

2020 Regular Session

HOUSE BILL NO. 21

BY REPRESENTATIVE BACALA

1 AN ACT

2 To amend and reenact R.S. 11:2213(11)(b) and (12), 2214(A)(2)(a) and (d)(ii) and (B),  
3 2220(B)(1)(a)(i) and (2)(d), 2223(F), 2241.4, 2241.8(1)(a), and 2242.8(1)(a), to enact  
4 R.S. 11:2213(11)(h), (12.1), and (21.1), 2214(A)(2)(d)(iv) and (v), 2220(B)(2)(e) and  
5 (6) and (J), (K), and (L), 2223(A)(3) and (G), 2224(G) and (H), 2241.8(5), and  
6 2242.8(5), and to repeal R.S. 11:2219, relative to the Municipal Police Employees'  
7 Retirement System; to provide for payment of benefits to trusts; to provide relative  
8 to age and other limitations on membership; to provide relative to required physical  
9 examinations; to provide relative to survivor and disability benefits and beneficiary  
10 options; to provide relative to reemployment of retirees; to provide relative to  
11 collection of benefits paid in error; and to provide for related matters.

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

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 11:2213(11)(b) and (12), 2214(A)(2)(a) and (d)(ii) and (B),  
17 2220(B)(1)(a)(i) and (2)(d), 2223(F), 2241.4, 2241.8(1)(a), and 2242.8(1)(a) are hereby  
18 amended and reenacted and R.S. 11:2213(11)(h), (12.1), and (21.1), 2214(A)(2)(d)(iv) and  
19 (v), 2220(B)(2)(e) and (6) and (J), (K), and (L), 2223(A)(3) and (G), 2224(G) and (H),  
20 2241.8(5), and 2242.8(5) are hereby enacted to read as follows:

1 §2213. Definitions

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

4 \* \* \*

5 (11) "Employee" shall mean any of the following classifications:

6 \* \* \*

7 (b) Any elected chief of police whose salary is at least one ~~hundred~~ thousand  
8 dollars per month.

9 \* \* \*

10 (h) Any member who retires after June 30, 2021, and who is employed on  
11 a full-time basis by a police department of any municipality in Louisiana.

12 (12) "Employer" shall mean any municipality in the state of Louisiana which  
13 employs a full-time police officer, empowered to make arrests, or which has an  
14 elected chief of police whose salary is at least one ~~hundred~~ thousand dollars per  
15 month, and the Municipal Police Employees' Retirement System.

16 (12.1) "Full-time" shall mean employment on a permanent, regularly  
17 scheduled basis for at least an average of thirty hours per week.

18 \* \* \*

19 (21.1) "Special needs trust" shall mean a trust that is established for the sole  
20 benefit of a member's child who meets the definition of an individual with a  
21 disability under the federal Social Security Act, that permits such child to qualify for  
22 public benefits, including but not limited to those under the federal Social Security  
23 Act such as Supplemental Security Income and Medical Assistance, and that  
24 terminates upon the death of the child.

25 \* \* \*

1 §2214. Membership

2 A. The membership of the retirement system shall be composed as follows:

3 \* \* \*

4 (2)(a) Except as provided further in this Paragraph, any person who becomes  
5 an employee as defined in R.S. 11:2213 on and after September 9, 1977, shall  
6 become a member as a condition of his employment; ~~provided he is~~ However, a  
7 person who becomes an employee before July 1, 2021, shall become a member only  
8 if he is under fifty years of age at the date of employment.

9 \* \* \*

10 (d)

11 \* \* \*

12 (ii) The submission to a physical examination and the execution of any  
13 waivers of preexisting conditions or history shall be completed and all  
14 documentation related thereto received by the system within six months after the  
15 date of employment. The employee is then a member of the system from the date  
16 of employment. If the documentation for an employee whose employment making  
17 him eligible for membership in the system occurs on or before June 30, 2021, is not  
18 received by the system within the allotted time period, the employee shall be a  
19 member for purposes of receiving regular benefits from the date of employment but  
20 shall not be eligible for disability benefits until the documentation has been received  
21 by the system except as provided in Item (iii) of this Subparagraph. If the system  
22 does not receive the documentation within the allotted time period for an employee  
23 whose employment making him eligible for membership in the system occurred after  
24 June 30, 2021, the employee shall be a member eligible to begin vesting for regular  
25 benefits from the date of employment but shall not be eligible to begin vesting for  
26 disability benefits for an injury not incurred in the line of duty until the  
27 documentation is received.

28 \* \* \*

1 (iv) A new physical examination shall be completed for any employee who  
2 has a break in service longer than one year.

3 (v) If the physical examination is not completed because the employer  
4 refused to pay for the physical examination, the employer is liable for any disability  
5 benefit to which the member becomes entitled.

6 \* \* \*

7 B. ~~Should any member, after becoming a member, be~~ If a member is absent  
8 from service for more than five years, years on or before June 30, 2021, and is not  
9 ~~be~~ entitled to a deferred annuity as provided in this Chapter; or should he withdraw  
10 if a member withdraws his accumulated contributions, or should he become becomes  
11 a beneficiary, or ~~die~~ dies, he shall thereupon cease to be a member.

12 \* \* \*

13 §2220. Benefits; contribution limit

14 \* \* \*

15 B. Benefits shall be payable to any survivor of an active contributing  
16 member who dies before retirement or a disability retiree who dies after retirement  
17 as specified in the following:

18 (1)(a)(i) If an active contributing member or a disability retiree dies and  
19 leaves a surviving spouse, the surviving spouse shall receive a benefit equal to the  
20 regular retirement formula, disregarding age, but not less than forty percent nor more  
21 than sixty percent of the member's average final compensation. If the surviving  
22 spouse remarries, such benefit shall cease unless remarriage occurs after age ~~sixty~~  
23 fifty-five years; the benefit shall resume after a subsequent termination of the new  
24 marriage and upon approval of the board of trustees. A surviving spouse under age  
25 fifty-five who receives survivor benefits shall submit to the board of trustees, by  
26 October first of every year beginning with the second October first following the  
27 member's death, or October 1, 2021, whichever is later, a notarized statement  
28 attesting his marital status throughout the prior fiscal year. The benefit of a  
29 surviving spouse who does not timely submit such a statement shall be discontinued,  
30 without retroactive reimbursement, until the statement is submitted. If the spouse

1           does not submit the statement for the remainder of the calendar year, the board of  
2           trustees may revoke his rights in and to survivor benefits.

3   \*           \*           \*

4   (2)

5   \*           \*           \*

6   (d) If at the time of a member's death a special needs trust has been created  
7           by the deceased member for the benefit of such child or children, the payment shall  
8           be made to any person designated as a trustee on a certified copy of a trust document  
9           submitted to the system by the member.

10   (e) Qualifying survivor's benefits are payable upon application therefor and  
11           become effective as of the day following the death of the member. If survivor  
12           benefits are being paid on behalf of a deceased member at the time a survivor applies  
13           for benefits, that survivor's benefits shall become effective and payable on the first  
14           day of the next month following sixty days from the date that the system receives the  
15           survivor's completed application for benefits.

16   \*           \*           \*

17   (6) A claim for survivor benefits or a refund of accumulated contributions  
18           shall be filed with the system by the later of June 30, 2023, or three years from the  
19           date of death. The provisions of this Paragraph shall apply to Hazardous Duty  
20           Subplan and Non-hazardous Duty Subplan members.

21   \*           \*           \*

22   J.(1) The benefits of any retiree of this system who retires on or after July  
23           1, 2021, and becomes employed by an employer but does not meet the definition of  
24           an employee within the twenty-four-month period immediately following the  
25           effective date of his retirement shall be suspended for the duration of such  
26           employment or the lapse of twenty-four months from the effective date of retirement,  
27           whichever occurs first, even if such service is part-time, based on employment by  
28           contract, or in a non-qualifying position.

1           (2)(a) The retiree and his employer shall immediately notify the board of the  
2           retiree's date of employment. If failure to give notice of employment results in any  
3           payment being made in violation of this Section, the employer shall be liable to the  
4           system for the repayment of such amounts.

5           (b) The employer shall be charged interest at the legal rate which shall be  
6           due from the date of the payment to the retiree.

7           (c) Any employer that fails to pay the system for overpayments under this  
8           Section within ninety days from the date that the benefit was paid shall be liable for  
9           a penalty of twenty-five percent of each monthly retirement benefit payment that was  
10          not repaid in full with interest.

11          (d) The employer shall also reimburse the system for any legal fees paid by  
12          the system in the collection of amounts pursuant to this Subsection.

13          (3) The provisions of this Subsection shall also apply to Hazardous Duty  
14          Subplan and Non-hazardous Duty Subplan retirees who retire on or after July 1,  
15          2021.

16          K.(1) The board of trustees shall use all reasonable means to collect benefits  
17          paid by the system to an individual who was not due the benefit. The right to collect  
18          any benefit paid to a member, retiree, surviving spouse, surviving child, or optional  
19          beneficiary to whom the benefit was not due shall prescribe after a period of three  
20          years has elapsed from the date of the payment, except in the case of fraud. If any  
21          individual receiving a payment committed a fraud against the system, the collection  
22          of such fraudulent payment shall prescribe after a period of thirty years from the date  
23          of payment.

24          (2) The provisions of this Subsection do not apply to payments made to a  
25          retiree that were not due under Subsection J of this Section.

26          (3) Notwithstanding the provisions of 11:192, if the system pays a sum of  
27          money or benefits totaling at least five thousand dollars to a retiree, beneficiary, or  
28          survivor that is not due them and the retiree, beneficiary, or survivor is entitled to  
29          future benefits, the board of trustees shall adjust the amount payable to the correct  
30          amount and then actuarially reduce the corrected amount to account for the entire

1 amount of overpayments plus legal interest from the date of the overpayment. Unless  
2 the overpayment was due to the fault of the system, the retiree, beneficiary, or  
3 survivor's benefit shall also be reduced to account for any cost incurred by the  
4 system to calculate the actuarial reduction.

5 L. Notwithstanding R.S. 11:143(D)(5), any member who transferred service  
6 credit from another system, fund, or plan at an accrual rate that is lower than the  
7 accrual rate of the receiving system, may elect to upgrade the accrual rate of all or  
8 a portion of his transferred service credit by paying an amount calculated on an  
9 actuarial basis that totally offsets the increase in accrued liability of the receiving  
10 system resulting from the accrual rate upgrade.

11 \* \* \*

12 §2223. Disability retirement

13 A.

14 \* \* \*

15 (3)(a) A member may appeal a decision made pursuant to R.S. 11:218(D)(2)  
16 or (3), regarding eligibility for disability benefits, by filing a petition in the  
17 Nineteenth Judicial District Court of Louisiana within thirty days after receipt of  
18 written notice of the decision.

19 (b) An appeal of any other decision of the board regarding eligibility for  
20 disability benefits may be instituted by the member or his beneficiary by filing a  
21 petition in the Nineteenth Judicial District Court of Louisiana within thirty days after  
22 receipt of written notice of the decision.

23 \* \* \*

24 ~~F. Notwithstanding the provisions of R.S. 11:221(E), any disability benefits~~  
25 ~~granted under the provisions of this Section shall not be reduced because the~~  
26 ~~disability retiree is also receiving social security disability benefits. Any claim for~~  
27 ~~disability benefits by a member disabled after June 30, 2021, shall be filed with the~~  
28 ~~system within three years from the date of disability.~~

1           G.(1) Notwithstanding the provisions of R.S. 11:220(A), whenever the board  
2           of trustees requires any disability retiree who has not yet attained the equivalent age  
3           of regular retirement to undergo a medical examination to determine continued  
4           eligibility to receive a disability retirement benefit, the cost of such examination shall  
5           be paid by the system.

6           (2) A contested decision as to continued eligibility for disability benefits as  
7           a result of the required examination shall be appealed in accordance with R.S.  
8           11:218, and Paragraph (A)(3) of this Section. Any further medical examinations  
9           shall be at the expense of the party as set forth in R.S. 11:218.

10           §2224. Optional allowances

11   \*         \*         \*

12           G.(1) A member who is married under a community property regime shall  
13           provide consent of his spouse or an affidavit of unknown location, as provided in  
14           Paragraph (2) of this Subsection, before he can elect any of the following retirement  
15           options:

16           (a) The maximum benefit under the introductory paragraph of Subsection A  
17           of this Section.

18           (b) Any other option under Subsection A of this Section naming someone  
19           other than the member's spouse as the beneficiary.

20           (c) Any Deferred Retirement Option Plan annuity benefit approved by the  
21           board of trustees naming someone other than the member's spouse as the beneficiary.

22           (2)(a) For purposes of this Subsection, consent of the spouse shall be in  
23           writing on a form provided by the system and executed before a notary public.

24           (b) If the spouse cannot be located, the member shall submit an original  
25           affidavit signed by the member before a notary public that evidences good faith  
26           efforts to locate the spouse.



1           (3) The system shall establish the benefit as if the member had selected a  
 2           fifty percent joint and survivor annuity as provided in Subsection A of this Section  
 3           for a member who is married under a community property regime and who does not  
 4           provide spousal consent or affidavit of unknown location at the time of the member  
 5           retirement.

6           (4) A married member is deemed to be married under a community property  
 7           regime unless the member submits to the system a valid and enforceable matrimonial  
 8           agreement establishing a marital regime of separate property. By furnishing such  
 9           agreement to the system, the member agrees to indemnify and hold harmless the  
 10          state and the system from any responsibility or liability based on the validity,  
 11          enforceability, or effectiveness of the separate property agreement and any benefits  
 12          thereafter paid to the member. If the system's reliance on an invalid or unenforceable  
 13          separate property agreement causes the system to pay excess benefits, the system  
 14          shall reduce the future benefits payable to the member in an amount necessary to  
 15          completely offset such excess benefits.

16                   H. A special needs trust may be named as an optional beneficiary.

17                                   \*       \*       \*

18           §2241.4. Eligibility for retirement

19           A. Any member of this subplan shall be eligible for retirement if he has:

20                   (1) Twenty-five years or more of service, at any age.

21                   (2) Twelve years or more of service, at age fifty-five or thereafter.

22                   (3) Twenty years of service credit at any age, exclusive of unused annual and  
 23                   sick leave and military service other than qualified military service as provided in 26  
 24                   U.S.C. 414(u) earned on or after December 12, 1994. Any person retiring under this  
 25                   Paragraph shall have his benefit, inclusive of military service credit and allowable  
 26                   unused annual and sick leave, actuarially reduced. Any member retiring under this  
 27                   Paragraph shall have his benefit actuarially reduced from the earliest age that he  
 28                   would normally become eligible for a regular retirement benefit under Paragraph (1)  
 29                   or (2) of this ~~Section~~ Subsection based upon his years of service as of the date of  
 30                   retirement. Any employee who elects to retire under the provisions of this Paragraph

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 shall not be eligible to participate in the Deferred Retirement Option Plan provided  
2 by R.S. 11:2221 or the Initial Benefit Option provided by R.S. 11:2224(F).

3 B. Members of the subplan who have service credit in more than one subplan  
4 shall meet retirement eligibility based upon the reciprocal recognition provisions of  
5 R.S. 11:142.

6 \* \* \*

7 §2241.8. Survivor benefits

8 Benefits shall be payable to any survivor of an active contributing member  
9 who dies before retirement or a disability retiree who dies after retirement as  
10 specified in the following:

11 (1)(a) If an active contributing member or a disability retiree either of whom  
12 has at least ten years of creditable service in the system dies and leaves a surviving  
13 spouse, the surviving spouse shall receive a benefit calculated according to the  
14 regular retirement formula, disregarding age, but not less than thirty-three percent  
15 nor more than fifty-five percent of the member's average final compensation. If the  
16 surviving spouse remarries, such benefit shall cease unless remarriage occurs after  
17 age ~~sixty~~ fifty-five years; the benefit shall resume after a subsequent termination of  
18 the new marriage and upon approval of the board of trustees.

19 \* \* \*

20 (5) If the board of trustees determines that an active contributing member is  
21 killed as a result of injuries sustained in the line of duty, the requirement to have at  
22 least ten years of creditable service in the system shall not be applied.  
23 Notwithstanding any other provision of law to the contrary, the board of trustees  
24 shall not collect overpayments of survivor benefits paid in administrative error prior  
25 to June 30, 2020, except in a case of fraud, to the survivors of active contributing  
26 members with less than ten years of creditable service in the system who were killed  
27 as a result of injuries sustained in the line of duty.

28 \* \* \*

1 §2242.8. Survivor benefits

2 Benefits shall be payable to any survivor of an active contributing member  
 3 who dies before retirement or a disability retiree who dies after retirement as  
 4 specified in the following:

5 (1)(a) If an active contributing member or a disability retiree either of whom  
 6 has at least ten years of creditable service in the system dies and leaves a surviving  
 7 spouse, the surviving spouse shall receive a benefit calculated according to the  
 8 regular retirement formula, disregarding age, but not less than twenty-five percent  
 9 nor more than fifty percent of the member's average final compensation. If the  
 10 surviving spouse remarries, such benefit shall cease unless remarriage occurs after  
 11 age ~~sixty~~ fifty-five years; the benefit shall resume after a subsequent termination of  
 12 the new marriage and upon approval of the board of trustees.

13 \* \* \*

14 (5) If the board of trustees determines that an active contributing member is  
 15 killed as a result of injuries sustained in the line of duty, the requirement to have at  
 16 least ten years of creditable service in the system shall not be applied.  
 17 Notwithstanding any other provision of law to the contrary, the board of trustees  
 18 shall not collect overpayments of survivor benefits paid in administrative error prior  
 19 to June 30, 2020, except in a case of fraud, to the survivors of active contributing  
 20 members with less than ten years of creditable service in the system who were killed  
 21 as a result of injuries sustained in the line of duty.

1           Section 2. R.S. 11:2219 is hereby repealed in its entirety.

2           Section 3. This Act shall become effective on July 1, 2020; if vetoed by the governor  
3 and subsequently approved by the legislature, this Act shall become effective on July 1,  
4 2020, or on the day following such approval by the legislature, whichever is later.

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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: \_\_\_\_\_