

2016 Regular Session

SENATE BILL NO. 19

BY SENATOR MILLS

CLERKS OF COURT RET. Establishes a "Back-DROP" benefit for certain members. (2/3 - CA10s29(F)) (6/30/16)

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AN ACT

To enact R.S. 11:1530.1, 1530.2, and 1530.3, relative to the Clerks' of Court Retirement and Relief Fund; to provide for retirement options; to allow certain members to participate in a back-deferred retirement option program; to allow rescission of past participation in the deferred retirement option plan; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:1530.1, 1530.2, and 1530.3 are hereby enacted to read as follows:

**§1530.1. Back-Deferred Retirement Option Program**

**A.(1) There is hereby created an optional retirement benefit program for certain members of the fund called the "Back-Deferred Retirement Option Program" which shall be referred to in this Chapter as "Back-DROP".**

**(2) In lieu of receiving a normal retirement benefit pursuant to R.S. 11:1521, an eligible member of the fund to whom this Section applies may elect to retire and have his benefits structured, calculated, and paid as provided in this Section.**

1           **B. An active, contributing member of the fund to whom this Section**  
2 **applies shall be eligible for Back-DROP only if all of the following apply:**

3           **(1) The member has accrued more credited service than the minimum**  
4 **required for eligibility for a normal retirement benefit.**

5           **(2) The member has attained an age that is greater than the minimum**  
6 **required for eligibility for a normal retirement benefit, if applicable.**

7           **(3) The member has revoked his participation, if any, in the Deferred**  
8 **Retirement Option Plan pursuant to R.S. 11:1530.2.**

9           **C. At the time of retirement, a member who elects to receive a**  
10 **Back-DROP benefit shall select a Back-DROP period to be specified in whole**  
11 **months. The duration of the Back-DROP period shall not exceed the lesser of**  
12 **thirty-six months or the number of months of credited service accrued after the**  
13 **member first attained eligibility for normal retirement. The Back-DROP period**  
14 **shall be comprised of the most recent calendar days corresponding to the**  
15 **member's employment for which service credit in the fund accrued.**

16           **D.(1) The Back-DROP benefit shall have two portions: a lump-sum**  
17 **portion and a monthly benefit portion.**

18           **(2) The member's Back-DROP monthly benefit shall be calculated**  
19 **pursuant to the provisions applicable for service retirement set forth in R.S.**  
20 **11:1521, subject to the following conditions:**

21           **(a) For purposes of this Paragraph, credited service shall not include**  
22 **service credit reciprocally recognized pursuant to R.S. 11:142.**

23           **(b) Accrued service at retirement shall be reduced by the Back-DROP**  
24 **period.**

25           **(c) Average final compensation shall be calculated by excluding all**  
26 **earnings during the Back-DROP period.**

27           **(d) Contributions received by the retirement fund during the**  
28 **Back-DROP period and any interest that has accrued on employer and**  
29 **employee contributions received during the period shall remain with the fund**

1 and shall not be refunded to the member or to the employer.

2 (e) The member's Back-DROP monthly benefit shall be calculated based  
3 upon the member's age and service and the fund provisions in effect on the last  
4 day of credited service before the Back-DROP period.

5 (f) At retirement, the member's maximum monthly retirement benefit  
6 payable as a life annuity shall be equal to the Back-DROP monthly benefit.

7 (g) The member may elect to receive a reduced monthly benefit in  
8 accordance with the options provided in R.S. 11:1524 based upon the member's  
9 age and the age of the member's beneficiary as of the actual effective date of  
10 retirement. No change in the option selected or beneficiary shall be permitted  
11 after the option is filed with the board of trustees.

12 (3) In addition to the monthly benefit received pursuant to Paragraph (2)  
13 of this Subsection, the member shall be paid a lump-sum benefit equal to the  
14 Back-DROP maximum monthly retirement benefit multiplied by the number  
15 of months selected as the Back-DROP period.

16 (4) Cost-of-living adjustments shall not be payable on the member's  
17 Back-DROP lump sum.

18 (5) Upon the death of a member who selected the maximum option  
19 pursuant to R.S. 11:1524, the member's named beneficiary or, if none, the  
20 member's estate shall receive the deceased member's remaining contributions,  
21 less the Back-DROP benefit amount.

22 (6) Upon the death of a member who selected Option No. 1 pursuant to  
23 R.S. 11:1524, the member's named beneficiary or, if none, the member's estate,  
24 shall receive the balance of the member's accumulated contributions as of the  
25 member's date of retirement reduced by the portion of the Back-DROP account  
26 balance and his previously paid retirement benefits that are attributable to the  
27 member's annuity payments.

28 E.(1) In lieu of receiving a lump-sum benefit payment as set forth in  
29 Paragraph (D)(3) of this Section, the member may elect to transfer the

1 lump-sum payment into a self-directed account managed by a third-party  
2 provider.

3 (2) The board may hire a third-party provider to manage the  
4 self-directed accounts authorized by this Subsection. The third-party provider  
5 shall act as an agent of the fund for purposes of investing balances in the  
6 self-directed accounts of the participant as directed by the participant. The  
7 participant shall be given such options as comply with federal law for  
8 self-directed plans.

9 (3) Any participant who elects to transfer the lump-sum Back-DROP  
10 payment into a self-directed account agrees that the benefits payable to the  
11 participant are not the obligations of the state or the fund and that any returns  
12 and other rights of the plan are the sole liability and responsibility of the  
13 participant and the designated provider to which contributions have been made.  
14 Furthermore, each participant, in accordance with this provision, shall  
15 expressly waive his rights as set forth in Article X, Section 29(E)(5) of the  
16 Constitution of Louisiana as it relates to his Back-DROP account with the  
17 third-party provider. By electing to transfer the Back-DROP lump-sum  
18 payment into an account with a third-party provider, the participant agrees  
19 that he and the provider shall be responsible for complying with all applicable  
20 provisions of the Internal Revenue Code. The participant also agrees that if any  
21 violation of the Internal Revenue Code occurs as a result of the participant's  
22 decision to transfer his Back-DROP lump-sum payment into a self-directed  
23 account, it shall be the sole responsibility and liability of the participant and the  
24 provider and not of the state or the fund.

25 (4) There shall be no liability on the part of and no cause of action of any  
26 nature shall arise against the state, the fund, or the agents or employees of the  
27 state or the fund for any action taken by the participant or for choices the  
28 participant makes in relationship to the self-directed account funds in which he  
29 chooses to place his account balance.

1           **F. The provisions of this Section shall apply to employees of the clerks**  
2 **of court for the following parishes only:**

3           **(1) Acadia.**

4           **(2) Iberia.**

5           **(3) St. Martin.**

6 **§1530.2. Rescission of participation in the Deferred Retirement Option Plan**

7           **Notwithstanding any other provision of law to the contrary, any**  
8 **participant in the Deferred Retirement Option Plan (DROP) of this fund to**  
9 **whom R.S. 11:1530.1 applies who has not severed employment and has not**  
10 **taken a distribution from his DROP account may make a one-time, irrevocable**  
11 **election to rescind all of his participation period in DROP and return to active,**  
12 **contributing membership in the fund on or before March 31, 2017. A person**  
13 **who rescinds such DROP participation shall forfeit all accumulated DROP**  
14 **benefits and any interest accrued on such benefits. If contributions were not**  
15 **previously paid, the participant shall pay to the fund the employee contributions**  
16 **the fund would have received if he had not been a DROP participant during his**  
17 **participation period, together with any interest or other actuarial cost for such**  
18 **rescission. The rescinding participant shall be required to hold the fund**  
19 **contractually harmless in the event that a spouse, former spouse, or any other**  
20 **person successfully establishes a property right relative to the DROP benefit**  
21 **forfeited by the participant which has any adverse effect upon the fund.**

22 **§1530.3. Additional actuarial contributions**

23           **The system actuary shall determine the marginal cost of the provisions**  
24 **of R.S. 11:1530.1 and 1530.2 stated as a contribution rate for the plan at large**  
25 **on or before December 31, 2016. Each employer to which R.S. 11:1530.1 applies**  
26 **shall pay this Back-DROP contribution in addition to the contributions**  
27 **required pursuant to R.S. 11:103 to fund the cost of rescission, beginning with**  
28 **Fiscal Year 2017-2018.**

29 Section 2. This Act shall become effective on June 30, 2016; if vetoed by the

1 governor and subsequently approved by the legislature, this Act shall become effective on  
2 June 30, 2016, or on the day following such approval by the legislature, whichever is later.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Laura Gail Sullivan.

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	DIGEST	
SB 19 Original	2016 Regular Session	Mills

Present law, relative to the Clerks' of Court Retirement and Relief Fund, provides for retirement options including a deferred retirement option plan (DROP). Provides that in lieu of a regular retirement, a member may elect to participate in DROP, freezing compensation and credited service as they exist at the time the person begins DROP participation.

Proposed law retains present law.

Proposed law, applicable to Acadia, Iberia, and St. Martin parishes only, provides for a "Back-DROP" and allows members employed in those parishes who have previously participated in DROP to rescind their DROP participation, make certain payments to the fund, and return to active contributing membership in the fund. Requires the rescission to occur on or before March 31, 2017.

Proposed law provides for the calculation of employer contributions to cover any additional cost of proposed law by the fund's actuary on or before Dec. 31, 2016. Requires the participating employers to make additional contributions at the rate determined by the actuary beginning with the 2017-2018 Fiscal Year.

Effective June 30, 2016.

(Adds R.S. 11:1530.1, 1530.2, and 1530.3)