

Regular Session, 2013

SENATE BILL NO. 14

BY SENATOR MARTINY

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

RETIREMENT CREDIT. Provides relative to transfers of service credit between systems.
(2/3 - CA10s29(F)) (6/30/13)

1 AN ACT

2 To amend and reenact R.S. 11:143, relative to transfers of service credit between public
3 retirement systems; to provide for benefit calculation after transfer; to provide
4 relative to reverse transfers; to allow reverse transfers to be made during active
5 service in certain circumstances; to authorize purchase of the accrual rate of the
6 receiving system; to allow the funding of certain accrual rate purchases by an
7 employer; to provide limitations and requirements for an employer-funded purchase;
8 to provide for an effective date; and to provide for related matters.

9 Notice of intention to introduce this Act has been published.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 11:143 is hereby amended and reenacted to read as follows:

12 §143. Transfers between systems

13 A.~~(†)~~ As provided in Subsection FG of this Section, any person who is in
14 active service and is a member of any public retirement or pension system, fund, or
15 plan maintained primarily for officers and employees of the state of Louisiana or of
16 any political subdivision thereof, or of any district, board, commission, or other
17 agency of either, or of any other such public entity who has been a member of such

1 system, fund, or plan for at least six months and who has membership credit in or
2 who transferred service credit from any other such system, fund, or plan shall have
3 the option of transferring all of his credit from every such system, fund, or plan to
4 the system, fund, or plan he is currently contributing to or to the system to which he
5 last contributed.

6 ~~(2)(a) Any member who transfers credit to the system, fund, or plan to which~~
7 ~~he last contributed shall be subject to the provisions of this Subsection.~~

8 ~~(b) A member shall only be allowed to execute a reverse transfer one time~~
9 ~~and the transfer must be executed immediately prior to retirement from the receiving~~
10 ~~system.~~

11 ~~(c) The request for a reverse transfer shall be accompanied by the member's~~
12 ~~application for retirement from the receiving system, and, on the day of the transfer,~~
13 ~~the member must terminate employment that made him eligible to be a member of~~
14 ~~the transferring system, and the member's date of retirement shall be made effective~~
15 ~~on the next business day following the transfer.~~

16 ~~(d) The member shall be allowed to apply such transferred credit toward~~
17 ~~attainment of the retirement eligibility requirements of the receiving system.~~

18 ~~(e) Any member who would not be eligible to retire from the receiving~~
19 ~~system after the transfer shall not be eligible to execute such a transfer under the~~
20 ~~provisions of this Paragraph.~~

21 ~~(f) Any member who executes a reverse transfer and is reemployed by an~~
22 ~~employer who is covered by the transferring system shall be ineligible for~~
23 ~~membership in the transferring system after the effective date of the transfer.~~

24 ~~(g) After the transfer is executed, the member who is transferring credit shall~~
25 ~~be ineligible for active contributing membership in the receiving system, unless the~~
26 ~~member is:~~

27 ~~(i) Employed in a capacity which would require membership in the receiving~~
28 ~~system as a condition of employment, and~~

29 ~~(ii) The member complies with all applicable provisions of law regarding the~~

1 reemployment of a retiree.

2 (h) ~~A reverse transfer shall be subject to the provisions of Subsection D of~~
3 ~~this Section.~~

4 B. All credit that the employee had in the system, fund, or plan from which
5 he is transferring, whether regular service credit, prior service credit, military service
6 credit, or other credit, shall be transferred, except as provided below:

7 (1) In the event that the member has six months or more of concurrent
8 service in the transferring and receiving systems, the concurrent service in the
9 transferring system and the funds attributable to such service shall remain in the
10 transferring system.

11 (2) In the event that the member has less than six months of concurrent
12 service in the transferring and receiving systems, the concurrent service in the
13 transferring system shall be canceled and the funds attributable to such service shall
14 be transferred to the receiving system.

15 C. Except as provided in Paragraph ~~(5)~~ **D(6)** of this ~~Subsection~~ **Section** and
16 notwithstanding ~~the provisions~~ **any provision** of law to the contrary, the system,
17 fund, or plan from which the person transfers such credit shall transfer to the
18 receiving system, fund, or plan an amount which is the lesser of the following:

19 (1) The greater of, the actuarial cost to the receiving system for the service
20 transferred, or all employee contributions from the transferring system.

21 (2) All employee contributions, all employer contributions, provided that in
22 any system, fund, or plan, where the employer contribution is not a fixed percentage
23 of the employee's earnings, an employer contribution which is equal to the employee
24 contribution, in addition to a sum, representing interest, equal to the board-approved
25 actuarial valuation rate of the transferring system, fund, or plan compounded
26 annually, of all contributions per annum for each year of contribution to the date of
27 transfer.

28 D.(1) In the event that the amount of funds transferred is less than the
29 actuarial cost of the service transferred in the receiving system, the person

1 transferring, except as provided for herein, shall pay the deficit or difference
2 including the interest thereon at the board-approved actuarial valuation rate of the
3 receiving system.

4 (2) In lieu of paying the deficit or difference plus interest, the person may
5 at his option, but only at the time of transfer, be granted an amount of credit in the
6 receiving system, fund, or plan which is based on the amount of funds actually
7 transferred by the transferring system, fund, or plan plus any additional funds less
8 than the deficit paid by the member.

9 (3) If the person transferring had any free service credit in the transferring
10 system, he may transfer said service to the receiving system, but only upon payment
11 of the employer and employee contributions that would have been paid if he had
12 been a member of the receiving system at the time of service, plus interest thereon
13 at the board approved actuarial valuation rate of the receiving system from date of
14 such service until paid.

15 (4) ~~In~~ **Except as provided in Paragraph (5) of this Subsection, in** the event
16 that a person completes a transfer under the provisions of this Section, the retirement
17 percentage factor of the transferring system shall be used to calculate his retirement
18 benefit based on the number of years transferred.

19 **(5) If the accrual rate of the receiving system is greater than the accrual**
20 **rate of the transferring system, a person executing a transfer pursuant to the**
21 **provisions of this Section may elect to purchase the accrual rate of the receiving**
22 **system applicable to the member on the date of such purchase for the purpose**
23 **of applying that accrual rate to the transferred service credit by paying an**
24 **amount calculated on an actuarial basis which totally offsets the increase in**
25 **accrued liability of the receiving system resulting from the accrual rate**
26 **adjustment.**

27 ~~(5)~~**(6)** Any member of the Louisiana judiciary who took office prior to July
28 1, 1986, and who transfers service credit from the District Attorneys' Retirement
29 System to another retirement system shall not be required to pay the actuarial cost

1 for such transfer between systems, and the actuarial cost of such transfer shall be
2 paid from the interest earnings of the receiving system which exceed the actuarially
3 projected interest earnings in the fiscal years following such transfer.

4 E. After the date on which the transfer is completed, the system, fund, or
5 plan from which the member transfers shall have no future liability with respect to
6 the person who transferred.

7 **F. Reverse transfer. (1)(a) Except as provided in Paragraph (2) of this**
8 **Subsection, any member who transfers credit to the system, fund, or plan to**
9 **which he last contributed shall be subject to the provisions of this Paragraph.**

10 **(b) A member shall only be allowed to execute a reverse transfer one**
11 **time and the transfer must be executed immediately prior to retirement from**
12 **the receiving system.**

13 **(c) The request for a reverse transfer shall be accompanied by the**
14 **member's application for retirement from the receiving system, and, on the day**
15 **of the transfer, the member must terminate employment that made him eligible**
16 **to be a member of the transferring system, and the member's date of retirement**
17 **shall be made effective on the next business day following the transfer.**

18 **(d) The member shall be allowed to apply such transferred credit**
19 **toward attainment of the retirement eligibility requirements of the receiving**
20 **system.**

21 **(e) Any member who would not be eligible to retire from the receiving**
22 **system after the transfer shall not be eligible to execute such a transfer under**
23 **the provisions of this Paragraph.**

24 **(f) Any member who executes a reverse transfer and is reemployed by**
25 **an employer who is covered by the transferring system shall be ineligible for**
26 **membership in the transferring system after the effective date of the transfer.**

27 **(g) After the transfer is executed, the member who is transferring credit**
28 **shall be ineligible for active contributing membership in the receiving system,**
29 **unless the member is:**

1 (i) Employed in a capacity which would require membership in the
2 receiving system as a condition of employment, and

3 (ii) The member complies with all applicable provisions of law regarding
4 the reemployment of a retiree.

5 (h) A reverse transfer shall be subject to the provisions of Subsection D
6 of this Section.

7 (2)(a) The provisions of this Paragraph shall apply only to persons who
8 are not state employees and only to applications for transfer submitted to the
9 receiving system on or before December 31, 2013.

10 (b) Any person to whom this Section applies may execute a reverse
11 transfer from the retirement system to which he is currently contributing to any
12 other system to which he previously contributed if at the time he began
13 contributing to the current system he was legally permitted to elect instead to
14 remain a contributing member of the previous system.

15 (c) The member shall be allowed to apply such transferred credit toward
16 attainment of the retirement eligibility requirements of the receiving system.

17 (d) After the transfer is complete, the member shall be an active,
18 contributing member of the receiving system.

19 F.G.(1) Each board of trustees or other such governing board shall adopt
20 such rules and regulations, not in conflict herewith, as are necessary to carry out the
21 provisions and intent of this Section and to prevent any duplication of credit.

22 ~~(2) Each governing authority shall determine at the first board meeting after~~
23 ~~January 1, 1986, if transfers into the system will be approved as provided in this~~
24 ~~Section, and such determination cannot be changed until the first board meeting of~~
25 ~~each successive year thereafter. The transfer of service credit and funds out of the~~
26 ~~system shall be at the sole option of the member.~~

27 ~~(3)~~ No governing authority shall approve a transfer in which the transferred
28 amount is less than one hundred percent of the increase in accrued liability to the
29 receiving system created by such transfer; however, the person can pay the

1 difference in the assets to be transferred and the actuarial cost to the receiving
2 system.

3 **(3) The transfer of service credit and funds out of a system shall be at**
4 **the sole option of the member.**

5 ~~G.H.~~(1) A member of a receiving system, fund, or plan must make a written
6 application to the receiving system, fund, or plan requesting a transfer under this
7 Section.

8 (2)(a) In the event that a member dies after a written application for a
9 transfer under this Section is received in the office of a receiving system, fund, or
10 plan which normally accepts such transfers, such system, fund, or plan shall
11 complete the transfer, and it shall be considered as completed the day before the
12 death of the member.

13 (b) A survivor, heir, or the estate of a deceased person or member shall not
14 be allowed to request a transfer under this Section.

15 Section 2.(A) The provisions of this Section shall apply only to members of the
16 Firefighters' Retirement System who are employees of the St. George Fire Department who
17 applied to transfer service credit from the New Orleans Fire Firefighters' Pension and Relief
18 Fund into the Firefighters' Retirement System on or after August 26, 1999, and on or before
19 December 31, 2007, and only to that service credit transferred from the New Orleans Fund
20 during the designated time frame.

21 B. The System members to whom this Section applies may have the benefit accrual
22 rate of the receiving System, applicable to the service credit transferred from the Fund to the
23 System, purchased by having their employer pay the amount required pursuant to the
24 provisions of this Act allowing a purchase of accrual rate. The adjusted accrual rate shall
25 be effective on the June thirtieth following the execution of the agreement required pursuant
26 to Subparagraph (C)(2)(b) of this Section. However, this increase in benefit shall not be an
27 accrued benefit subject to the protection of Article X, Section 29(E) of the Constitution until
28 the System has received full payment.

29 C.(1) In order for the benefit accrual rate adjustment authorized by this Section to be

1 effective, there shall be paid to the System an amount calculated on an actuarial basis which
 2 totally offsets the increase in accrued liability of the System resulting from the accrual rate
 3 adjustment.

4 (2)(a) The governing authority of the St. George Fire Department is hereby
 5 authorized to pay the System the amount calculated pursuant to Paragraph (1) of this
 6 Subsection.

7 (b) Except as provided in Subsection D of this Section, the transaction authorized
 8 by this Section, if funded by the Department, shall be treated as a merger of service credit.
 9 The governing authorities of the St. George Fire Department and the System shall execute
 10 a merger note to memorialize their respective obligations. The payments shall be amortized
 11 over the period of time applicable to mergers and the Department shall make annual level
 12 payments to the System. The annual interest rate applicable to the note shall be fixed at
 13 seven and one-half percent.

14 D. No funds derived from the assessments against insurers pursuant to R.S. 22:1476
 15 shall be used to pay any increased costs or increase in liability of the System resulting from
 16 the provisions of this Section.

17 E. Nothing in this Section shall be construed to authorize an increase in payments
 18 to any person receiving benefits before the effective date of this Section.

19 Section 3. This Act shall become effective on June 30, 2013; if vetoed by the
 20 governor and subsequently approved by the legislature, this Act shall become effective on
 21 June 30, 2013, or on the day following such approval by the legislature, whichever is later.

The original instrument was prepared by Nancy Vicknair. The following digest, which does not constitute a part of the legislative instrument, was prepared by Martha Hess.

DIGEST

Martiny (SB 14)

Present law provides for transfer of service credit between La. public retirement systems. Specifies application procedures, calculations, and payment deadlines. Provides for "reverse" transfers, but only coincident with retirement.

Proposed law retains present law and allows for certain in-service reverse transfers. Requires that application for an in-service reverse transfer be submitted to the receiving system on or before Dec. 31, 2013. Limits applicants for in-service reverse transfers to persons who are not state employees.

Present law generally applicable to transfers specifies that the retirement benefit based on the transferred time shall be calculated using the "percentage factor", commonly called the "accrual rate", of the transferring system.

Present law relative to certain transfers to the Sheriffs' Pension and Relief Fund and the secondary component and Hazardous Duty Services Plan of the La. State Employees' Retirement System allows the member to purchase the (higher) accrual rate of the receiving system's plan provisions. Provides for the calculation of the purchase price pursuant to present law.

Proposed law retains present law and allows any person using the transfers authorized in proposed law to purchase the accrual rate of the receiving system at a price calculated pursuant to present law.

Proposed law, relative to members of the Firefighters' Retirement System (FRS), allows employees of the St. George Fire Dept. who applied to transfer service credit from the New Orleans Fire Firefighters' Pension and Relief Fund (NOFF) into FRS on or after Aug. 26, 1999, and on or before Dec. 31, 2007, to have the benefit accrual rate purchase permitted pursuant to proposed law funded by their employer. Specifies that proposed law is applicable only to that service credit transferred from NOFF during the designated time frame. Provides that the Dept. shall pay an amount calculated pursuant to proposed law which, on an actuarial basis, totally offsets the increase in accrued liability of FRS resulting from the accrual rate adjustment.

Requires the adjusted accrual rate to be effective on the June 30th following the execution of the agreement required in proposed law. Mandates that the increase in benefit shall not be an accrued benefit subject to the protection of Article X, Section 29(E) of the Constitution until FRS has received full payment.

Specifies that the transaction permitted by proposed law shall be treated as a merger of service credit. Further requires the governing authorities of the Dept. and FRS to execute a merger note to memorialize their respective obligations and requires the payments to be amortized over the period of time applicable to mergers. Further requires the Dept. to make annual level payments to FRS and requires the annual interest rate applicable to the note to be fixed at 7.5%.

Requires that no funds derived from the assessments against insurers shall be used to pay any increased costs or increase in liability of FRS resulting from the provisions of proposed law.

Further requires that the provisions of proposed law shall not be construed to authorize an increase in payments to any person receiving benefits before the effective date of proposed law.

Effective June 30, 2013.

(Amends R.S. 11:143)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Retirement to the original bill

1. Make technical changes.

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Limits applicants for in-service reverse transfers to persons who are not state employees.