

2020 Regular Session

SENATE BILL NO. 8

BY SENATOR PEACOCK

DISTRICT ATTORNEYS RET. Provides for definitions, including "employer" and "earnable compensation". (6/30/2020)

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AN ACT

To amend and reenact R.S. 11:233(B)(3), 1581(11), 1601(1), and 1631(F)(1) and (2), and to enact R.S. 11:233(A)(5) and B(4)(c), relative to the District Attorneys' Retirement System; to provide for definitions, including "employer" and "earnable compensation"; to provide for membership; 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. 11:233(B)(3), 1581(11), 1601(1), and 1631(F)(1) and (2) are hereby amended and reenacted and R.S. 11:233(A)(5) and B(4)(c) are hereby enacted to read as follows:

§233. Earnable compensation

A. The provisions of this Section shall apply to the following public retirement or pension systems, funds, and plans:

* * *

(5) District Attorneys' Retirement System.

B.(1) * * *

1 (3) Notwithstanding the provisions of Subparagraph (2)(g) of this Subsection
 2 amounts deducted for deferred salary shall be included to calculate the amount of
 3 contributions payable by an employer and employee and to compute average
 4 compensation with respect to the Firefighters' Retirement System, the Sheriffs'
 5 Pension and Relief Fund, ~~and~~ the Parochial Employees' Retirement System of
 6 Louisiana, **and the District Attorneys' Retirement System.**

7 (4)(a) * * *

8 **(c) To the extent there is a conflict between the provisions of this**
 9 **Subsection and R.S. 11:1581 as to "earnable compensation", the provisions of**
 10 **R.S. 11:1581 shall prevail.**

11 * * *

12 §1581. Definitions

13 The following words and phrases, as used in this Chapter, unless a different
 14 meaning is plainly required by the context, shall have the following meanings:

15 * * *

16 (11) "Employer" shall mean any parish in the state of Louisiana; the state of
 17 Louisiana, or the police jury or any other governing body of a parish or political
 18 corporation or subdivision of the state of Louisiana which employs and pays persons
 19 as district attorneys or assistant district attorneys. "Employer" shall also mean this
 20 retirement system **and the Louisiana District Attorneys Association.**

21 * * *

22 §1601. Membership; condition of employment; exceptions

23 The membership of the retirement system shall be composed as follows:

24 (1) All persons who shall become employees as defined in R.S. 11:1581(10),
 25 after the date on which the retirement system is established, except those specifically
 26 excluded under Paragraph (3) of this Section, shall become members as a condition
 27 of their employment; however, ~~in the case of assistant district attorneys,~~ they must
 28 be paid an amount determined by the board but not less than ~~eleven~~ **eighteen**
 29 thousand ~~one hundred~~ dollars per year. Employees of the Louisiana District

1 Attorneys Association who were employed prior to August 15, 1997, shall have from
 2 August 15, 1997, to January 15, 1998, to exercise the option to terminate their
 3 membership in this system. Employees of the Louisiana District Attorneys
 4 Association employed on or after August 15, 1997, shall have six months from the
 5 date of their employment to, at their option, become members of this system. An
 6 employee's election as to membership shall be irrevocable. Purchase of credit for
 7 prior service by any employee of the association shall be subject to the provisions
 8 of R.S. 11:158.

* * *

§1631. Retirement benefits; application; eligibility requirements

* * *

12 F.(1) Except as provided in Paragraph (2) of this Subsection, if any member
 13 who has retired from this system is reemployed as an employee by any ~~district~~
 14 ~~attorney in the state~~ **employer**, his retirement benefit shall be suspended during said
 15 employment, and he shall not be paid any benefits for the period covered by such
 16 employment. He shall, upon such reemployment, again become an active
 17 contributing member of the system, with the option of establishing service credit for
 18 any period of full-time employment as ~~district attorney or assistant district attorney~~
 19 since returning to such employment following retirement by payment into the system
 20 the employer and employee amount plus interest that would have been withheld and
 21 paid into the system for that period based upon his total salary for such period. He
 22 shall accrue a supplemental retirement benefit based on his service rendered after
 23 reemployment. If the member continues employment after retirement for a period
 24 of less than sixty months, his supplemental monthly retirement benefit shall equal
 25 the benefit calculated under R.S. 11:1632 or 1633, whichever is applicable, based on
 26 the lesser of his average final compensation at his original retirement date or his
 27 average final compensation during the period of his subsequent reemployment. If
 28 the member continues in employment after retirement for a period of sixty months
 29 or more, his supplemental monthly retirement benefit shall equal the benefit

1 calculated under R.S. 11:1632 or 1633, whichever is applicable, based on his average
 2 final compensation during his period of reemployment. Upon retirement subsequent
 3 to reemployment, his benefit shall be equal to the benefits he was receiving
 4 immediately prior to reemployment plus the supplemental benefit earned during his
 5 reemployment.

6 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, if any
 7 ~~district attorney or assistant district attorney~~ **member**, has retired in accordance with
 8 R.S. 11:1633(A)(1)(b) or (c) and is reemployed by any ~~district attorney~~ **employer**,
 9 in this state and paid a salary of less than the annual salary provided for in R.S.
 10 16:11(A)(1), his benefit shall not be suspended, and he shall not ~~be considered a~~
 11 **become an active contributing** member, nor shall he earn additional credit or be
 12 required to pay contributions.

13 * * *

14 Section 2. This Act shall become effective on June 30, 2020; if vetoed by the
 15 governor and subsequently approved by the legislature, this Act shall become effective on
 16 June 30, 2020, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Margaret M. Corley.

DIGEST

SB 8 Original 2020 Regular Session Peacock

Present law provides that "earnable compensation" for the calculation of benefits at the District Attorneys' Retirement System (DARS) shall mean the full rate of compensation that would be payable to the member (employee) if he worked the full working time, including the expense allowance paid to the district attorney by the state of Louisiana.

Proposed law provides further specifications that "earnable compensation" shall not include the following:

- (1) Overtime unless it is required to be worked in the employee's regular tour of duty.
- (2) Operating expenses.
- (3) Use of automobile or motor vehicles.
- (4) The cost of any insurance paid by the employer.
- (5) Any allowance for expenses incurred as an incident of employment.
- (6) Payments made in lieu of unused annual or sick leave.

- (7) Bonuses, terminal pay, severance pay, deferred salary, or any other type of irregular or nonrecurring payment.

Present law provides for a definition of "employer".

Proposed law provides that the definition of "employer" shall include the Louisiana District Attorneys Association.

Present law provides that employees who make less than \$11,100 per year shall not become members of DARS.

Proposed law changes the minimum salary amount from \$11,100 to \$18,000 per year.

Proposed law makes technical changes.

Effective June 30, 2020.

(Amends R.S. 11:233(B)(3), 1581(11), 1601(1), and 1631(F)(1) and (2); adds R.S. 11:233(A)(5) and B(4)(c))