

Regular Session, 2013

HOUSE BILL NO. 41

BY REPRESENTATIVE ARNOLD

RETIREMENT/LOCAL: Provides relative to the board of trustees of the Firefighters' Pension and Relief Fund in the city of New Orleans

1 AN ACT

2 To amend and reenact R.S. 11:3362, 3376(A) and (B), 3377(A)(introductory paragraph), and  
3 3382(A), relative to the board of trustees of the Firefighters' Pension and Relief Fund  
4 in the city of New Orleans; to provide relative to membership of the board; to  
5 provide relative to terms of members; to provide relative to the powers of the board  
6 with respect to cost-of-living increases and disability benefits; to provide relative to  
7 elections to the board; and to provide for related matters.

8 Notice of intention to introduce this Act has been published  
9 as provided by Article III, Section 13 and Article X, Section  
10 29(C) of the Constitution of Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 11:3362, 3376(A) and (B), 3377(A)(introductory paragraph), and  
13 3382(A) are hereby amended and reenacted to read as follows:

14 §3362. Board of trustees of fund; officers; vacancies

15 A. There is hereby created a Board of Trustees for administration of this  
16 fund. This board shall be composed of the following members:

17 (1) The superintendent of the fire department.

18 (2) The director of finance of the city of New Orleans.

19 (3) ~~Five~~ Two members elected from the active ranks of the department;\_

1           (4) ~~Three~~ Two members elected from the ranks of retired members of the  
2 department.

3           (5) One member who is domiciled in and an elector of the city of New  
4 Orleans and who is appointed by the mayor subject to confirmation by the New  
5 Orleans City Council. A vacancy in this position shall be filled in the same manner  
6 as the original appointment.

7           ~~The terms of the hereinabove named trustees shall be for a period of two~~  
8 ~~years, beginning from the date of the election, the second Wednesday in December,~~  
9 ~~1969, and ending on the second Wednesday of January, 1972; and thereafter their~~  
10 ~~terms shall be for a period of two years with elections held every two years.~~

11           B.(1) The terms of members shall be two years and shall begin on the fourth  
12 Wednesday in August. The first election to the board, as hereinabove constituted,  
13 shall be held on the second Wednesday of December, 1969, and all subsequent  
14 elections shall be held on the second Wednesday of December and the members so  
15 elected shall take office on the second Wednesday in January immediately following  
16 such election.

17           (2)(a) The election of the elected members to the board shall be held on the  
18 fourth Wednesday in August. Members so elected shall take office at noon on the  
19 day following such election. Special elections may be called by the board as then  
20 constituted when vacancies occur on the board by death, resignation, or otherwise.  
21 Special elections or appointments shall be completed within thirty days after a  
22 vacancy occurs on the board.

23           (b) ~~The elections as hereinabove described or special~~ All elections of the  
24 members of the board shall be held between the hours of 6:00 A.M. and 8:00 P.M.  
25 at the department of fire headquarters or such place or places ~~which~~ that the board  
26 may designate at its regular meeting held during the month of ~~November~~ July,  
27 immediately preceding the holding of its ~~bi-annual~~ biannual election; ~~provided, that~~  
28 ~~all~~ All persons entitled to vote at any such election shall be notified of the place or  
29 places at which the election will be held at least ten days prior to the date thereof.

1 C. The board shall elect a president from the membership of the board. It  
 2 shall also elect a secretary-treasurer, ~~who shall be elected solely from the elected~~  
 3 ~~members of the board~~. Should a vacancy among the members of the board occur six  
 4 months or more prior to any election, the board shall call a special election to fill  
 5 such vacancy; if no candidate qualifies within fifteen days after vacancy occurs, the  
 6 board shall fill such vacancy by appointment. If a vacancy occurs less than six  
 7 months prior to any election, the board shall fill such vacancy by appointment. Any  
 8 person elected or appointed to fill a vacancy in the membership of the board, as  
 9 hereinabove set forth, shall be elected or appointed by nomination from the group,  
 10 active or retired, ~~which~~ that suffered loss of representation on the board by reason  
 11 of such vacancy, but all members of the board shall vote on appointments and all  
 12 members active or retired shall vote on all candidates for election.

13 ~~D. Only those members of the board elected or appointed from the active~~  
 14 ~~ranks of the department shall have the right to vote on any proposal to increase the~~  
 15 ~~assessment levied against the salary of each member of the fire force, as provided by~~  
 16 ~~R.S. 11:3363, as of August 1, 1962.~~

17 \* \* \*

18 §3376. Disability payments; notice of injury; periodic examination; order to return  
 19 to active duty

20 A. If any member of the fire department of the city, while in the performance  
 21 of his duty, becomes and is found upon examination by the department physician to  
 22 be physically or mentally permanently disabled and incapacitated from performing  
 23 his duties as a member of the fire department, or is unable to hold any other  
 24 meaningful and gainful employment, by reason of service in the fire department, the  
 25 board on application by the member for disability payments in accordance with this  
 26 Part on a form provided by the board shall request that the civil service physician  
 27 certify the fact of disability of said applicant, and the board of trustees, by a two-  
 28 thirds majority vote of its members, shall determine whether or not the member  
 29 should be retired for disability. In making this determination the board of trustees

1 may order the member to submit to any other doctor or specialist selected by the  
2 board of trustees. Failure of the member to submit to any examination ordered by  
3 the board of trustees shall forfeit his and his dependent's right to pension and relief  
4 under this Part. When the board of trustees determines that the member should be  
5 retired for disability incurred in the performance of his duty or service in the fire  
6 department, it shall retire the member, place his name on the pension roll, and order  
7 the immediate payment in monthly installments to him from the pension and relief  
8 fund of a sum equal to two-thirds the monthly compensation allowed him as salary  
9 at the date of his retirement, or the amount provided in Subsection F of this Section,  
10 if the member meets the conditions of that Subsection, whichever is greater.

11 B. If any member of the fire department while in the active service of said  
12 fire department becomes and is found to be totally, permanently physically or  
13 mentally disabled for service in said fire department by reason of service therein, but  
14 physically and mentally capable and able to do and perform work of any other  
15 reasonable kind or character and be so found by the said board of trustees by a two-  
16 thirds majority vote of its members, the board shall retire the member, place his  
17 name on the pension roll, and order immediate payment in monthly installments to  
18 him from the pension and relief fund in a sum equal to one-half the monthly  
19 compensation allowed him as salary at the date of his retirement or the amount  
20 provided in Subsection F of this Section, if the member meets the conditions of that  
21 Subsection, whichever is greater.

22 \* \* \*

23 §3377. Retirement for nonservice connected disability; method of establishing  
24 pension

25 A. If any member of the fire department shall become physically or mentally  
26 permanently disabled and incapacitated to perform his duties, and such disability is  
27 not the direct result of a service-incurred injury or illness, then, upon application  
28 filed by the member in accordance with R.S. 11:3376, the board of trustees, by a  
29 two-thirds majority vote of its members, shall determine whether or not such

1 member shall be retired for disability. ~~Provided, that the~~ The procedure to establish  
2 such disability and to determine the continuance thereof shall be the same as that  
3 prescribed in R.S. 11:3376. The amount of the pension to be received by any  
4 member retired in accordance with the provisions of this Section shall be based on  
5 the following schedule:

6 \* \* \*

7 §3382. Cost-of-living increases

8 A.(1) The board of trustees ~~shall be authorized to~~ may use interest earnings  
9 on investments of the system in excess of normal requirements as determined by the  
10 actuary to provide an annual cost-of-living increase in benefits for retired members  
11 ~~who have retired~~ and widows of retired members ~~who have retired~~ in an amount not  
12 to exceed three percent of the original benefit. Such benefits shall be paid only when  
13 funds are available from this source, from funds appropriated for this purpose by the  
14 city of New Orleans, or from other sources designated for this purpose, and  
15 ~~payments~~ if approved by two-thirds of the entire board. Payments shall be made in  
16 such manner and in such amount as ~~may be determined by~~ the board of trustees  
17 determines, based on funds available.

18 (2) In addition to the increase provided for in Paragraph (1) of this  
19 Subsection, the board ~~shall be authorized to~~ may, if approved by two-thirds of the  
20 entire board, provide an annual cost-of-living increase to retired members and  
21 widows of retired members who are sixty-five years of age and older, in an amount  
22 not to exceed two percent of the original benefit.

23 \* \* \*

24 Section 2. The terms of the members of the board of trustees elected pursuant to R.S.  
25 11:3362(A)(3) and (4) serving in office on the effective date of this Act shall terminate on  
26 the effective date of the Act; however, such members shall continue to serve until a  
27 successor is elected pursuant to the provisions of this Act. The board of trustees shall call  
28 a special election to fill the vacancies created by this Act.

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

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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)]

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Arnold

HB No. 41

**Abstract:** Provides for the composition, election, terms of office, authority, and officers of the board of trustees of the Firefighters' Pension and Relief Fund in the city of New Orleans (NOFF) and provides for the powers of the board with respect to the granting of certain benefits.

Present law provides for a pension and relief fund for firefighters in the city of New Orleans. Provides for a board of trustees to administer the fund. Proposed law retains present law.

Present law provides for the membership of the board of trustees. Provides for 10 members as follows:

- (1) The superintendent of the fire department.
- (2) The director of finance of the city of New Orleans.
- (3) Five members elected from the active ranks of the department.
- (4) Three members elected from the ranks of retired members of the department.

Proposed law changes the total number of board member from 10 to seven. Provides that two members instead of five are elected from the active ranks of the department. Provides that two members instead of three are elected from the ranks of retired members of the department. Provides that one member who is domiciled in and an elector of the city of New Orleans is appointed by the mayor subject to confirmation by the New Orleans city council and that a vacancy in this position is filled in the same manner.

Present law provides that the election to the board is held on the second Wednesday in Dec. and that members so elected take office on the second Wednesday in Jan. Proposed law provides instead that the election is held on the fourth Wednesday in Aug. and that members so elected take office at noon on the day following such election. Proposed law retains present law provision for two-year terms.

Present law requires the board to designate the place of the election at its regular meeting in Nov. Proposed law requires instead that the designation must be made at the board's regular meeting in July.

Present law provides that only those members of the board elected or appointed from the active ranks of the department have the right to vote on any proposal to increase the

assessment levied against the salary of each member of the fire force. Proposed law repeals present law.

Present law authorizes the board to grant cost-of-living adjustments (COLAs) for retirees and beneficiaries of retirees. Proposed law requires approval of such COLAs by a two-thirds vote of the entire board.

Present law requires a majority vote of the entire board in order to grant any disability benefit. Proposed law requires that disability benefits be approved by a two-thirds majority of the board.

Proposed law provides that the terms of the elected members of the board in office on the effective date of proposed law shall terminate on the effective date of proposed law; however, such members shall continue to serve until a successor is elected. Proposed law further requires the board to call an election to fill the vacancies created by proposed law.

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

(Amends R.S. 11:3362, 3376(A) and (B), 3377(A)(intro. para.), and 3382(A))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Retirement to the original bill.

1. Changes the number of members elected to the board from the active ranks of the department from 5 to 2.
2. Changed the number of members elected from the retired ranks of the department from 3 to 2.
3. Adds requirement that member appointed by the mayor of the city of New Orleans in proposed law also be an elector of the city.
4. Removes proposed law adding two additional members to the board of trustees.
5. Removes proposed law extending the terms of the board members from 2 years to 4 years.
6. Changes the date that elections to the board of trustees are held from the second Wednesday in December to the fourth Wednesday in August.
7. Repeals present law provisions relative to which board members may vote to increase the assessments by the board against employee salaries.
8. Changes the vote needed for the board to grant a cost-of-living adjustment from a simple majority to a two-thirds majority of the full membership.
9. Changes the vote needed for the board to grant any disability retirement from a simple majority to a two-thirds majority of the full membership.
10. Adds provision that current elected members of the board shall have their terms of office terminated on the effective date of the Act, and that the board must call a special election to fill the vacancies created by the provisions of the Act. Requires current board members to continue to serve until their successor is elected pursuant to proposed law.