plainly required by the context:

4           (1) "Tier 1" shall mean the ~~The~~ provisions of each system in effect on June  
5           30, 2013, including any special plans, ~~shall be known as "Tier 1".~~

6           (2) "Defined benefit plan" shall mean any defined benefit plan that is not a  
7           cash balance plan established pursuant to this Chapter.

8           §1399.2. Cash balance plan membership

9           A. The following employees whose first employment making them eligible  
10          for membership in one of the state systems occurred on or after July 1, 2013, shall  
11          be members of the cash balance plan of their respective systems and shall remain  
12          members of such plan except as otherwise provided in this Section:

13          (1) Employees covered by the Louisiana State Employees' Retirement System  
14          who are not members of the Hazardous Duty Services Plan pursuant to R.S. 11:612.

15          (2) Employees covered by the Teachers' Retirement System of Louisiana who  
16          are employed by institutions of postsecondary education or postsecondary education  
17          management boards, who do not become members of the optional retirement plan,  
18          and who are not employed for the sole purpose of providing instruction or  
19          administrative services at the primary or secondary level, including at any lab school  
20          and the Louisiana School for Math, Science, and the Arts.

21          B. (1) Except as provided in Paragraph ~~(2)~~ (C)(1) of this ~~Subsection~~ Section,  
22          any employee whose first employment making him eligible for membership in one  
23          of the state systems listed in R.S. 11:1399.1(A) occurred on or after July 1, 2013,  
24          may within sixty days after his employment date make an irrevocable election to join  
25          the cash balance plan of the retirement system. Except as otherwise provided in this  
26          Section, such member shall remain a member of the plan selected pursuant to this  
27          Paragraph.

28          (2) Any employee whose first employment making him eligible for  
29          membership in a state retirement system that does not have a cash balance plan

1        occurred on or after July 1, 2013, who becomes employed in a position that would  
2        otherwise be covered by the cash balance plan shall have the option of joining the  
3        cash balance plan.

4                C.(1) No member of the Hazardous Duty Services Plan shall be permitted  
5        to elect to join the cash balance plan while employed in a position covered by the  
6        Hazardous Duty Services Plan.

7                (2)(a) Any cash balance plan member who becomes employed in a position  
8        covered by the Hazardous Duty Services Plan shall no longer be considered an active  
9        member in the cash balance plan. Such member's account balance and years of  
10       active membership in the cash balance plan shall be frozen and the member shall not  
11       be allowed to transfer them to the Hazardous Duty Services Plan. Any accruals in  
12       the Hazardous Duty Services Plan shall be governed by the provisions of such plan.  
13       Such member shall have dual membership is as provided in R.S. 11:1399.8.

14               (b) The member shall be eligible to utilize the period of his active service  
15       covered by the cash balance plan for purposes of reciprocal recognition of credited  
16       service pursuant to R.S. 11:142 and Subsection D of this Section. In the application  
17       of R.S. 11:142, the member's service credit shall be determined as if the member's  
18       cash balance service had been earned as a member of the applicable Tier 1 plan.

19               (3)(a) Any member of the Hazardous Duty Services Plan whose first  
20       employment making him eligible for membership in one of the state systems listed  
21       in R.S. 11:1399.1(A) occurred on or after July 1, 2013, who becomes employed in  
22       a position that would otherwise be covered by the cash balance plan shall no longer  
23       be considered an active member in the Hazardous Duty Services Plan. Such member  
24       shall have his years of creditable service and final compensation in the Hazardous  
25       Duty Services Plan frozen and such member shall become a member of the cash  
26       balance plan. The member shall not be allowed to transfer his years of service and  
27       final compensation from the Hazardous Duty Services Plan to the cash balance plan.  
28       The member's account balance and years of active service in the cash balance plan  
29       shall start from zero and any accruals in the cash balance plan shall be governed by

1 the provisions of this Chapter. Such member shall have dual membership as  
2 provided in R.S .11:1399.8.

3 (b) The member shall be eligible to utilize the period of his active service  
4 covered by the cash balance plan for purposes of reciprocal recognition of credited  
5 service pursuant to R.S. 11:142 and Subsection D of this Section. In the application  
6 of R.S. 11:142, the member's service credit shall be determined as if the member's  
7 cash balance service had been earned as a member of the applicable Tier 1 plan.

8 (4)(a) Any member electing to join the cash balance plan pursuant to  
9 Paragraph (B)(2) of this Section shall have his years of creditable service and final  
10 compensation in his former system frozen and such member shall become a member  
11 of the cash balance plan. The member shall not be allowed to transfer his years of  
12 service and final compensation from his former system to the cash balance plan. The  
13 member's account balance and years of active service in the cash balance plan shall  
14 start from zero and any accruals in the cash balance plan shall be governed by the  
15 provisions of this Chapter. Such member shall have dual membership as provided  
16 in R.S .11:1399.8.

17 (b) The member shall be eligible to utilize the period of his active service  
18 covered by the cash balance plan for purposes of reciprocal recognition of credited  
19 service pursuant to R.S. 11:142 and Subsection D of this Section. In the application  
20 of R.S. 11:142, the member's service credit shall be determined as if the member's  
21 cash balance service had been earned as a member of the applicable Tier 1 plan.

22 (5)(a) A member of a cash balance plan of one system who becomes a  
23 member of a cash balance plan in another system is entitled to one of the following  
24 options:

25 (i) To execute the withdrawal provided for in R.S. 11:1399.3(D) and to  
26 transfer the amount the member is entitled to receive from the first cash balance plan  
27 account pursuant to R.S. 11:1399.3(D)(1) or (2) to the second cash balance plan  
28 account.

1           (ii) To leave his first cash balance account balance with the first retirement  
2           system and utilize a reciprocal recognition of credited service agreement pursuant  
3           to R.S. 11:142. In the application of R.S. 11:142, the member's service credit shall  
4           be determined as if the member's cash balance service had been earned as a member  
5           of the applicable Tier 1 plan.

6           (b) If the member elects the option in Item (a)(i) of this Paragraph, all years  
7           of the member's period of active service covered by the cash balance plan from  
8           which he is transferring shall be transferred to the receiving system. All  
9           responsibility for tracking the period of active service in the cash balance plan and  
10          for providing Tier 1 disability or survivor benefits shall also be transferred to the  
11          receiving system. For purposes of determining eligibility for Tier 1 disability and  
12          survivor benefits, the receiving system shall apply the service credit, accrual rate,  
13          eligibility, and benefit calculation provisions as those plan provisions would be  
14          applied to a Tier 1 member who executes a transfer pursuant to R.S. 11:143.

15          D. Any cash balance plan member in a position covered by the optional  
16          retirement plan of the Teachers' Retirement System of Louisiana may make an  
17          irrevocable election to participate in the optional retirement plan pursuant to R.S.  
18          11:925. Such member may withdraw from the cash balance plan and transfer to his  
19          optional retirement plan account an amount equal to what he is entitled to pursuant  
20          to R.S. 11:1399.3(D)(1) or (2), as applicable.

21          E. Any member of a cash balance plan who becomes employed in a position  
22          covered by a system other than a system provided in R.S. 11:1399.1(A) shall have  
23          the following options relative to his cash balance plan account:

24               (1) The member may maintain his membership in the former system and  
25               exercise all rights and options he is entitled to as a member of such system, including  
26               withdrawal pursuant to R.S. 11:1399.3(D)(1) or (2), as applicable.

27               (2) The member may execute a reciprocal recognition of service agreement  
28               pursuant to R.S. 11:142. In the application of R.S. 11:142, the member's service

1 credit shall be determined as if the member's cash balance service had been earned  
2 as a member of the applicable Tier 1 plan.

3 F. The board of trustees of the Louisiana State Employees' Retirement  
4 System shall promulgate rules and regulations regarding the implementation,  
5 recognition, and application of reciprocal recognition of service agreements between  
6 plans in their system.

7 G. No member of the cash balance plan shall be allowed to transfer in  
8 benefits or years of service from a defined benefit plan in any Louisiana public  
9 retirement system, plan, or fund.

10 H. No member of the cash balance plan shall be authorized to purchase  
11 service credit in such plan.

12 §1399.3. Cash balance plan account accumulation

13 A. Contributions. (1) Each employee shall contribute to the retirement  
14 system the amount specified in R.S. 11:62 for cash balance plan members.

15 (2) Employer contributions to each retirement system shall be as provided in  
16 R.S. 11:102.

17 B. Credits. ~~The~~ For the period of active service covered by the cash balance  
18 plan, the cash balance plan member's account shall be credited monthly with an  
19 amount equal to twelve percent of ~~pay monthly~~ earned compensation or earnable  
20 compensation, as applicable. The credits shall include all employee contributions.

21 C. Interest. (1) For the ~~duration period~~ period of active service covered by the cash  
22 balance plan, interest shall be payable on the member's account each plan year at a  
23 rate equal to the system's actuarial rate of return as certified by the system actuary  
24 in the system's actuarial valuation, less one percent. Interest shall be credited after  
25 the Public Retirement Systems' Actuarial Committee adopts the system's valuation  
26 containing the actuarial rate of return on investments, and shall be based on the  
27 balance of the account at the end of each month for the prior plan year.

1 (2) No interest shall be credited after the member separates from service  
2 covered by the cash balance plan of his retirement system, except that interest shall  
3 be credited for those months during the plan year prior to his separation from service.

4 (3) In no case shall the balance in the employee's account be debited for  
5 investment losses.

6 D. Withdrawal from the cash balance plan. A cash balance plan member who  
7 separates from employment covered by his retirement system may withdraw from  
8 the cash balance plan.

9 (1) Upon application for withdrawal, an employee ~~who has been a~~ whose  
10 period of active service covered by the cash balance plan member for was less than  
11 five years shall receive a refund of employee contributions without interest. ~~The~~  
12 ~~system shall retain all~~ All interest and any employer contributions shall be forfeited  
13 to the system.

14 (2) Upon application for withdrawal, an employee ~~who has been a~~ whose  
15 period of active service covered by the cash balance plan member for was five years  
16 or longer may receive a lump-sum payment of his account balance or the distribution  
17 of his total account balance in the form of a trustee-to-trustee, single-sum transfer  
18 between qualified plans or as a payment made directly to ~~a conduit~~ an individual  
19 retirement account. The employee may opt to leave his account balance with the  
20 system and draw an annuity pursuant to R.S. 11:1399.4 when he attains age sixty.

21 (3)~~(a)~~ A cash balance plan member shall be eligible to utilize ~~the years of his~~  
22 ~~membership in~~ period of active service covered by the cash balance plan for  
23 purposes of reciprocal recognition of credited service pursuant to R.S. 11:142. In the  
24 application of R.S. 11:142, the member's service credit shall be determined as if the  
25 member's cash balance service had been earned as a member of the applicable Tier  
26 1 plan.

27 ~~(b) A cash balance plan member who elects to withdraw from the cash~~  
28 ~~balance plan after becoming a member of a cash balance plan in another Louisiana~~  
29 ~~public retirement system may execute the withdrawal provided for in this Subsection~~

1       ~~to transfer the amount the member is entitled to receive pursuant to Paragraphs (1)~~  
2       ~~or (2) of this Subsection to a cash balance plan in another retirement system.~~

3               (4) If a cash balance plan member dies without withdrawing from the cash  
4       balance plan pursuant to this Subsection or annuitizing his benefit pursuant to R.S.  
5       11:1399.4, the following shall apply:

6               (a) The applicable Tier 1 plan shall be the plan in which the member would  
7       have been enrolled in the absence of the cash balance plan. For purposes of this  
8       Paragraph, the member's service credit, accrual rate, eligibility, and benefit  
9       calculation shall be determined as if the member's cash balance service had been  
10      earned as a member of the applicable Tier 1 plan.

11              (b) If the cash balance plan member is survived by a spouse only and the  
12      cash balance plan member met the eligibility requirements for survivors' benefits in  
13      the applicable Tier 1 plan, the spouse may choose one of the following options:

14              (i) To receive the account balance in the cash balance plan as a lump-sum  
15      payment; a trustee-to-trustee, single-sum transfer between qualified plans; or a  
16      payment made directly to ~~a conduit~~ an individual retirement account.

17              (ii) To receive the applicable Tier 1 survivors' benefit.

18              (c) If the cash balance plan member is survived by a minor or by a  
19      handicapped or mentally disabled child of any age and the cash balance plan member  
20      met the eligibility requirements for survivors' benefits in the applicable Tier 1 plan,  
21      all survivors otherwise qualifying under the Tier 1 plan shall receive the Tier 1  
22      survivors' benefits but shall not receive the funds in the cash balance account  
23      balance.

24              (d) If the cash balance plan member has not met the eligibility requirements  
25      for survivors' benefits in the applicable Tier 1 plan, ~~the system shall give~~ his  
26      designated beneficiary or his estate shall have the option to receive his account  
27      balance as a lump-sum payment; a trustee-to-trustee, single-sum transfer between  
28      qualified plans; or a payment made directly to ~~a conduit~~ an individual retirement  
29      account.



1 (e) Subject to the provisions of R.S. 11:1399.7, if a survivor is eligible to and  
2 ~~elects to receive~~ a Tier 1 survivors' benefit, the account balance in the cash balance  
3 plan shall be ~~retained by the retirement system~~ forfeited to the system by the  
4 beneficiary.

5 (f) Tier 1 survivor benefits received pursuant to this Paragraph shall be  
6 governed by the applicable Tier 1 plan provisions.

7 (5)(a)(i) If a cash balance plan member ~~becomes~~ is certified disabled  
8 pursuant to the applicable Tier 1 provisions before withdrawing from the cash  
9 balance plan pursuant to this Subsection or becoming eligible for retirement  
10 annuitizing his benefit pursuant to R.S. 11:1399.4, ~~the following shall apply:~~ the  
11 member shall receive the applicable Tier 1 disability benefit if the member otherwise  
12 meets the eligibility requirements for disability benefits in Tier 1.

13 (a)(ii) ~~For purposes of this Subparagraph, the~~ The applicable Tier 1 plan is  
14 the plan in which the member would have been enrolled in the absence of the cash  
15 balance plan. For purposes of this ~~Paragraph~~ Subparagraph, the member's service  
16 credit, accrual rate, eligibility, and benefit calculation shall be determined as if the  
17 member's cash balance service had been earned as a member of the applicable Tier  
18 1 plan.

19 (b) ~~The member may choose one of the following options:~~

20 (i) ~~To receive his cash balance account balance as a lump-sum payment; a~~  
21 ~~trustee-to-trustee, single-sum transfer between qualified plans; or a payment made~~  
22 ~~directly to a conduit individual retirement account.~~

23 (ii) ~~To~~ receive the applicable Tier 1 disability benefit if the member  
24 otherwise meets the eligibility requirements for disability benefits in Tier 1.

25 (b)(i) If a cash balance plan member is certified disabled pursuant to the  
26 applicable Tier 1 provisions after attaining retirement eligibility or if a cash balance  
27 plan member attains retirement eligibility while receiving disability benefits pursuant  
28 to Subparagraph (1)(a) of this Paragraph, the member shall chose one of the  
29 following options:

1            (aa) To receive or continue to receive, as applicable, the applicable Tier 1  
2            disability benefit if the member otherwise meets the eligibility requirements for  
3            disability benefits in Tier 1. For purposes of this Subitem, the applicable Tier 1 plan  
4            is the plan in which the member would have been enrolled in the absence of the cash  
5            balance plan. For purposes of this Subitem, the member's service credit, accrual rate,  
6            eligibility, and benefit calculation shall be determined as if the member's cash  
7            balance service had been earned as a member of the applicable Tier 1 plan.

8            (bb) To retire under the provisions of the cash balance plan.

9            (ii) Notwithstanding any provision of this Chapter to the contrary, if a  
10           member elects to receive or continue to receive the applicable Tier 1 disability  
11           benefit pursuant to Subitem (i)(aa) of this Subparagraph, his account balance shall  
12           be forfeited to the retirement system. If the member subsequently returns to active  
13           service, his service credit shall be reestablished but his account balance shall begin  
14           again from zero.

15           (c) Except as provided in Items (i) and (ii) of this Subparagraph and subject  
16           Subject to the provisions of R.S.11:1399.7, if a cash balance plan member is eligible  
17           to and ~~elects to receive~~ a Tier 1 disability benefit, the account balance in the cash  
18           balance plan shall be retained by the retirement system. The system shall retain the  
19           account balance until the death of the member, upon which occurrence the account  
20           balance shall be forfeited to the system.

21           (i) In the even a cash balance plan member's disability benefit ceases  
22           pursuant to applicable law and the member does not return to active service covered  
23           by the same system's cash balance plan, he shall be entitled to receive one of the  
24           following:

25           (aa) The member's account balance which had been retained by the  
26           retirement system, less the amount of disability benefits received by the member.

27           (bb) An annuity, based on the member's account balance at the time he  
28           ceases to be eligible for disability benefits. Notwithstanding any provision of law  
29           to the contrary, such annuity shall be payable upon application by the member,

1 regardless of the member's age at the time of application, and shall be paid as  
2 otherwise provided in R.S. 11:1399.4(B)(1).

3 (ii) If a cash balance plan member's disability benefit ceases pursuant to  
4 applicable law as a result of the member's return to active service covered by the  
5 same system's cash balance plan, his account balance retained by the retirement  
6 system shall be restored. The member's accumulation pursuant to R.S. 11:1399.3  
7 shall resume and the time period within which he received a disability benefit shall  
8 not be considered active service in the cash balance plan.

9 (d) Tier 1 disability benefits received pursuant to this Paragraph shall be  
10 governed by the applicable Tier 1 plan provisions.

11 §1399.4. Retirement eligibility; benefit calculation

12 A. Eligibility for retirement. A cash balance plan member ~~with~~ whose period  
13 of active service covered by the plan is at least five years ~~of membership in the cash~~  
14 ~~balance plan~~ is eligible to draw an annuity beginning at age sixty. The annuity  
15 payment amount shall be calculated as provided in Subsection B of this Section.

16 B. Annuitization of retirement benefit. (1)(a) Upon application, any member  
17 meeting the qualifications in Subsection A of this Section may elect to receive an  
18 annuity in a retirement allowance payable throughout his life, or he may elect at that  
19 time to receive the actuarial equivalent of his retirement allowance in a reduced  
20 retirement allowance payable throughout life, pursuant to any retirement option  
21 provided for Tier 1 members of his system. The system shall annuitize and pay any  
22 such allowance chosen by the member.

23 (b) The system shall annuitize the retirement benefit using an annuity rate  
24 based upon the actuarial assumptions in use by the system as of the date of  
25 retirement. The system actuary may modify the assumptions to reflect any changes  
26 quantified in an experience study and incorporated into a valuation adopted by the  
27 Public Retirement Systems' Actuarial Committee, demonstrating a statistically  
28 significant difference between the mortality experience of cash balance participants

1 in the system electing to receive benefits in an annuity form and that of system  
2 annuitants generally.

3 (2) No member of the cash balance plan shall be eligible to participate in any  
4 deferred retirement option plan or program or any similar retirement option that  
5 requires continued employment for participation, nor shall such a member be eligible  
6 to participate in any back-deferred retirement option plan or program. However, a  
7 cash balance plan member may participate in any initial benefit option, initial lump-  
8 sum benefit option, or any similar retirement option designed to provide a reduced  
9 annuity in exchange for a lump-sum payment which is selected upon ~~separation from~~  
10 service retirement.

11 §1399.5. Reemployment; refund of contributions prohibited

12 A. If, after withdrawing from the cash balance plan upon separation from  
13 service or after annuitizing his benefit, a former cash balance plan member or cash  
14 balance plan retiree becomes reemployed returns to active service in a position  
15 covered by the same system's cash balance plan, the person's accumulation in the  
16 cash balance plan pursuant to R.S. 11:1399.3 membership in the cash balance plan  
17 shall begin again with a new account. Such a cash balance plan member shall be  
18 considered a new member for all purposes under the provisions of the plan and shall  
19 not be allowed to reestablish service credit by refunding contributions or lump-sum  
20 amounts.

21 B. ~~However, the reemployment~~ A former cash balance plan member or cash  
22 balance plan retiree's return to active service shall not affect the receipt of the lump  
23 sum or annuitized payments pursuant to R.S. 11:1399.4 from the first cash balance  
24 account. A cash balance plan member's receipt of a lump sum, or a trustee-to-trustee,  
25 single-sum transfer between qualified plans or as payment made directly to an  
26 individual retirement account shall be subject to applicable federal law.

27 §1399.6. Application

28 The provisions of the applicable Tier 1 system or plan shall apply to the cash  
29 balance plan for any matter on which this Chapter is silent. In case of any conflict

1 between the provisions of Tier 1 and the cash balance plan, the cash balance plan  
2 shall prevail.

3 §1399.7. Guaranteed return of employee contributions

4 ~~In~~ Notwithstanding any provision of law to the contrary, in no case shall a  
5 retirement system pay total benefits of an amount less than the total of the  
6 employee's accumulated contributions. Where the total benefits received prior to an  
7 employee's death, or the cessation of disability benefits pursuant to applicable law  
8 are ~~is~~ less than the employee's total contributions, the difference shall be paid to the  
9 estate of the decedent or the retiree, as applicable.

10 §1399.8. Dual Membership

11 A. Any defined benefit member who also has membership in the cash  
12 balance plan pursuant to R.S. 11:1399.2, shall be considered a member of both plans.  
13 A member of both plans is entitled to all options, obligations, and benefits of each  
14 respective plan, and subject to the provisions of Subsection C of this Section, no  
15 action or decision with respect to one plan shall be construed as an action or decision  
16 affecting the other plan.

17 B. For the purposes of this Section, the following terms shall have the  
18 following meanings:

19 (1) "Tier 1 contributions" shall mean the sum of all amounts paid by a  
20 member while a member of any defined benefit plan, excluding interest paid on the  
21 repayment of a refund, and credited to his individual account in the employee's  
22 savings account. For members of the Louisiana State Employees' Retirement  
23 System, Tier 1 contributions shall also include regular interest credited prior to July  
24 of 1969.

25 (2) "Dual member" shall mean a member of any plan in a defined benefit  
26 plan who is also a member of the cash balance plan pursuant to R.S. 11:1399.2.

27 C. For dual members:

28 (1) Any dual member who receives a refund of his tier one contributions  
29 prior to retirement from the defined benefit plan or retirement or withdrawal from

1        the cash balance plan may exercise the options set forth in R.S. 11:1399.3 or may  
2        leave his cash balance plan account balance with the system.

3                (2) Any dual member who withdraws from the cash balance plan and  
4        receives a refund of employee contributions from the cash balance plan or a lump-  
5        sum payment or distribution of the member's account balance in the cash balance  
6        plan prior to retirement from the defined benefit plan or retirement from the cash  
7        balance plan, may maintain his tier 1 contributions and corresponding service credit  
8        with the system.

9                (3) Any dual member who does not execute a reciprocal recognition of  
10       credited service agreement pursuant to R.S. 11:142 and who retires under the  
11       provisions of a defined benefit plan and who has less than five years of active  
12       participation in a cash balance plan may exercise the options set forth in R.S.  
13       11:1399.3 or may leave his cash balance plan account balance with the system until  
14       a future return to active service.

15               (4) Any dual member who does not execute a reciprocal recognition of  
16       credited service agreement pursuant to R.S. 11:142 and who retires or withdraws  
17       from the plan under the provisions of the cash balance plan and who does not have  
18       sufficient years of service credit in the defined benefit plan to become eligible for  
19       retirement without accruing additional service credit may exercise any option  
20       available to him as a member of the defined benefit plan, including the withdrawal  
21       of such contributions, or may maintain his defined benefit contributions and  
22       corresponding service credit with the system.

23               (5)(a) Notwithstanding any provision of R.S. 11:1399.2(C), a dual member  
24       shall be considered an active contributing member in active service for purposes of  
25       determining disability retirement eligibility and survivor benefits.

26               (b) Any defined benefit plan disability or survivor benefits for which the  
27       dual member is eligible shall be calculated based on his service in the defined benefit  
28       plan.

- 1                   (6) A dual member who retires under the provisions of a defined benefit plan  
 2                   shall be subject to the governing provisions of such plan with respect to his benefit  
 3                   from that plan. For dual members of the Teachers' Retirement System of Louisiana,  
 4                   this shall include R.S. 11:710.
- 5                   D. Nothing in this Section shall be construed to authorize an in-service  
 6                   distribution.

#### 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)]

Pearson

HB No. 68

**Abstract:** Provides relative to membership, benefits, and governance of the Cash Balance Plan (CBP) in the Louisiana State Employees' Retirement System (LASERS), the Teachers' Retirement System of Louisiana (TRSL), and the Louisiana School Employees' Retirement System

#### MEMBERSHIP

Present law establishes a cash balance retirement plan (CBP) in LASERS, TRSL, and LSERS and requires membership in such plan for the following members whose first employment making them eligible for state system membership begins on or after July 1, 2013:

- (1) All non-hazardous duty members of LASERS.
- (2) Members of TRSL employed at an institution of higher education or a management board of an institution of higher education, who are not employees of lab schools or the Louisiana School for Math, Science, and the Arts.

Proposed law retains present law and further provides that all members required by present law to be in the CBP shall remain members of the CBP except as provided in proposed law.

Present law further provides any member whose first employment making them eligible for state system membership begins on or after July 1, 2013 who is not required to be in the CBP pursuant to present law may make an irrevocable election to join the CBP within 60 days of employment. Proposed law retains present law and further provides that the member shall remain a member of the selected plan except as provided in proposed law.

Present law provides that members of the Hazardous Duty Service Plan in LASERS may not elect to join the CBP. Proposed law provides that members of the Hazardous Duty Services Plan in LASERS may not elect to join the CBP while employed in a position covered by the CBP.

Proposed law provides for "dual membership" for certain CBP members in the following circumstances:

- (1) A CBP member who becomes employed in a position covered by the Hazardous Duty Services Plan.
- (2) A Hazardous Duty Services Plan member who becomes employed in a position covered by the CBP
- (3) A member of a state system that does not have a CBP, first hired on or after 1/1/14, who becomes employed in a position covered by the CBP.
- (4) A CBP member who becomes employed in a position covered by a CBP in another state retirement system.

For such members, proposed law provides that upon employment in the new position, the member's years of creditable service and account balance or average compensation, as applicable, shall be frozen. The member shall be treated as a brand new member of the new plan and his accruals shall begin from zero. Further provides that such member shall be eligible to utilize a reciprocal recognition of creditable service agreement pursuant to present law to access accrued benefits in both plans. Such member shall also be governed by the "dual membership" provisions of proposed law, outlined below.

Present law provides for members transferring from a CBP in one system to a CBP in another system. Authorizes such member to withdraw from the first CBP, pursuant to present law, and transfer the amount he would otherwise be entitled to under present law to the new CBP. Proposed law retains present law and further provides that if the member executes such a transfer, all years of the member's period of active service covered by the CBP from which he is transferring shall be transferred to the new system. Further provides that all responsibility for tracking Tier 1 benefit eligibility and responsibility for paying such benefits shall also be transferred to the receiving system. Proposed law requires such Tier 1 benefits to be calculated as though the member had executed a transfer between regular defined benefit plans pursuant to present law.

Present law further allows a CBP member who leaves the CBP in one system for another Louisiana public retirement system, plan, or fund, including a CBP in another system, the option of leaving his first CBP account balance with the first system and utilizing a reciprocal recognition of credited service agreement pursuant to present law to access his accrued benefits in both plans. Proposed law retains present law and further provides that for the application of reciprocal agreements, service credit shall be determined as if the member's cash balance service had been earned as a member of the applicable Tier 1 plan.

Proposed law further explicitly provides relative to CBP members who become employed in a position covered by a system that does not have a CBP. Under proposed law such member shall have the following options:

- (1) Maintain his membership in the CBP and be entitled to all rights and options he is eligible for under present law as a member of such system, including withdrawal of any amount he is otherwise entitled to pursuant to present law.
- (2) To execute a reciprocal recognition of service agreement pursuant to present law.

Present law (R.S. 11:142) provides for reciprocal recognition of creditable service agreements between Louisiana public retirement systems, plans, or funds. Proposed law retains present law and further provides for reciprocal recognition of creditable service agreements between plans within a system. Proposed law further requires the board of trustees of the LASERS to promulgate rules and regulations regarding the implementation, recognition, and application of reciprocal recognition of service agreements between plans in their system.



Proposed law prohibits a CBP member from transferring into the CBP any benefits or years of creditable service from a defined benefit plan in any Louisiana public retirement system, plan, or fund.

Proposed law further prohibits a CBP member from purchasing service credit in a CBP.

Present law prohibits a CBP member from participating in the Deferred Retirement Option Program (DROP) or any similar program. Proposed law retains present law.

#### DUAL MEMBERSHIP

Proposed law requires certain members to have membership in both a regular defined benefit plan and a CBP. Proposed law therefore provides for the dual membership of such members. Provides that membership in both plans are independent from each other and that an option exercised in one plan shall not affect the membership in another plan. Provides rules as follows:

- (1) If a dual member refunds his contributions from the regular defined benefit plan prior to withdrawal or retirement from the CBP, he is still a CBP member and shall retain all rights otherwise acquired as such.
- (2) If a dual member withdraws from the CBP prior to retirement from the CBP or the regular defined benefit plan, such member shall still be a member of the regular defined benefit plan and shall retain all rights otherwise acquired as such.
- (3) If a dual member retires under the regular defined benefit plan without executing a reciprocal recognition of creditable service agreement, and such member has less than 5 years of active participation in the CBP, such member may either withdraw from the CBP pursuant to present law or maintain his membership in the CBP by leaving his account balance with the system pending a future return to active service in such plan.
- (4) If a dual member retires or withdraws from the CBP without executing a reciprocal recognition of creditable service agreement, and such member does not have sufficient years of service credit in the regular defined benefit plan to become eligible for retirement in such plan without working longer, such member may exercise any option available to him under present law as a non-vested member of such plan.
- (5) Notwithstanding any provision of present and proposed law to the contrary, a dual member shall be considered an active contributing member of both plans for the purposes of determining disability and survivor benefits. Further provides that any regular defined benefit plan disability or survivor benefits for which the dual member is eligible shall be calculated based on his service in the regular defined benefit plan.
- (6) If a member retires for a regular defined benefit plan, he shall be subject to all the present law governing provisions of such plan with respect to his benefit from such plan. Further provides that this includes return to work provisions for members of TRSL.

Proposed law provides that nothing in proposed law shall be construed to authorize an in-service distribution.

#### BENEFITS

Under present law, the CBP has the following general benefit design, which is further detailed below:

- (1) Employee contributions of 8% of pay.
- (2) Additional pay credits of 4% of pay, plus interest, for the duration of state service.
- (3) Account balance is not debited for investment losses.
- (4) Eligibility to have account balance paid as a life time annuity beginning at age 60.

Proposed law retains present law.

Present law provides the following with respect to withdrawal of members of the CBP:

- (1) Eligibility to withdraw employee contributions at any time after separation from service with less than five years of participation.
- (2) Eligibility to withdraw the full account balance (all pay credits and interest) at any time after separation from service with five or more years of participation.

Proposed law retains present law but change the period from "5 years of membership" to "5 years of active service".

Present law provides that if a member with less than 5 years withdraws from the system, the system shall retain all interest and any employer contributions. Proposed law changes this to say that all interest and any employer contributions shall be forfeited to the system.

Present law creates individual CBP nominal accounts within the retirement system trust containing annual pay credits of 12%, which includes the employee's 8% contribution. Provides for an interest credit annually to each member's account equal to one percentage point less the system's achieved actuarial rate of return. Proposed law retains present law.

Present law provides that CBP members with 5 or more years of membership may opt to leave his account balance with the system and draw an annuity pursuant to present law when the member attains age 60. However, no further credits or interest will be added to his account. Proposed law retains present law but changes the time for eligibility of such benefit from "5 or more years of membership" to "5 or more years of active participation".

Present law provides for reciprocal recognition of service under present law. Proposed law provides that for the purposes of application of a reciprocal recognition of service agreement to a cash balance plan account, the member's service credit shall be determined as if the member's cash balance service had been earned as a member of the applicable Tier 1 plan.

Present law authorizes a CBP member to elect an initial benefit option, an initial lump sum benefit option, or any similar retirement option designed to provide a reduced annuity in exchange for a lump-sum payment. Proposed law retains present law. Present law provides for such election to be made upon separation from service. Proposed law provides for such election to be made upon retirement instead.

Present law, provides that if a CBP member withdraws from the plan or annuitizes his benefit and then becomes reemployed in a position covered by the CBP, accumulation in the CBP shall resume. Such reemployment shall not, however, affect his receipt of the lump sum or annuity from his first cash balance account.

#### *Survivor benefits*

Present law provides for survivor benefits for members of the CBP. Provides that if the decedent leaves no surviving children, the surviving spouse may receive either:

- (1) The benefit he would have been entitled to had the deceased been in the Tier 1 plan.
- (2) The lump sum of the deceased's CBP account balance.

Provides that if the decedent leaves surviving children, allows the spouse and surviving children to receive the present law survivor benefit available to members of the Tier 1 plan. If the deceased member did not meet the present law survivor benefit eligibility requirements, the designated beneficiary or the deceased's estate may elect to receive the CBP account balance.

Proposed law retains present law.

Present law provides that, subject to applicable federal law, if a survivor is eligible to and elects to receive a Tier 1 survivor benefit, the CBP account balance shall be retained by the system. Proposed law retains applicable federal law restrictions and further provides that if a survivor is eligible to and receives a Tier 1 survivor benefit, the beneficiary forfeits the CBP account balance to the system.

Proposed law further provides that survivor benefits received pursuant to present CBP law shall be governed by the applicable Tier 1 plan provisions.

#### *Disability benefits*

Present law provides for disability benefits for members of the CBP. Allows the member to elect to receive either:

- (1) The lump-sum of his CBP account balance.
- (2) The present law disability benefit available to members of the Tier 1 plan, if the CBP member otherwise meets the eligibility requirements for such benefit.

Proposed law breaks the disability benefits in the CBP down into two portions:

- (1) For members who are certified as disabled pursuant to the applicable Tier 1 provisions before becoming eligible for retirement in the CBP, the member shall receive the applicable Tier 1 disability benefit if the member otherwise meets the eligibility requirements for disability in such Tier 1 plan.
- (2) For members who are certified as disabled after attaining retirement eligibility in the CBP plan, or who while otherwise receiving disability benefits under proposed law attain the normal retirement age required in the applicable Tier 1 plan, the member shall have the following options:
  - (a) To retire under the provisions of the CBP.
  - (b) To elect to receive, or elect to continue to receive, the applicable Tier 1 disability benefit.

Proposed law further provides that if the retirement eligible member elects to receive the Tier 1 disability benefit, the member's CBP account balance shall be forfeited to the system. Further provides that if such member subsequently returns to active service, his service credit shall be restored, but his account balance shall not.

Present law provides that, except as provided in Federal law, if a cash balance plan member is eligible to and elects to receive a Tier 1 disability benefit, the account balance in the CBP shall be retained by the system. Proposed law retains applicable Federal law and provides that if a member is eligible to and receives a Tier 1 disability benefit, the account balance in the CBP shall be permanently retained by the system, except as provided in proposed law:

- (1) If the member's disability benefit ceases pursuant to applicable law and the member does not return to active service covered by the same system's CBP, he shall be entitled one of the following options:
  - (a) To receive his account balance which had been retained by the retirement system, less the amount of disability benefits received by the member.
  - (b) To take an annuity based on his account balance at the time he is no longer eligible for disability. Such annuity shall be payable upon application of the member, regardless of the age of the member at the time. Further provides that such annuity shall be paid as otherwise provided in present law for retirement annuities.
- (2) If the member's disability benefit ceases pursuant to applicable law because the member returns to active service, his account balance retained by the system shall be restored. The member's accumulation in the account shall resume and the time period in which he received a disability benefit shall not be counted towards his active service in the plan.

Proposed law provides that the Tier 1 disability benefits received pursuant to present and proposed law shall be governed by the applicable Tier 1 plan.

#### REEMPLOYMENT & REFUND

Present law provides for reemployment of persons who either retired or withdrew from a CBP. Provides that upon reemployment in a position covered by the CBP, such person's accumulation in the cash balance plan shall begin again pursuant to present law. Proposed law retains present law and further provides that the member's accumulation in the CBP shall begin again with a new account. Such member shall be considered a "new" member for all purposes and shall not be allowed to reestablish service credit in the system by refunding his withdrawn contributions or lump-sum amount.

Proposed law provides that the reemployment of such member shall not affect the receipt of the lump sum or annuitized payments from the first cash balance account. Proposed law retains present law and further provides that the receipt of a lump sum amount from the first CBP shall be subject to applicable federal law.

#### GUARANTEED RETURN OF EMPLOYEE CONTRIBUTIONS

Present law provides that in no case shall the system pay total benefits of an amount less than the employee's accumulated contributions, as provided in present law. Proposed law retains present law.

Present law provides that Tier 1 provisions shall apply to the CBP for any matter on which the CBP provisions are silent. In case of conflict between Tier 1 provisions and the CBP provisions, the CBP provisions control. Proposed law retains present law.

(Amends R.S. 11:1399.1 through 1399.7; Adds R.S. 11:1399.8)