

2021 Regular Session

HOUSE BILL NO. 25

BY REPRESENTATIVE VILLIO

1 AN ACT

2 To amend and reenact R.S. 11:233(B)(3) and 1581(5) and to enact R.S. 11:233(A)(5) and
3 (B)(4)(c) and 1589, relative to the District Attorneys' Retirement System; to provide
4 relative to retirement benefits; to provide relative to compensation considered in the
5 calculation of contributions and benefits; to provide for the correction of errors and
6 recovery of overpayments; to provide for an effective date; and to provide for related
7 matters.

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

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 11:233(B)(3) and 1581(5) are hereby amended and reenacted and
13 R.S. 11:233(A)(5) and (B)(4)(c) and 1589 are hereby enacted to read as follows:

14 §233. Earnable compensation

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

17 * * *

18 (5) District Attorneys' Retirement System

19 B.

20 * * *

21 (3) Notwithstanding the provisions of Subparagraph (2)(g) of this Subsection
22 amounts deducted for deferred salary shall be included to calculate the amount of
23 contributions payable by an employer and employee and to compute average
24 compensation with respect to the Firefighters' Retirement System, the Sheriffs'

1 Pension and Relief Fund, ~~and~~ the Parochial Employees' Retirement System of
2 Louisiana, and the District Attorneys' Retirement System.

3 (4)

4 * * *

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

8 * * *

9 §1581. Definitions

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

12 * * *

13 (5)(a) For a member eligible to receive an unreduced retirement benefit as
14 provided in R.S. 11:1632(B)(1) or 1633(B)(1), before July 1, 2021, "Average
15 average final compensation" shall mean the average monthly compensation earned
16 by an employee during any period of sixty successive months of service as an
17 employee during which the ~~said~~ earned compensation was the highest. The average
18 monthly compensation shall include compensation not paid by the state, but only to
19 the extent that nonstate compensation for the thirteenth through the twenty-fourth
20 month does not exceed one hundred ten percent of the total of nonstate compensation
21 for the first through twelfth month, and that nonstate compensation for the twenty-
22 fifth through the thirty-sixth month does not exceed one hundred ten percent of the
23 total of nonstate compensation for the thirteenth through the twenty-fourth month,
24 and that nonstate compensation for the thirty-seventh through the forty-eighth month
25 does not exceed one hundred ten percent of the total of nonstate compensation for
26 the twenty-fifth through thirty-sixth month, and that nonstate compensation for the
27 forty-ninth through the sixtieth month does not exceed one hundred ten percent of
28 the total of nonstate compensation for the thirty-seventh through forty-eighth month.
29 Fees ~~and compensation excluded by R.S. 11:233(B)(2)~~ earned in connection with
30 official duties shall not be included in average final compensation. In the event of

1 interruption of employment, the sixty-month period shall be computed by joining
 2 employment periods immediately preceding and succeeding the interruption.

3 (b) Except as provided in Subparagraph (a) of this Paragraph, "average final
 4 compensation" shall mean the average monthly compensation earned by an
 5 employee during any period of sixty successive months of service as an employee
 6 during which the earned compensation was highest. The average monthly
 7 compensation shall include all compensation, but only to the extent that
 8 compensation for the thirteenth through the twenty-fourth month does not exceed
 9 one hundred ten percent of the total compensation for the first through twelfth
 10 month, and compensation for the twenty-fifth through the thirty-sixth month does not
 11 exceed one hundred ten percent of the total compensation for the thirteenth through
 12 the twenty-fourth month, and compensation for the thirty-seventh through the forty-
 13 eighth month does not exceed one hundred ten percent of the total compensation for
 14 the twenty-fifth through thirty-sixth month, and compensation for the forty-ninth
 15 through the sixtieth month does not exceed one hundred ten percent of the total
 16 compensation for the thirty-seventh through forty-eighth month. Fees and
 17 compensation excluded by R.S. 11:233(B)(2) earned in connection with official
 18 duties shall not be included in average final compensation. In the event of
 19 interruption of employment, the sixty-month period shall be computed by joining
 20 employment periods immediately preceding and succeeding the interruption.

21 (c) Compensation of a member in excess of two hundred thousand dollars,
 22 as adjusted for increases in the cost-of-living under 26 U.S.C. 401(a)(17)(B) for
 23 years beginning after January 1, 2002, shall not be taken into account. This
 24 limitation may be adjusted by rules promulgated by the board of trustees in
 25 accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et
 26 seq. For purposes of compliance with the requirements for qualification under 26
 27 U.S.C. 401(a), the board of trustees may promulgate rules further defining
 28 "compensation" and "section 415 compensation" in accordance with the
 29 Administrative Procedure Act.

30 * * *

1 §1589. Overpayment of benefits; corrections; repayment

2 A. The director may correct any administrative error and make all
3 adjustments relative to such correction as provided in Subsection C of this Section.

4 The director shall correct such error based solely on sufficient documentation, which
5 shall be submitted to the board of trustees for approval at the next board meeting
6 after receipt of such documentation, whether such administrative error was
7 committed by the system or otherwise.

8 B. If an underpayment of benefits is due to an administrative error committed
9 by system staff, the correction of the error pursuant to Subsection A of this Section
10 may include the payment of interest at a rate not to exceed the system's valuation
11 interest rate or the judicial interest rate, whichever is lower.

12 C. If an amount is paid to a retiree, beneficiary, or survivor which is not due
13 him, the board of trustees shall adjust the amount payable to the correct amount, and
14 the board may recover any overpayment by reducing the corrected benefit such that
15 the overpayment will be repaid within twelve months. The director or board of
16 trustees shall notify the retiree, beneficiary, or survivor of the amount of
17 overpayment in benefits and the amount of the adjustment in benefits at least thirty
18 days prior to any reduction from the benefit amount without the overpayment.

19 D. The right to collect any benefit paid to a retiree, beneficiary, or survivor
20 which is not due him, due to administrative error by the system, applies only to
21 amounts paid during the thirty-six month period immediately preceding the date on
22 which notice of such error is sent to the member, except in the case of fraud. This
23 right to collect is subject to a liberative prescription of ten years. This prescription
24 commences to run from the date the system has actual knowledge of the error in
25 payment.

26 E. Notwithstanding the provisions of Subsection D of this Section, if the
27 individual received a payment because of a fraud against the system, the right to
28 collect such fraudulent payment shall extend to the entire amount of overpayment
29 obtained through fraud. This right to collect is subject to a liberative prescription of

1 ten years. This prescription commences to run from the date the system has actual
 2 knowledge of the error in payment.

3 Section 2. This Act shall become effective on July 1, 2021; if vetoed by the governor
 4 and subsequently approved by the legislature, this Act shall become effective on July 1,
 5 2021, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____