

2017 Regular Session

SENATE BILL NO. 8

BY SENATOR PEACOCK

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

RETIREMENT SYSTEMS. Provides for correction of membership and enrollment errors in the state and statewide retirement systems. (2/3 - CA10s29(F)) (6/30/17)

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AN ACT

To enact R.S. 11:143.1 and 888.1 and to repeal R.S. 11:896, 1119, and 2214.1, relative to enrollment in certain state and statewide retirement systems; to provide for the correction of enrollment errors, including the transfer of monies, service credit, and liabilities; to provide for the payment of costs of the transfer; 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. 11:143.1 and 888.1 are hereby enacted to read as follows:

§143.1. Correction of membership errors

A. The provisions of this Section shall be applicable to all employees in positions covered by state and statewide public retirement systems.

B.(1) If a person is employed in a position that on the date of employment was covered by a system to which this Section applies, but was by error enrolled in another public pension or retirement system, plan, or fund, and has not retired from or participated in the deferred retirement option plan of the incorrect system, he shall be enrolled in the correct system if he remains eligible

1 for membership in that system, and all service credit and the funds required by
2 Subsection C of this Section shall be transferred to the correct system.

3 (2) Within thirty days of the date the error is discovered, the incorrect
4 system shall notify the employee and the employer of the error and shall initiate
5 the transfer with the correct system.

6 (3)(a) If the employee previously received a refund of employee
7 contributions from the incorrect system, the employee shall be given the
8 opportunity to restore the forfeited service credit before the transfer by
9 repaying to the incorrect system the refunded contributions plus interest at the
10 board-approved actuarial valuation interest rate of the incorrect system. Upon
11 receiving notification of the enrollment error, the employee shall have ninety
12 days to restore the forfeited service credit as provided in this Paragraph.

13 (b) If the refund is not repaid within ninety days, then the service credit
14 associated with the refund shall not be restored before the transfer. Once the
15 transfer is complete, the employee may still restore the forfeited service credit
16 by paying to the incorrect system the amount required by this Paragraph. Upon
17 repayment, the restored service credit shall be transferred immediately to the
18 correct system in accordance with R. S. 11:143; however, notwithstanding the
19 provisions of R.S. 11:143(D)(4) to the contrary, the retirement percentage factor
20 of the correct system shall be used to calculate the retirement benefit based on
21 the number of years transferred.

22 C.(1) The correct system shall determine the employee contributions that
23 system would have received if the employee had been properly enrolled on the
24 date of employment. That system shall notify the incorrect system and the
25 employee of the calculation.

26 (2)(a) The incorrect system shall determine the contributions made by
27 the employee, any employee contributions paid by the employer, the employer
28 contributions paid on the earnable compensation of the employee, and interest
29 on those contributions compounded annually at the board-approved actuarial

1 valuation interest rate of the incorrect system and the total of these amounts.

2 The incorrect system shall provide these calculations to the employee, the
3 employer, and the correct system.

4 (b) If the amount of employee contributions calculated pursuant to
5 Paragraph (1) of this Subsection is less than the amount of contributions made
6 by the employee as determined by the incorrect system in Subparagraph (a) of
7 this Paragraph, the incorrect system shall pay to the employee the amount of
8 the overpayment.

9 (c) The incorrect system shall transfer to the correct system the total
10 calculated pursuant to Subparagraph (a) of this Paragraph less any payment to
11 the employee pursuant to Subparagraph (b) of this Paragraph.

12 D.(1) The correct system shall calculate the amount necessary to fund the
13 receipt of the service credit as provided in this Subsection.

14 (2)(a) If the transfer occurs within three years of the enrollment error
15 the correct system shall receive an amount equal to all employee and employer
16 contributions that would have been received by the correct system had the
17 employee been properly enrolled on the date of employment, plus interest at the
18 correct system's board-approved actuarial valuation interest rate.

19 (b) If the transfer occurs more than three years after the enrollment
20 error, the correct system shall receive the greater of:

21 (i) An amount equal to all employee and employer contributions that
22 would have been received by the correct system had the employee been properly
23 enrolled at employment plus interest compounded annually at the correct
24 system's board-approved actuarial valuation interest rate.

25 (ii) The actuarial cost to the correct system for the service credit
26 transferred, calculated in accordance with R.S. 11:158(C)(1)(a) and (2). The
27 employer shall pay any fee or cost for this calculation.

28 (3) If the amount transferred from the incorrect system pursuant to
29 Subparagraph (C)(2)(c) of this Section is not sufficient to pay the amount

1 required by the provisions of Paragraph (2) of this Subsection, the employer
 2 shall pay any difference to the correct system.

3 (4) If the amount transferred from the incorrect system pursuant to
 4 Subparagraph (C)(2)(c) of this Section exceeds the amount required by the
 5 provisions of Paragraph (2) of this Subsection, the correct system shall credit
 6 to the employer's account the amount of the overpayment.

7 E. Upon transfer of all monies required pursuant to Subparagraph
 8 (C)(2)(c) of this Section, all of the employee's service credit shall be transferred
 9 to the correct system and the employee's refundable contribution balance in the
 10 correct system shall be equal to the employee contributions that would have
 11 been paid to the correct system had the employee been properly enrolled in the
 12 correct system at employment. The retirement percentage factor of the correct
 13 system shall be used to calculate the employee's retirement benefit based on the
 14 number of years transferred.

15 F. After the date on which the transfer of the funds required pursuant
 16 to Subparagraph (C)(2)(c) is completed, the system from which the employee
 17 transfers shall have no future liability with respect to the service credit, liability,
 18 or contributions transferred to the correct system.

19 * * *

20 §888.1. Service for which credit has not been received

21 If a person is employed in a position in which he should have been
 22 enrolled in this system on the date of employment, but was not enrolled in any
 23 public retirement system, he shall become a member of this system. He may
 24 establish service credit for the time he should have been a member of this
 25 system only under the provisions of R.S. 11:888.

26 Section 2. R.S. 11:896, 1119, and 2214.1 are hereby repealed.

27 Section 3. The cost of this Act, if any, shall be funded through additional employer
 28 contributions, as provided in R.S. 11:143.1(D)(3), in compliance with Article X, Section
 29 29(F) of the Constitution of Louisiana.

1 Section 4. This Act shall become effective on June 30, 2017; if vetoed by the
 2 governor and subsequently approved by the legislature, this Act shall become effective on
 3 June 30, 2017, or on the day following such approval by the legislature, whichever is later.

The original instrument was prepared by Laura Gail Sullivan. The following digest, which does not constitute a part of the legislative instrument, was prepared by Margaret M. Corley.

DIGEST

SB 8 Engrossed 2017 Regular Session Peacock

Proposed law provides for the correction of an enrollment error for a person incorrectly enrolled in any La. public pension or retirement system, plan, or fund who should have been enrolled in one of the state or statewide retirement systems.

The state systems are:

- (1) La. State Employees' Retirement System (LASERS).
- (2) Teachers' Retirement System of La. (Teachers' or TRSL).
- (3) La. School Employees' Retirement System (LSERS).
- (4) La. State Police Retirement System (TROOPERS).

The statewide systems are:

- (1) Assessors' Retirement Fund (Assessors).
- (2) Clerks' of Court Retirement and Relief Fund (Clerks).
- (3) District Attorneys' Retirement System (DARS).
- (4) Firefighters' Retirement System (FRS).
- (5) Municipal Employees' Retirement System of La. (MERS).
- (6) Municipal Police Employees' Retirement Systems (MPERS).
- (7) Parochial Employees' Retirement System of La. (PERS).
- (8) Registrar of Voters Employees' Retirement System (ROVERS).
- (9) Sheriffs' Pension and Relief Fund (Sheriffs).

Proposed law provides that any person who was enrolled in the wrong system by error but who should have been in one of the systems covered by proposed law shall be transferred to the system for which his employment makes him eligible.

Proposed law provides that the employee shall be notified of the error by the incorrect system. Requires the incorrect system to initiate the transfer within 30 days of the date the error is discovered.

Proposed law provides for restoration of forfeited service credit at the incorrect system if the employee repays any refund received from the incorrect system. Provides for the transfer of

the restored service credit and associated funds to the correct system.

Proposed law provides for calculation and transfer of funds from the incorrect system to the correct system. Specifies that upon transfer of all the money required pursuant to proposed law from the incorrect system to the correct system, all of the employee's service credit shall be transferred to the correct system and the employee's refundable contribution balance shall be equal to the contributions he would have paid to the correct system if the employee had been properly enrolled.

Proposed law provides for calculation of the amount necessary to fund the actuarial liability created by receipt of the service credit by the correct system. Requires the employer to pay any deficit between the amount the incorrect system transferred to the correct system and the amount necessary to fund the liability created by receipt of the service credit.

Proposed law provides for any overpayment of employee contributions to be refunded to the employee. Provides for any overpayment by the employer to be refunded to the employer.

Present law (R.S. 11:896(C)), relative to the Teachers' system only, provides for enrollment in that system of a person employed in a position covered by the system who was not enrolled in any public retirement system. Provides the person may establish service credit for the time he should have been a member of this system only under the provisions of present law (R.S. 11:888).

Proposed law retains present law and redesignates it as R.S. 11:888.1.

Present law provides that any person who has at least 10 years of creditable service in the MPERS and is or was a member of the police department for the city of Lafayette, and who becomes employed in a position making him eligible for another state or statewide retirement system, can continue to be a member of MPERS. Proposed law repeals present law.

Effective June 30, 2017.

(Adds R.S. 11:143.1 and 888.1; repeals R.S. 11:896, 1119, and 2214.1)

Summary of Amendments Adopted by Senate

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

1. Repeals present law which provides that any person who has at least 10 years of creditable service in the MPERS and is or was a member of the police department for the city of Lafayette, and who becomes employed in a position making him eligible for another state or statewide retirement system, can continue to be a member of MPERS.