

**ACT No. 109**

2018 Regular Session

HOUSE BILL NO. 9

BY REPRESENTATIVE IVEY

1 AN ACT

2 To amend and reenact R.S. 11:2254(D) and (E) and to enact R.S. 11:2254(F) and (G),  
3 relative to the Firefighters' Retirement System; to provide relative to direct rollovers  
4 of sums from the system to qualified plans; to provide for definitions; and to provide  
5 for related matters.

6 Notice of intention to introduce this Act has been published  
7 as provided by Article X, Section 29(C) of the Constitution  
8 of Louisiana.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 11:2254(D) and (E) are hereby amended and reenacted and R.S.  
11 11:2254(F) and (G) are hereby enacted to read as follows:

12 §2254. Creditable service

13 \* \* \*

14 D<sub>2</sub>(+) The system shall permit direct rollovers from other qualified  
15 retirement plans. ~~"Direct rollovers" for purposes of this Section shall mean trustee~~  
16 ~~to trustee transfers of sums from other qualified plans which are permitted to roll~~  
17 ~~over sums to other qualified plans under the provisions of the Internal Revenue Code~~  
18 ~~of 1986, as amended.~~ Amounts so rolled over may be used to purchase service  
19 credits at the accrual rate established by the system actuary using actuarial  
20 assumptions consistently applied, subject to the limitations of Section 415(n) of the  
21 Internal Revenue Code of 1986, as amended. Any such service credit may ~~only~~ be  
22 purchased only if authorized by statutory authority, other than this Subsection,

1 specifically identifying the type of credit authorized to be purchased. Amounts may  
 2 not be rolled over which are in excess of the amounts which may be used to purchase  
 3 creditable service under Section 415(n). No member shall receive a benefit for  
 4 purchased creditable service if to do so would cause the member to receive a  
 5 retirement benefit for the same service under more than one retirement plan. ~~The~~  
 6 ~~system shall also permit members and retirees to make direct trustee to trustee~~  
 7 ~~rollovers of those distributions which are eligible for tax-free rollover treatment to~~  
 8 ~~other qualified plans as provided in Section 401(a)(31) of the Internal Revenue Code~~  
 9 ~~of 1986, as amended.~~

10 E.(1) Notwithstanding any other provision of law to the contrary that would  
 11 otherwise limit a distributee's election under this Subsection, a distributee may elect,  
 12 at the time and in the manner prescribed by the plan administrator, to have any  
 13 portion of an eligible rollover distribution paid directly to an eligible retirement plan  
 14 specified by the distributee in a direct rollover.

15 (2) If a mandatory distribution greater than one thousand dollars is made on  
 16 or after March 28, 2005, and the distributee does not elect to have such distribution  
 17 paid directly to an eligible retirement plan specified by the distributee in a direct  
 18 rollover or to receive the distribution directly, then the plan administrator shall pay  
 19 the distribution in a direct rollover to an individual retirement plan designated by the  
 20 plan administrator. For purposes of determining whether a mandatory distribution  
 21 is greater than one thousand dollars, the portion of the distributee's distribution  
 22 attributable to any rollover contribution is included.

23 F. For purposes of this Section, the following words and phrases shall have  
 24 the following meanings:

25 (1) "Direct rollovers" shall mean trustee-to-trustee transfers of sums from  
 26 other qualified plans which are permitted to roll over sums to other qualified plans  
 27 under the provisions of the Internal Revenue Code of 1986, as amended.

28 (2)(a) "Eligible rollover distribution" shall mean any distribution of all or  
 29 any portion of the balance to the credit of the distributee. An eligible rollover  
 30 distribution shall not include:

1           (i) Any distribution that is one of a series of substantially equal periodic  
2           payments, not less frequently than annually, made for the life or life expectancy of  
3           the distributee, or the joint lives or joint life expectancies of the distributee and the  
4           distributee's designated beneficiary, or for a specified period of ten years or more.

5           (ii) Any distribution to the extent such distribution is required under Section  
6           401(a)(9) of the Internal Revenue Code.

7           (iii) The portion of any distribution that is not includible in gross income,  
8           determined without regard to the exclusion for net unrealized appreciation with  
9           respect to employer securities.

10          (iv) Any other distribution that is reasonably expected to total less than two  
11          hundred dollars during a year.

12          (b) A portion of the distribution shall not fail to be an eligible rollover  
13          distribution merely because the portion consists of after-tax employee contributions  
14          which are not includible in gross income. Such portion may be transferred only to  
15          one of the following:

16           (i) A traditional individual retirement account or annuity described in  
17           Section 408(a) or (b) of the Internal Revenue Code or a Roth IRA or annuity  
18           described in Section 408A of the Internal Revenue Code.

19           (ii) A qualified defined contribution, defined benefit, or annuity plan  
20           described in Section 401(a) or 403(b) of the Internal Revenue Code, or to an annuity  
21           contract described in Section 403(b) of the Internal Revenue Code, if such plan or  
22           contract provides for separate accounting for amounts so transferred, including  
23           interest thereon, including separately accounting for the portion of such distribution  
24           which is includible in gross income and the portion of such distribution which is not  
25           so includible.

26          (3) "Eligible retirement plan" shall mean:

27           (a) An eligible plan described in Section 457(b) of the Internal Revenue  
28           Code which is maintained by a state, political subdivision of a state, or any agency  
29           or instrumentality of a state or political subdivision of a state and which agrees to  
30           separately account for amounts transferred into such plan from this system.

1                   (b) A traditional individual retirement account.

2                   (c) An annuity plan described in Section 403(b) of the Internal Revenue  
3                   Code.

4                   (d) A qualified defined benefit or defined contribution plan described in  
5                   Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible  
6                   rollover distribution.

7                   (e) A distribution to a surviving spouse or to a spouse or former spouse who  
8                   is the alternative payee under a qualified domestic relations order as defined in  
9                   Section 414(p) of the Internal Revenue Code.

10                  (4)(a) "Distributee" shall mean:

11                  (i) A member or former member.

12                  (ii) A member's or former member's surviving spouse, or a member's or  
13                  former member's spouse or former spouse who is the alternate payee under a  
14                  qualified domestic relations order as defined in Section 414(p) of the Internal  
15                  Revenue Code are distributees with regard to the interest of the spouse or former  
16                  spouse.

17                  (iii) For distributions occurring in plan years beginning after December 31,  
18                  2009, the member's or former member's nonspouse designated beneficiary if the  
19                  direct rollover is made only to a traditional individual retirement account or a Roth  
20                  IRA that is established on behalf of the designated beneficiary and is treated as an  
21                  inherited individual retirement account pursuant to the provisions of Section  
22                  402(c)(11) of the Internal Revenue Code. In this case, the determination of any  
23                  required minimum distribution under Section 401(a)(9) of the Internal Revenue Code  
24                  that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A  
25                  17 and 18, 2007-5 Internal Revenue Bulletin 395.

26                  G. The qualified military service of a member who has been reemployed in  
27                  accordance with 26 U.S.C. 414(u) shall be treated for vesting and benefit accrual  
28                  purposes as service completed under Subsection A of this Section if the member  
29                  timely remits to the system any employee contributions which would have been

1 required but for the member's leave of absence to perform qualified military service  
2 in accordance with the terms of federal law.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_