

2022 Regular Session

SENATE BILL NO. 8

BY SENATOR PRICE

STATE POLICE RETIREMENT. Clarifies and standardizes language relative to certain benefits. (6/30/22)

1 AN ACT

2 To amend and reenact R.S. 11:1307(E), 1310(A)(2)(a), 1312.1(A)(2) and the introductory  
3 paragraph of (D)(2), 1318, 1321(A)(1), 1322(B) and (D), 1323(B)(1), (C), and  
4 (D)(1), and 1345.8(B)(1), and to enact R.S. 11:1322.1, relative to the Louisiana State  
5 Police Retirement System; to provide with respect to benefits; to provide relative to  
6 qualifications for payment; to provide for clarification of statutory language; to  
7 provide relative to payment of benefits to a trust for specific beneficiaries; to provide  
8 for an effective date; and to provide for related matters.

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 11:1307(E), 1310(A)(2)(a), 1312.1(A)(2) and the introductory  
12 paragraph of (D)(2), 1318, 1321(A)(1), 1322(B) and (D), 1323(B)(1), (C), and (D)(1), and  
13 1345.8(B)(1) are hereby amended and reenacted and R.S. 11:1322.1 is hereby enacted to  
14 read as follows:

15 §1307. Persons eligible to retire on basis of service and age; retirement benefits

16 \* \* \*

17 E. In lieu of receiving the regular retirement salary computed pursuant to

1 Subsection A of this Section, a member of the system who does not participate in the  
 2 Back-Deferred Retirement Option Program provided by the provisions of this  
 3 Chapter and who is eligible for a regular retirement salary computed pursuant to  
 4 Subsection A of this Section or R.S. 11:1345.4 may elect to receive a reduced  
 5 retirement salary plus an initial benefit, provided the initial benefit, together with the  
 6 reduced retirement salary, shall be certified by the actuary to be actuarially  
 7 equivalent to the member's regular retirement salary computed pursuant to  
 8 Subsection A of this Section or R.S. 11:1345.4. The amount of the initial benefit, as  
 9 determined by the member, shall not exceed an amount equal to the member's  
 10 maximum monthly retirement salary multiplied by thirty-six. The initial benefit  
 11 shall, at the option of the member, be paid as a lump sum or placed in an interest-  
 12 earning account in accordance with R.S. 11:1312.1(D)(4). Cost-of-living adjustments  
 13 granted by the board of trustees to retirees who elect to receive a reduced retirement  
 14 salary and an initial benefit shall be based only on the reduced retirement salary and  
 15 shall not be based on the initial benefit.

16 \* \* \*

17 §1310. Average salary; method of determining

18 A. \* \* \*

19 (2)(a) With respect to persons becoming employed on and after September  
 20 8, 1978, and whose first employment making them eligible for membership in one  
 21 of the state systems occurred on or before December 31, 2010, the term "average  
 22 salary" as used in this Chapter for the purpose of determining pension payments and  
 23 retirement is the average salary including any additional pay or salary provided by  
 24 the legislature over and above that set by the Civil Service Commission, received for  
 25 the ~~thirty-six month period ending on the last day of the month immediately~~  
 26 ~~preceding the date of retirement or date of death or for any thirty-six consecutive~~  
 27 ~~months~~ **thirty-six highest months of successive employment, or for the highest**  
 28 **thirty-six successive joined months of employment where interruption of service**  
 29 **occurred**, whichever is the greatest. For the purposes of computation, "average

1 salary" shall not include overtime, expenses, or clothing allowances.

2 \* \* \*

3 §1312.1. Back-Deferred Retirement Option Program

4 A.(1) \* \* \*

5 (2) In lieu of receiving a normal retirement benefit pursuant to R.S. 11:1307  
6 through 1310 **or R. S. 11:1345.4 and 1345.5**, an eligible member of the system may  
7 elect to retire and have his benefits structured, calculated, and paid as provided in  
8 this Section.

9 \* \* \*

10 D.(1) \* \* \*

11 (2) The member's Back-DROP monthly benefit shall be calculated pursuant  
12 to the provisions applicable for service retirement set forth in R.S. 11:1307 through  
13 1310 **or R.S. 11:1345.4 and 1345.5**, subject to the following conditions:

14 \* \* \*

15 §1318. Pension of children with physical or mental disabilities of deceased  
16 employee hired on or before December 31, 2010

17 A. Any child of a deceased member whose first employment making him  
18 eligible for membership in one of the state systems occurred on or before December  
19 31, 2010, whether under or over the age of eighteen years, shall be entitled to the  
20 same benefits, payable in the same manner as provided by this Chapter for surviving  
21 spouses, if the child has a total **and permanent** physical ~~disability~~ or mental  
22 disability.

23 B. The applicant shall provide adequate proof of **total and permanent**  
24 physical or mental disability of such surviving child or children and shall notify the  
25 board of any subsequent changes in the child's condition. The board may require a  
26 certified statement of the child's eligibility status at the end of each calendar year.

27 \* \* \*

28 §1321. Surviving spouse remarrying; forfeiture of pension; employees hired on or  
29 before December 31, 2010

1           A.(1) This Section shall apply to the surviving spouse of any member whose  
 2 first employment making him eligible for membership in one of the state systems  
 3 occurred on or before December 31, 2010. If the surviving spouse of a deceased  
 4 employee remarries while receiving the surviving spouse's pension under the  
 5 provisions of this Chapter, such spouse thereupon forfeits all rights to the spouse's  
 6 pension, **except as provided in R.S. 11:234.**

7                                   \*       \*       \*

8           §1322. Death of former or retired employee hired on or before December 31, 2010;  
 9                                   pension payable to survivors

10                                   \*       \*       \*

11           B. The surviving spouse of a deceased retired employee shall receive a  
 12 pension in an amount equal to the monthly retirement pay that was being paid to the  
 13 decedent on the date of death, **not to exceed one hundred percent of the member's**  
 14 **average compensation,** provided the surviving spouse was married to the decedent  
 15 for at least two years prior to the decedent's death.

16                                   \*       \*       \*

17           D. Remarriage of the surviving spouse acts as a forfeiture of any rights to  
 18 receive any further benefits hereunder, except as provided in **R.S. 11:234 and** R.S.  
 19 11:1321(B).

20                                   \*       \*       \*

21           **§1322.1. Children's benefits; payment to trust**

22                                   **The benefits payable to a child under this Chapter shall be paid to the**  
 23 **person having legal custody of the property of the child, unless a trust created**  
 24 **under Louisiana law has been created by the deceased member for the benefit**  
 25 **of the child, the terms of the instrument creating the trust so provide and the**  
 26 **system has been provided with a certified copy of the trust document, then the**  
 27 **survivor benefit shall be paid to the trust under the terms of the trust for**  
 28 **addition to the trust property. In the event that the trust is contested by any**  
 29 **party, the system shall withhold all survivor benefit payments or deposit them**

1 in the registry of the court if a concursus proceeding is filed, until there is a final  
 2 binding legal agreement or judgment regarding the proper payment of the  
 3 survivor benefits.

4 §1323. Death of employee not in performance of duty; employees hired on or after  
 5 January 1, 2011

6 \* \* \*

7 B.(1) A surviving spouse with a minor child or child with a **total and**  
 8 **permanent** physical **or mental** disability, ~~or a child with a mental disability,~~ or  
 9 children shall be paid per month, for so long as one or more children remain eligible  
 10 for benefits under Subsection C of this Section, fifty percent of the benefit to which  
 11 the member would have been entitled if he had retired on the date of his death using  
 12 the member's applicable accrual rate regardless of years of service or age, or six  
 13 hundred dollars per month, whichever is greater, provided the deceased member was  
 14 an active member at the time of death and had five or more years of service credit,  
 15 at least two years of which were earned immediately prior to death or provided the  
 16 deceased member had twenty or more years of service credit regardless of when  
 17 earned or whether the deceased member was in active service at the time of death.

18 \* \* \*

19 C.(1) In addition to the amount payable in accordance with Subsection B of  
 20 this Section, for the benefit of the surviving minor child, or children, there shall be  
 21 paid for each such child, ~~subject to a maximum of two children,~~ per month fifty  
 22 percent of the benefit to which a spouse would be entitled under Subsection B of this  
 23 Section. Benefits shall be payable to such children even if no spouse eligible for  
 24 survivor benefits is present, provided the member had at least five years of service  
 25 credit. Benefits for a child shall cease when the child is no longer a minor child as  
 26 defined by this Chapter. No surviving minor child shall receive more than one  
 27 survivor's benefit at any one time. If two benefits are applicable, only the larger shall  
 28 be paid.

29 (2)(a) In addition to the amount payable in accordance with Subsection B of

1 this Section, any surviving child of a deceased member, whether under or over the  
 2 age of eighteen years, shall be entitled to the same benefits, payable in the same  
 3 manner, as are provided by this Section for minor children, if the child has a total  
 4 **and permanent** physical ~~disability~~ or mental disability, and had such disability at  
 5 the time of the death of the member and is dependent upon the surviving spouse or  
 6 other legal guardian.

7 (b) The applicant shall provide adequate proof of physical or mental  
 8 disability of such surviving child or children and shall notify the board of any  
 9 subsequent changes in the child's condition to such an extent that the child is no  
 10 longer dependent upon the surviving spouse or legal guardian and any changes in the  
 11 assistance being received from other state agencies. The board may require a  
 12 certified statement of the child's eligibility status at the end of each calendar year.

13 **(3) In no event shall the benefits payable under this Subsection be more**  
 14 **than the benefit payable under Subsection B of this Section. In the event that**  
 15 **more than two children are eligible for a benefit under this Subsection, the**  
 16 **eligible children shall share equally in the benefit.**

17 D.(1) A surviving spouse without a minor child or a child with a **total and**  
 18 **permanent** physical **or mental** disability, ~~or a child with a mental disability,~~ or  
 19 children shall be paid per month, for the remainder of his life, a benefit based on  
 20 years of service that the member had earned to the date of his death using the  
 21 applicable accrual rate, or six hundred dollars per month, whichever is greater,  
 22 provided the surviving spouse had been married to the deceased member for at least  
 23 one year prior to death, and provided the deceased member was an active member  
 24 at the time of death and had ten or more years of service credit, at least two years of  
 25 which were earned immediately prior to death or provided the deceased member had  
 26 twenty or more years of service credit regardless of when earned or whether the  
 27 deceased member was in active service at the time of death.

28 \* \* \*

29 §1345.8. Survivors' benefit for members killed in the line of duty; death by an

1 intentional act of violence

2 \* \* \*

3 B.(1) If the member has a surviving spouse, a child or children who are  
 4 minors, have a **total and permanent physical or mental** disability, ~~or are mentally~~  
 5 ~~incapacitated~~, or both a surviving spouse and a child or children, the amount of the  
 6 total benefit shall equal eighty percent of the member's average compensation. The  
 7 benefit shall be shared equally by the surviving spouse and any children. When a  
 8 child who ~~neither has a disability nor is mentally incapacitated~~ **does not have a total**  
 9 **and permanent physical or mental disability** no longer meets the definition of  
 10 minor child under R.S. 11:1301, his benefit shall cease, and the remaining  
 11 beneficiaries shall have their shares adjusted accordingly.

12 \* \* \*

13 Section 2. This Act shall become effective on June 30, 2022; if vetoed by the  
 14 governor and subsequently approved by the legislature, this Act shall become effective on  
 15 June 30, 2022, or on the day following such approval by the legislature, whichever is earlier.

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The original instrument was prepared by Angela Lockett-De Jean. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cheryl Serrett.

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| SB 8 Reengrossed | DIGEST<br>2022 Regular Session | Price |
|------------------|--------------------------------|-------|
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Present law provides for two subplans in the Louisiana State Police Retirement System (State Police): the "old" plan for those employed by December 31, 2010, and the "new" plan for those employed January 1, 2011, or thereafter.

Proposed law retains present law.

Present law allows a system member in either subplan who is eligible to retire to elect to receive a lump sum and a reduced monthly benefit in lieu of receiving the regular monthly benefit. Provides two methods for computing the lump sum and the reduced monthly benefit: an initial benefit option (IBO) or a Back-Deferred Retirement Option (Back-DROP).

Proposed law retains present law. Adds references to present law benefit computation.

Present law provides for a 36-month "average salary" to be used in calculating benefits in the old plan.

Proposed law retains present law and clarifies that the 36 months to be used are the 36 successive or joined months with the highest average salary.

Present law provides for survivor benefits to be paid to certain spouses and children of

deceased members or retirees, including surviving children with certain disabilities.

Proposed law retains present law and standardizes the language used to identify eligible children and to calculate benefits payable to those children.

Present law, applicable only to State Police, provides for forfeiture of a surviving spouse's rights to benefits from the system upon remarriage. Present law, applicable to all state and statewide retirement systems including State Police, specifies that if the remarriage occurs after the spouse attains age 55, benefits shall not be discontinued.

Proposed law retains present law and incorporates present law exception applicable to all state and statewide systems in the system-specific present law.

Proposed law provides for benefits payable to a child from the system to be paid into a trust created by the decedent for the benefit of the child. Provides that if the trust is contested the system will withhold the benefit payments or deposit them in the registry of the court until there is a final binding legal agreement or judgment regarding the proper payment of the survivor benefits.

Effective June 30, 2022.

(Amends R.S. 11:1307(E), 1310(A)(2)(a), 1312.1(A)(2) and (D)(2)(intro. para.), 1318, 1321(A)(1), 1322(B) and (D), 1323(B)(1), (C), and (D)(1), and 1345.8(B)(1); adds R.S. 11:1322.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Retirement to the original bill

1. Make technical corrections.

##### Senate Floor Amendments to engrossed bill

1. Makes technical changes.