
DIGEST

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Pearson

HB No. 729

Abstract: Provides for the retirement of state employees hired on or after a certain date.

ESTABLISHMENT OF PLAN & DELAYED EFFECTIVE DATE

Present law establishes a cash balance retirement plan (CBP) in LASERS, TRSL, and LSERS for certain employees.

Present law provides that CBP becomes an active plan on July 1, 2013. Proposed law delays the implementation of the CBP provisions until the date six months after the division of administration receives a favorable ruling from the Internal Revenue Service (IRS) regarding the Social Security equivalency of the CBP. Further requires the division of administration to transmit a copy of any ruling from the IRS regarding the Social Security equivalency of the plan to the following parties within two business days of receipt of such ruling:

- (1) The speaker of the House.
- (2) The president of the Senate.
- (3) The chairman of the House Committee on Retirement.
- (4) The chairman of the Senate Committee on Retirement.
- (5) The director of TRSL.
- (6) The director of LASERS.
- (7) The director of LSERS.
- (8) The Legislative Auditor.

As explained in more detail below, present law requires either the enrollment or the option for enrollment in the CBP for state employees of these systems whose first employment making them eligible for state system membership begins on or after July 1, 2013. Proposed law changes this date from July 1, 2013, to the date 60 days after the division of administration receives a favorable ruling from the IRS regarding the Social Security equivalency of the CBP.

CONTRIBUTION RATES

Present law (R.S. 11:62) establishes employee contribution rates for members of state and statewide systems and the various subplans within such systems, including the CBP. Provides that the employee contribution rate in the CBP is 8%. Proposed law makes technical changes to present law.

Present law (R.S. 11:102) establishes how employer contribution rates are calculated for each

system. Proposed law retains present law.

For LASERS and TRSL, present law further requires the calculation of individualized contribution rates for the subplans within each system. Proposed law adds the CBP as a discrete subplan within the TRSL system for the purposes of employer contribution rates.

MEMBERSHIP

Present law requires membership in the CBP for the following members whose first employment making them eligible for state system membership begins on or after July 1, 2013:

- (1) All non-hazardous duty members of LASERS.
- (2) Members of TRSL employed at an institution of higher education or a management board of institutions of higher education, who are not employees of lab schools or the Louisiana School for Math, Science, and the Arts.

Proposed law removes judges first elected on or after the effective date of the plan from being required to participate in the CBP. The CBP would be optional for these officials. Otherwise retains present law.

Proposed law changes the date on and after which such employees are required to be enrolled in the CBP (see Establishment & Delayed Effective Date, above). Proposed law otherwise retains present law. Further provides that all members required by present law to be in the CBP shall remain members of the CBP except as provided in proposed law.

Present law further provides any member whose first employment making him eligible for state system membership begins on or after July 1, 2013 who is not required to be in the CBP pursuant to present law may make an irrevocable election to join the CBP within 60 days of employment. Proposed law changes the date on and after which such employees shall have the option to enroll in the CBP (see Establishment & Delayed Effective Date, above). Proposed law otherwise retains present law and further provides that the member shall remain a member of the selected plan except as provided in proposed law.

Present law provides that members of the Hazardous Duty Services Plan in LASERS may not elect to join the CBP. Proposed law provides that members of the Hazardous Duty Services Plan in LASERS may not elect to join the CBP while employed in a position covered by the Hazardous Duty Services Plan.

Proposed law provides for "dual membership" for certain CBP members in the following circumstances:

- (1) A CBP member who becomes employed in a position covered by the Hazardous Duty Services Plan.

- (2) A Hazardous Duty Services Plan member who becomes employed in a position covered by the CBP
- (3) A member of a state system that does not have a CBP, first hired on or after the delayed effective date of the CBP, who becomes employed in a position covered by the CBP and who elects to join the CBP pursuant to present law.
- (4) A CBP member who becomes employed in a position covered by a CBP in another state retirement system.

For such a member, proposed law provides that upon employment in the new position, the member's years of creditable service and account balance or average compensation, as applicable, shall be frozen. The member shall be treated as a brand new member of the new plan and his accruals shall begin from zero. Such member shall be governed by the "dual membership" provisions of proposed law, outlined below. Proposed law further provides that such member shall be eligible to utilize a reciprocal recognition of creditable service agreement pursuant to present law to access accrued benefits in both plans. Further provides that after execution of such reciprocal agreement, earned service credits in the new plan shall not authorize interest credits in a frozen CBP account.

Present law provides for members transferring from a CBP in one system to a CBP in another system. Authorizes such member to withdraw from the first CBP, pursuant to present law, and transfer the amount he would otherwise be entitled to under present law to the new CBP. Proposed law retains present law and further provides that if the member executes such a transfer, all years of the member's period of active service covered by the CBP from which he is transferring shall be transferred to the new system. Further provides that all responsibility for tracking Tier 1 survivor and disability benefit eligibility and responsibility for paying such benefits shall also be transferred to the receiving system. Proposed law requires such Tier 1 benefits to be calculated as though the member had executed a transfer between regular defined benefit plans pursuant to present law.

Present law further allows a CBP member who leaves the CBP in one system for another Louisiana public retirement system, plan, or fund, including a CBP in another system, the option of leaving his first CBP account balance with the first system and utilizing a reciprocal recognition of credited service agreement pursuant to present law to access his accrued benefits in both plans. Proposed law retains present law and further provides that for the application of reciprocal agreements, service credit shall be determined as if the member's cash balance service had been earned as a member of the applicable Tier 1 plan. Further provides that after execution of such reciprocal agreement, earned service credits in the new plan shall not authorize interest credits in a frozen CBP account.

Proposed law further explicitly provides relative to CBP members who become employed in a position covered by a system that does not have a CBP. Under proposed law such member shall have the following options:

- (1) Maintain his membership in the CBP and be entitled to all rights and options he is eligible for under present law as a member of such system, including withdrawal of any amount he is otherwise entitled to pursuant to present law.

- (2) To execute a reciprocal recognition of service agreement pursuant to present law. Further provides that after execution of such reciprocal agreement, earned service credits in the new plan shall not authorize interest credits in a frozen CBP account.

Present law (R.S. 11:142) provides for reciprocal recognition of creditable service agreements between Louisiana public retirement systems, plans, or funds. Proposed law retains present law and further provides for reciprocal recognition of creditable service agreements between plans within a system. Proposed law further requires the board of trustees of LASERS to promulgate rules and regulations regarding the implementation, recognition, and application of reciprocal recognition of service agreements between plans in their system.

Proposed law prohibits a CBP member from transferring into the CBP any benefits or years of creditable service from a defined benefit plan in any Louisiana public retirement system, plan, or fund.

Proposed law further prohibits a CBP member from purchasing service credit in a CBP.

Present law prohibits a CBP member from participating in the Deferred Retirement Option Program (DROP) or any similar program. Proposed law retains present law.

DUAL MEMBERSHIP

Proposed law requires certain members to have membership in both a regular defined benefit plan and a CBP. Proposed law therefore provides for the dual membership of such members. Provides that membership in both plans are independent from each other and that an option exercised in one plan shall not affect the membership in another plan. Provides rules as follows:

- (1) If a dual member is an active, contributing member of one plan he shall not be eligible to access any account balances or benefits in his former plan without withdrawal or retirement from both plans.
- (2) If a dual member retires under the regular defined benefit plan without executing a reciprocal recognition of creditable service agreement, and such member has less than 5 years of active participation in the CBP, such member may either withdraw from the CBP pursuant to present law or maintain his membership in the CBP by leaving his account balance with the system anticipating a future return to active service in such plan.
- (3) If a dual member retires or withdraws from the CBP without executing a reciprocal recognition of creditable service agreement, and such member does not have sufficient years of service credit in the regular defined benefit plan to become eligible for retirement in such plan without working longer, such member may exercise any option available to him under present law as a non-vested member of such plan.
- (4) Notwithstanding any provision of present and proposed law to the contrary, a dual member shall be considered an active contributing member of both plans for the purposes of

determining disability and survivor benefits. Further provides that any regular defined benefit plan disability or survivor benefits for which the dual member is eligible shall be calculated based on his service in the regular defined benefit plan.

- (5) If a member retires from a regular defined benefit plan, he shall be subject to present law governing such plan with respect to his benefit from such plan. Further provides that this includes return to work provisions for members of TRSL.

Proposed law provides that nothing in proposed law shall be construed to authorize an in-service distribution.

BENEFITS

Under present law, the CBP has the following general benefit design, which is further detailed below:

- (1) Employee contributions of 8% of pay.
- (2) Additional pay credits of 4% of pay, plus interest, for the duration of state service.
- (3) Account balance is not debited for investment losses.
- (4) Eligibility to have account balance paid as a life time annuity beginning at age 60.

Proposed law retains present law.

Present law provides the following with respect to withdrawal of members of the CBP:

- (1) Eligibility to withdraw employee contributions at any time after separation from service with less than five years of participation.
- (2) Eligibility to withdraw the full account balance (all pay credits and interest) at any time after separation from service with five or more years of participation.

Proposed law retains present law but changes the period from "5 years of membership" to "5 years of active service".

Present law provides that if a member with less than 5 years withdraws from the system, the system shall retain all interest and any employer contributions. Proposed law changes this to say that all interest and any employer contributions shall be forfeited to the system.

Present law creates individual CBP nominal accounts within the retirement system trust containing annual pay credits of 12%, which includes the employee's 8% contribution. Proposed law retains present law.

Present law provides for an interest credit to each member's account equal to one percentage point less the system's achieved actuarial rate of return. Proposed law places a 10% cap on the interest credited to the member's account.

Present law provides that a CBP member with 5 or more years of membership may opt to leave his account balance with the system and draw an annuity pursuant to present law when the member attains age 60. However, no further credits or interest will be added to his account. Proposed law retains present law but changes the time for eligibility of such benefit from "5 or more years of membership" to "5 or more years of active participation".

Present law provides for reciprocal recognition of service under present law. Proposed law provides that for the purposes of application of a reciprocal recognition of service agreement to a cash balance plan account, the member's service credit shall be determined as if the member's cash balance service had been earned as a member of the applicable Tier 1 plan.

Present law authorizes a CBP member to elect an initial benefit option, an initial lump sum benefit option, or any similar retirement option designed to provide a reduced annuity in exchange for a lump-sum payment. Proposed law retains present law. Present law provides for such election to be made upon separation from service. Proposed law provides for such election to be made upon retirement instead.

Present law, provides that if a CBP member withdraws from the plan or annuitizes his benefit and then becomes reemployed in a position covered by the CBP, accumulation in the CBP shall resume. Such reemployment shall not, however, affect his receipt of the lump sum or annuity from his first cash balance account.

SURVIVOR BENEFITS

Present law provides for survivor benefits for members of the CBP. Provides that if the decedent leaves no surviving children, the surviving spouse may receive either:

- (1) The benefit he would have been entitled to had the deceased been in the Tier 1 plan.
- (2) The lump sum of the deceased's CBP account balance.

Provides that if the decedent leaves surviving children, allows the spouse and surviving children to receive the present law survivor benefit available to members of the Tier 1 plan. If the deceased member did not meet the present law survivor benefit eligibility requirements, the designated beneficiary or the deceased's estate may elect to receive the CBP account balance.

Proposed law retains present law.

Present law provides that, subject to applicable federal law, if a survivor is eligible to and elects to receive a Tier 1 survivor benefit, the CBP account balance shall be retained by the system. Proposed law retains applicable federal law restrictions and further provides that if a survivor is eligible to and

receives a Tier 1 survivor benefit, the beneficiary forfeits the CBP account balance to the system.

Proposed law further provides that survivor benefits received pursuant to present law regarding CBP shall be governed by the applicable Tier 1 plan provisions.

DISABILITY BENEFITS

Present law provides for disability benefits for members of the CBP. Allows the member to elect to receive either:

- (1) The lump-sum of his CBP account balance.
- (2) The present law disability benefit available to members of the Tier 1 plan, if the CBP member otherwise meets the eligibility requirements for such benefit.

Proposed law breaks the disability benefits in the CBP down into two portions:

- (1) For members who are certified as disabled pursuant to the applicable Tier 1 provisions before becoming eligible for retirement in the CBP, the member shall receive the applicable Tier 1 disability benefit if the member otherwise meets the eligibility requirements for disability in such Tier 1 plan.
- (2) For members who are certified as disabled after attaining retirement eligibility in the CBP plan, or who while otherwise receiving disability benefits under proposed law attain the normal retirement age required in the applicable Tier 1 plan, the member shall have the following options:
 - (a) To retire under the provisions of the CBP.
 - (b) To elect to receive, or elect to continue to receive, the applicable Tier 1 disability benefit.

Proposed law further provides that if the retirement eligible member elects to receive the Tier 1 disability benefit, the member's CBP account balance shall be forfeited to the system. Further provides that if such member subsequently returns to active service, his service credit shall be restored, but his account balance shall not.

Present law provides that, except as provided in federal law, if a cash balance plan member is eligible to and elects to receive a Tier 1 disability benefit, the account balance in the CBP shall be retained by the system. Proposed law retains applicable federal law and provides that if a member is eligible to and receives a Tier 1 disability benefit, the account balance in the CBP shall be permanently retained by the system, except as provided in proposed law:

- (1) If the member's disability benefit ceases pursuant to applicable law and the member does not return to active service covered by the same system's CBP, he shall be entitled to one of the

following options:

- (a) To receive his account balance which had been retained by the retirement system, less the amount of disability benefits received by the member.
 - (b) To take an annuity based on his account balance at the time he is no longer eligible for disability less the amount of disability benefits he received. Such annuity shall be payable upon application of the member, regardless of the age of the member at the time. Further provides that such annuity shall be paid as otherwise provided in present law for retirement annuities.
- (2) If the member's disability benefit ceases pursuant to applicable law because the member returns to active service, his account balance retained by the system shall be restored. The member's accumulation in the account shall resume and the time period in which he received a disability benefit shall not be counted towards his active service in the plan.

Proposed law provides that the Tier 1 disability benefits received pursuant to present law and proposed law shall be governed by the applicable Tier 1 plan.

REEMPLOYMENT & REFUND

Present law provides for reemployment of persons who either retired or withdrew from a CBP. Provides that upon reemployment in a position covered by the CBP, such person's accumulation in the cash balance plan shall begin again pursuant to present law. Proposed law retains present law and further provides that the member's accumulation in the CBP shall begin again with a new account. Such member shall be considered a "new" member for all purposes and shall not be allowed to reestablish service credit in the system by refunding his withdrawn contributions or lump-sum amount.

Proposed law provides that the reemployment of such member shall not affect the receipt of the lump sum or annuitized payments from the first cash balance account. Proposed law retains present law and further provides that the receipt of a lump-sum amount from the first CBP shall be subject to applicable federal law.

GUARANTEED RETURN OF EMPLOYEE CONTRIBUTIONS

Present law provides that in no case shall the system pay total benefits of an amount less than the employee's accumulated contributions, as provided in present law. Proposed law retains present law.

Present law provides that Tier 1 provisions shall apply to the CBP for any matter on which the CBP provisions are silent. In case of conflict between Tier 1 provisions and the CBP provisions, the CBP provisions control. Proposed law retains present law.

COLAS BASED ON TIER 1 SERVICE

Present law establishes experience accounts in the four state retirement systems as a mechanism for funding cost-of-living adjustments (COLAS) for persons with service credit in a Tier 1 plan. Proposed law makes technical changes to present law.

REVISED VALUATION & DOA STUDY

Proposed law requires the Public Retirement Systems' Actuarial Committee to meet within 60 days after receipt by the division of administration of a favorable ruling from the IRS on the Social Security equivalency of present law and proposed law. Requires PRSAC to adopt an actuarial valuation for each system for which the provisions of present law and proposed law apply for the fiscal year in which the Act becomes effective. Requires the valuation to be calculated in accordance with present law and proposed law, which includes calculation of employer contribution rates for the CBP employers in each system.

Proposed law further requires the division of administration to perform a cost-benefit analysis of providing an increased pay scale for employees required to be in the CBP.

EXPEDITED HEARING

Proposed law provides for an expedited hearing in the courts for any legal issues raised in relation to the present law and proposed law. Establishes venue in the 19th Judicial District Court. Requests a final disposition of legal issues at least 30 days prior to the prefiling deadline for the 2014 R.S.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 11:62(intro. para.), (4)(intro. para.), (4.1), (5)(intro. para.), (5.1), (11)(intro. para.), and (11.1), 102(B)(1) and (3)(a) and (d)(v), (vi), and (vii), (C)(1)(intro. para.) and (m), and (D)(1)(intro. para.), (d), and (e), 155, 542(A)(2)(a) and (C)(4)(d) and (e), 883.1(A)(2)(a) and (C)(4)(d) and (e), 1145.1, and R.S. 11:1399.1-1399.9; Adds R.S. 11:102(D)(1)(f))