

2018 Regular Session

SENATE BILL NO. 17

BY SENATOR PEACOCK

RETIREMENT SYSTEMS. Provides for harmonization of federal and state law regarding creditable service for military time at La. retirement systems. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 11:142(F)(3), (G), and (K), 152(C), and 153(F) and 29:411(B),  
3 412, 414, and 415(A)(1) and (D) and to enact R.S. 11:152.1 and 153(L), relative to  
4 creditable service in public retirement and pension systems, plans, and funds for  
5 service in the uniformed services; to provide relative to contributions, procedures,  
6 time limitations, and costs; to provide for rules promulgation; to provide for an  
7 effective date; and to provide for related matters.

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 11:142(F)(3), (G), and (K), 152(C), and 153(F) are hereby amended  
11 and reenacted and R.S. 11:152.1 and 153(L) are hereby enacted to read as follows:

12 §142. Reciprocal recognition of credited service in state, parochial, and municipal  
13 systems

14 \* \* \*

15 F. Each system in which a member has membership service credit shall  
16 compute the benefits due from that system using its benefit formula in effect on the  
17 date of retirement, or on the date of death while in service, and in addition, the

1 following provisions shall apply:

2 \* \* \*

3 (3) If two or more systems provide a ~~lump-sum~~ **lump-sum** benefit as part of  
4 the formula benefit, as in the Louisiana State Employees' Retirement System, the  
5 Teachers' Retirement System of Louisiana, and the Louisiana School Employees'  
6 Retirement System ~~of Louisiana~~, but not limited to these systems, each such system  
7 shall pay only that percentage of the additional ~~lump-sum~~ **lump-sum** benefit that  
8 credited service in that system represents of total credited service with respect to all  
9 of the systems which provide an additional ~~lump-sum~~ **lump-sum** benefit; however,  
10 in no instance shall the total additional ~~lump-sum~~ **lump-sum** benefit payable by all  
11 of the systems be less than the greatest ~~lump-sum~~ **lump-sum** benefit payable by any  
12 of them, and if the total benefit payable as above provided is less than such greatest  
13 ~~lump-sum~~ **lump-sum** benefit, the system having the greatest ~~lump-sum~~ **lump-sum**  
14 benefit shall pay the difference.

15 \* \* \*

16 G. No more than one year of membership service shall be credited for any  
17 one calendar or fiscal year, and there shall be no duplication of membership service  
18 credit for any period, including military service. ~~No~~ **Except as required by federal**  
19 **law, no** more than a total of four years of military service shall be credited unless  
20 five years of such credit has been obtained under the rules applicable in a system, in  
21 which instance a maximum of five years shall be credited. In the event of  
22 duplication of military service credit in more than one system or a total credit for  
23 military service in excess of five years, the retirement systems involved shall  
24 mutually agree on an appropriate procedure to assure that maximum credit in all  
25 systems does not exceed five years.

26 \* \* \*

27 K. In those retirement systems where thirty-six months or three years ~~or~~  
28 **sixty months or five years** is used in the computation of average compensation, the  
29 average salary shall be computed on the actual time in the retirement system when

1 the person has less than ~~thirty-six~~ **the required number of** months of service but  
2 eighteen or more months of service credit.

3 \* \* \*

4 §152. Military service credit

5 \* \* \*

6 C. ~~If~~ **Except for credit for military service purchased on an actuarial**  
7 **basis, if** credit for military service is otherwise allowed by a retirement system set  
8 forth in Subsection B of this Section, it shall ~~only~~ be allowable **only** for members  
9 who leave employment covered by the retirement system to which they belong to  
10 enter the military service, and who return to employment covered by a system set  
11 forth in Subsection B within one year after release from such military service. In  
12 other respects, the terms and conditions of the receipt of such credit shall be  
13 controlled by the law governing each particular retirement system.

14 **§152.1. Compliance with certain federal laws**

15 **Notwithstanding any other provision of law to the contrary, the board**  
16 **of trustees of each Louisiana public retirement system, as defined in R.S.**  
17 **29:403, shall comply with the requirements of the Uniformed Services**  
18 **Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.).**  
19 **Each board of trustees shall promulgate rules to comply with the provisions of**  
20 **USERRA and any rules or regulations issued by the United States Department**  
21 **of Labor or any other federal agency relating to USERRA. The rules so**  
22 **promulgated shall be considered plan provisions of the retirement system.**

23 §153. ~~Credit~~ **Purchase of service credit** for military service

24 \* \* \*

25 F. Military service credit shall not be used as the highest thirty-six **or sixty**  
26 successive months, or as the highest thirty-six **or sixty** joined months of employment  
27 where interruption of service occurred, in computing the average compensation for  
28 retirement benefit computation.

29 \* \* \*

1                    L. Creditable service for service in the uniformed services gained  
 2                    through the application of USERRA shall not be considered a purchase of  
 3                    military service credit for purposes of this Section.

4                    \*           \*           \*

5                    Section 2. R.S. 29:411(B), 412, 414, and 415(A)(1) and (D) are hereby amended and  
 6                    reenacted to read as follows:

7                    §411. Retirement credit

8                    \*           \*           \*

9                    B. ~~No~~ Except as required pursuant to federal law, no employee shall  
 10                    receive more than a total of four years of military service credit in the retirement  
 11                    system, pension fund, or employee benefit plan applicable to his employment,  
 12                    pursuant to this Part.

13                    §412. Contributions; payment during military service

14                    Any employee may, at his option, pay the required employee contributions  
 15                    to the retirement system, pension fund, or employee benefit plan applicable to his  
 16                    employment; during his period of service in the uniformed services ~~and if,~~ provided  
 17                    the payment of contributions is permitted by the Internal Revenue Code; if the plan  
 18                    is a qualified plan. The employee shall timely furnish his employer with sums equal  
 19                    to ~~that which~~ those that would have been deducted from his compensation for  
 20                    retirement system coverage, as required under the public retirement system or  
 21                    employee benefit plan. Upon such receipt, the employer shall remit the employee  
 22                    contributions to the applicable system or plan, including the employer contributions  
 23                    that would have been contributed on behalf of the employee. The employee shall  
 24                    notify his employer of his election to pay the required employee contributions to the  
 25                    applicable system or plan at the time he enters service in the uniformed services.

26                    \*           \*           \*

27                    §414. Public retirement systems; payment of contributions; interest

28                    A. Any employee, who did not elect to make employee contributions  
 29                    pursuant to R.S. 29:412 to the public retirement system applicable to his employment

1 during his period of service in the uniformed services, shall be entitled to receive  
2 credit for his service in the uniformed services toward establishing retirement  
3 eligibility and for computation of benefits, upon payment into the system an amount  
4 equal to the employee contributions that would have been paid had the employee  
5 continued in employment and not been called to service in the uniformed services,  
6 ~~together with~~ **and, to the extent permitted by federal law,** interest thereon at the  
7 valuation interest rate of the system or plan in effect at the time payment is made.  
8 The contributions shall be based on the salary, including any increases in  
9 compensation that the employee would have received had he remained in  
10 employment during the period of service in the uniformed services.

11 B. Upon payment by the employee of the employee contributions and  
12 interest, **if any,** as provided in Subsection A **of this Section,** the employer shall pay  
13 to the retirement system an amount equal to the employer contributions that the  
14 employer would have paid to the retirement system had the employee remained in  
15 service, together with interest thereon, at the valuation interest rate in effect at the  
16 time payment is made. The contributions shall be based on the salary the employee  
17 would have received during the period of service in the uniformed services,  
18 including any increases in compensation that the employee would have received had  
19 he remained in employment during the period of service in the uniformed services.  
20 The employer contributions and interest due to the system shall be paid within thirty  
21 days after the employee has paid all of the contributions due to the system or fund.

22 C. All employee contributions and interest due thereon made in payment for  
23 **credit for** service in the uniformed services ~~credit~~ in accordance with Subsection A  
24 **of this Section** must be received by the system ~~within four years of his~~  
25 ~~reemployment~~ **within the time period provided in Subsection E of this Section.**

26 D. Should the employee fail to make the required contributions within ~~four~~  
27 ~~years, or a~~ **the** time period authorized ~~in accordance with~~ **by** Subsection E of this  
28 Section, service in the uniformed services shall be used only for determining  
29 eligibility for retirement benefits. Any unpaid actuarial cost to the retirement system

1 shall be borne by the employers through reflection in the employer contribution rate  
 2 established pursuant to R.S. 11:102 or 103, or as provided by the actuarial funding  
 3 requirements and any other laws, rules, or regulations applicable to the public  
 4 retirement system in which the employee receives credit under the provisions of this  
 5 Subpart.

6 E. ~~Notwithstanding Subsection D of this Section, if any~~ **The** employee fails  
 7 ~~to~~ **shall** make the required contributions ~~within four years of his reemployment, the~~  
 8 ~~retirement system, pension fund, or employee benefit plan may permit such~~  
 9 ~~employee to make such contributions~~ within the time period allowable under the  
 10 Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)  
 11 [38 U.S.C. 4301 et seq.].

12 §415. Payment of death and survivor benefits; public retirement

13 A. The employee's period of service in the uniformed services shall be  
 14 counted as creditable service in the public retirement system in which he was a  
 15 member, for determining eligibility for death and survivor benefits and in the  
 16 computation of benefits, provided that the following conditions are satisfied:

17 (1) The beneficiary of the death or survivor benefits shall provide payment  
 18 of the unpaid portion of the contributions of the deceased member. The beneficiary  
 19 may agree in writing to have the payment of the unpaid portion of the contributions  
 20 of the deceased member deducted from the benefits over a period not to exceed four  
 21 years. The beneficiary may pay, in the alternative, the ~~actuarial cost of such~~  
 22 ~~additional credit~~ **required amount** in a lump sum prior to the distribution of  
 23 benefits.

24 \* \* \*

25 D. If the application of any provision set forth in this Section results in an  
 26 unpaid actuarial cost to the retirement system, it shall be borne by the employers  
 27 through reflection in the employer rate established ~~by the Public Retirement Systems~~  
 28 ~~Actuarial Committee~~ **pursuant to R.S. 11:102 or 103, or as provided by the**  
 29 **actuarial funding requirements and any other laws, rules, or regulations**

1           **applicable to the public retirement system in which the employee receives credit**  
 2           **pursuant to the provisions of this Part.**

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

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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 Nancy Vicknair.

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DIGEST

SB 17 Reengrossed

2018 Regular Session

Peacock

Present law provides for the Military Service Relief Act, to promote the stated policy of assuring that Louisiana citizens who serve their country and state and who leave their employment, homes, and education shall not be penalized nor economically disadvantaged because of their uniformed service.

Proposed law retains present law and updates certain provisions related to creditable service in public retirement systems to comply with present federal law, including the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Proposed law also updates provisions of present law related to the time periods used to compute average compensation.

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

(Amends R.S. 11:142(F)(3), (G), and (K), 152(C), and 153(F) and R.S. 29:411(B), 412, 414, and 415(A)(1) and (D); adds R.S. 11:152.1 and 153(L))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1.       Technical only.