

INTRODUCTION

The information contained in this pamphlet is valid as of January 1, 2007 and is meant to reflect statutes and policies related to the Municipal Employees' Retirement System effective on that date. All of this information is subject to legislative amendment and revision and/or changes that may be adopted and implemented by the system's Board of Trustees without notice.

THIS SUMMARY PRESENTATION OF PLAN PROVISIONS IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND IN NO WAY CONSTITUTES A CONTRACT BETWEEN YOU AND THE RETIREMENT SYSTEM. THIS IS NOT A LEGAL DOCUMENT AND IT IS NOT INTENDED TO SERVE AS A BASIS FOR LEGAL INTERPRETATION. THE LOUISIANA REVISED STATUTES AND CONSTITUTION, RELEVANT FEDERAL REGULATIONS AND LAWS, AND THE OFFICIAL BOARD POLICIES SHALL SERVE TO GUIDE DECISIONS RELATED TO MEMBERS AND EMPLOYERS PARTICIPATING IN THE MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM.

Official legal references for the Municipal Employees' Retirement System of Louisiana are found in the Louisiana Revised Statutes 11:1731 through 1884. (See also Louisiana Revised Statutes 11:1 through 312. Many of these general retirement provisions apply to the Municipal Employees' Retirement System.) The retirement system and its members and employers are covered by other sections of state law and by federal laws and regulations. This booklet in no way attempts to provide a full description of all applicable laws or regulations. Instead, it is meant to summarize many of the most frequently used provisions of law. It is a tool meant to assist members and employers in making decisions related to matters of retirement planning. For questions related to specific cases and for information on matters not covered in this booklet, please contact the retirement system office. Members should not rely solely on this booklet to estimate their benefit or make final decisions related to eligibility for benefits.

This pamphlet sets forth the general rules by which the retirement system operates. There may be specific statutes, rules, policies, or regulations which, when and where applicable, could cause results different from the rules stated herein, based on individual and/or unique factual situations.

As a qualified public pension plan, the Municipal Employees' Retirement System of Louisiana is subject to certain IRS codes and regulations. This handbook does not include a description of such codes and regulations. For instance, Section 415 of the United States Internal Revenue Code defines certain maximum benefits. The system may not pay any benefit from the Plan A or Plan B trust that exceeds the sum of the maximum employer-financed benefit and the member financed benefit as defined within the code. In some cases, where benefit maximums apply, an additional

amount equal to such excess may be paid from the “excess benefit plan” as defined and described in R. S. 11:1883.

Members should be aware that other federal codes and regulations also apply to members of qualified public pension plans. For example, members may be restricted in the option selection where non-spouse beneficiaries are chosen. Other tax related issues including rollover provisions and distribution rules may apply.

Any questions you may have regarding your rights in the system and any other matter involving the system should be directed to the system's office, preferably in writing. Please provide your social security number and the name of your employing municipality in all correspondence.

Address correspondence to:

Municipal Employees' Retirement System of Louisiana
7937 Office Park Boulevard
Baton Rouge, Louisiana 70809

Telephone numbers: (225) 925-4810 or (800) 820-1137

Facsimile number: (225) 925-4816.

For additional information on the retirement system, log onto MERSLA.COM.

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PRELIMINARY PROVISIONS

Name and Establishment of the System - R. S. 11:1731

The retirement system has the power and privileges of a corporation and is known as the “Municipal Employees' Retirement System of Louisiana.”

The system is composed of two separate and distinct accounts known as Plan A and Plan B. The reserves, funds, securities, and assets of the two plans are held separately and distinctly and are not commingled.

Definitions - R. S. 11:1732

Unless a different meaning is plainly required by the context, the following words and phrases as used in the statutes have the following meanings:

“Accumulated contributions” means the sum of all amounts deducted from a member's compensation, paid to the system, and credited to the individual employee's account in the system.

“Actuarial equivalent” means a benefit of equal value when computed upon the basis of mortality and interest tables adopted by the board of trustees.

“Agreement” means the document of participation between a participating employer and the board that sets forth the requirements and procedures for covering the employees of the participating employer in the system.

“Agreement date” means the date as of which the provisions of the system became applicable to an employer.

“Annuity Savings Fund” means the fund to which all accumulated contributions of members are credited.

“Authorized agent” means the employee authorized by a participating employer to act on behalf of and as the agent of the employer as coordinator between the board and the participating employer.

“Beneficiary” means the person designated in writing by a member to receive any benefits from the system to which a beneficiary may be entitled.

“Board” or “board of trustees” means the board of trustees of the system.

“Creditable service” means all periods of time for which credit is allowed towards any benefits from the system.

“Disability” means a condition, which in the determination of the board renders an employee permanently and totally disabled from performing the duties and responsibilities of their position. The definition of disability requires that the condition not be directly or indirectly the result of military service, engaging in a felonious criminal enterprise, caused by habitual drunkenness or use of narcotics, intentionally self-inflicted, or due to a declared war or enemy action.

“Earnings” means the full amount of compensation earned by a member for service rendered as an employee, excluding bonuses or fees paid in excess of regular salary or retainer, overtime pay, and payments relative to termination of employment including, but not limited to, accrued sick or annual leave and severance pay. (Special rules apply to the earnings of certain marshals including certain supplements, fees, and commissions. For details related to these issues, please contact the retirement system office or review the relevant statutes including R. S. 11:1732, R. S. 11:1782, and R. S. 11:1802.)

“Employee” means a person, including an elected official, actively employed by a participating employer on a permanent, regularly scheduled basis of at least an average of thirty-five hours per week. “Temporary” or “seasonal” employees hired for a period of, for example, three months, are not employed on a “permanent, regularly scheduled basis”. Therefore, such employees do not satisfy the definition of employee under the statutes related to the system and may not become members of the system regardless of the number of hours they work each week. In addition, students employed during the summer months in, for example, a town’s recreational program, may not become members of the system regardless of the number of hours they work each week for the same reason. (The mayors of all municipalities that joined the system prior to May 9, 2001 are presumed to work at least an average of thirty-five hours per week and are required to become and be members of the system. Based on board policy, for municipalities that join the system on or after May 9, 2001, the mayor of such a municipality is required to notify the system of the average number of hours being worked each week. Any mayor working an average of at least thirty-five hours a week must become and be a member of the system. Any such mayor working less than an average of thirty-five hours a week may not participate in the system. Members of city councils, city-parish councils, town councils, aldermen, and constables are deemed to be part-time officials and are not allowed to become or be members of the retirement system. This prohibition of membership in the retirement system does not apply to any person who was serving as a member of a city council, city-parish council, town council or as an alderman or constable on January 1, 1997. Those persons are required to be members of the system if and when they serve as a member of a city council, city-parish council, town council, or as an alderman or constable.)

“Employer” or “participating employer” means an incorporated city, town, or village in the state of Louisiana, which has entered into an agreement with the board. In addition, the Municipal Association of Louisiana, the Louisiana Energy and Power Authority, the Cajundome Commission, the retirement system, and any

planning and development commission in the state of Louisiana which has entered into an agreement with the board are deemed employers under the statutes. “Employer” does not mean a city school board.

“Final compensation” for a member whose first employment making him eligible for membership in the system began on or before June 30, 2006, means a member's average monthly earnings during the highest paid thirty-six consecutive months or joined months if service was interrupted. However, the earnings to be considered for the thirteenth through the twenty-fourth month may not exceed one hundred and twenty-five percent of the earnings for the first through the twelfth month and the earnings to be considered for the final twelve months may not exceed one hundred and twenty-five percent of the earnings of the thirteenth through the twenty-fourth month.

“Final compensation” for a member whose first employment making him eligible for membership in the system began on or after July 1, 2006, means a member's average monthly earnings during the highest paid sixty consecutive months or joined months if service was interrupted. However, the earnings to be considered for the thirteenth through the twenty-fourth month may not exceed one hundred and twenty-five percent of the earnings for the first through the twelfth months. The earnings to be considered for the twenty-fifth through the thirty-sixth month may not exceed one hundred twenty-five percent of the earnings for the thirteenth through the twenty-fourth months. The earnings for the thirty-seventh through the forty-eighth month may not exceed one hundred and twenty-five percent of the earnings of the twenty-fifth through the thirty-sixth months. The earnings for the forty-ninth through the sixtieth months may not exceed one hundred twenty-five percent of the earnings for the thirty-seventh through the forty-eighth months.

“Final salary” means a member's average monthly earnings during the twelve-month period immediately preceding their death or retirement.

“Fiscal year” means the twelve-month period ending on June 30th of each year.

“Medical board” means the board of physicians, chosen by the board of trustees that arrange for and/or review medical examinations relative to disability cases.

“Member” means a contributing employee.

“Minor child” means a member’s legitimate or adopted child, who has not attained the age of eighteen, or who was disabled at the time of the member's death and who remains disabled.

“Plan A” means the revised plan, which replaced the combination of the previous regular and supplemental plans effective October 1, 1978.

“Plan B” means the revised plan, which replaced the previous regular plan effective October 1, 1978.

“Regular plan” means the original plan that became effective upon the establishment of the system in 1955, excluding the supplemental plan, which was established subsequently.

“Revision date” means October 1, 1978, the effective date of the establishment of Plans A and B.

“Supplemental plan” means the supplementary plan established by Act No. 569 of 1968 to provide benefits in addition to those of the regular plan.

“Surviving spouse” means a *legal spouse* who was married to a member at the time of the member’s death and for at least twelve months immediately prior thereto. (Louisiana law does not recognize arrangements known as “common law marriages” as legal marriages and the parties to such arrangements are not legal spouses.)

“System” or “retirement system” means the Municipal Employees' Retirement System of Louisiana as established by state law and operated by the board.

In this Handbook, the terms “municipality,” “city”, and “employer” are, for the most part and unless a contrary meaning is clearly indicated, used interchangeably and all, in general, refer to an employer that has executed a participation agreement with the board.

GENERAL PROVISIONS

Membership and Service Credit

Membership – R. S. 11:1751 and R. S 1751.1

All eligible employees of participating employers (see definition of “employee”), except those specifically excluded by statute, must become members of the system. Generally, any employee who has retired from any Louisiana state public retirement system, plan, or fund and is over the age of sixty-five is not required to participate in the system. (Special rules apply to mayors who are over age 65 and were in office as of June 15, 2004) The agreement between the municipality and the board is the determining factor for purposes of placing members into the appropriate plan.

Any elected official who would otherwise be required to be a member of the system, but who is subject to term limits which prevent the earning of the minimum number of years of creditable service needed to receive a benefit are not eligible for membership in the system. Elected officials who have contributed in the past but fit this description may no longer be members of the system and may apply for a refund of contributions.

(PLEASE NOTE: There is no waiting period or any other kind of delay between the date of employment and enrollment in membership in the retirement system. All “employees” (see definition of “employee”) must be enrolled as members of the retirement system on and as of the date they are employed by a participating employer.)

Each employee must complete a personal history/enrollment form at the time of employment. Changes to the information contained on that form (changes in the member's address, designated beneficiary, name, marital status, etc.) must be submitted to the system in writing in a form that includes the member’s signature to become effective.

Persons not Eligible for Membership - R. S. 11:1752

Persons who are members of any retirement system or who are eligible for membership in any retirement system financed wholly or partly by public funds for the retirement of employees by the state of Louisiana or by a city, parish, village, or other political subdivision in the state of Louisiana are not eligible for membership in this system. (For example, any person who is employed on or after July 1, 1999 in a position as defined in the municipal fire and police civil service system who is employed on a full-time basis by a police department of any municipality in Louisiana, is under the direction of a chief of police, is under the age of fifty years at the time of such employment, and is paid at least \$375.00 per month from the

budget of the applicable police department is eligible for membership in the Municipal Police Employees' Retirement System and is therefore not eligible for membership in the Municipal Employees' Retirement System.)

Persons paid jointly by a participating employer and a parish are not eligible for membership in the system, except for city marshals and their employees, city constables and their employees, and clerks of city courts in cities having a population of four hundred thousand or less. (However, see the section titled **Dual Employment**.)

The definition of the term “**employee**” provides additional detail on the requirements of membership and descriptions of persons not eligible for membership in the system.

Agreement for Coverage of Employees of Incorporated Cities, Towns, and Villages - R. S. 11:1733

Each incorporated city, town, or village and any other entity included in the definition of “employer” may submit for approval by the board an agreement for extending the benefits of the system to its employees. The board shall approve each agreement or amendment if it is in conformity with the rules of the board and applicable state law.

Each agreement must:

1. Specify the plan of the system in which the employer wishes to enroll.
2. Specify that all eligible employees will become members of the system on the agreement date and that all future employees who are eligible for membership will become members at the time of their employment as a condition of employment. (PLEASE NOTE: There is no waiting period or any other kind of delay between employment and enrollment in membership in the retirement system. All “employees” (see definition of “employee”) must be enrolled as members of the retirement system on and as of the date they are employed by a participating employer.)
3. Certify all periods of employment for each employee and specify the extent to which credit for prior service will be granted.
4. If credit for prior service is to be granted, the enrolling entity must provide, as an attachment to the agreement, an actuarial study of the accrued liability of the prior service, performed at the employer's expense.

5. Provide for payment to the system at the time of enrollment, an amount to be determined by the board in accordance with its funding philosophy, which will offset the increase in the accrued liability to the system if credit for prior service is to be granted. (See the section titled **Purchase Price of Retirement Credit - Actuarial Cost**)
6. Specify the source or sources from which the funds necessary to make the required payments are expected to be derived, that such sources will be adequate for such purpose, and that all required contributions will be timely collected and remitted to the system.
7. Provide for the appointment of an authorized agent.
8. Provide that the authorized agent will make such reports in such form and containing such information as the board may from time to time require and comply with such provisions as the board may find necessary to assure the correctness and completeness of such reports.
9. Authorize the board to terminate the agreement in its entirety if it finds on the part of the city or other participating entity a failure to substantially comply with any provision of the agreement, such termination to take effect on such conditions as may be provided by the board.

The board may not refuse final approval of an agreement or terminate an agreement without giving reasonable notice and an opportunity for a hearing to the employer.

After the board has approved an agreement, each employer must, at such time or times as the board may prescribe, timely remit all required contribution payments to the system. In consideration of its employees' membership, each employer is authorized to impose upon its employees a contribution with respect to each employee's earnings and to deduct the amount of such contributions from each employee's earnings as and when paid to each employee. Contributions so collected shall be paid to the system in partial discharge of the liability of the employer. Failure to deduct such contributions does not relieve the employee or employer of the liability for such contributions.

Reports of a municipality's employees' earnings and payment of the employee and employer contributions are due monthly and become delinquent if not received by the system on the 10th of the following month.

As per R. S. 11:281, delinquent contribution payments will be charged interest at the rate of legal interest computed from the date the payments became delinquent and may be recovered by action in a court of competent jurisdiction against the employer liable for such contributions or may, upon due certification of delinquency and at the request of the board, be deducted from any funds payable to the employer by any department or agency of the state.

Agreement Amendments – R. S. 11:1734

If an employer transfers from Plan B to Plan A or in any other way amends its agreement with the board, an amendment to the agreement must be executed subject to the same procedures and payments for existing accrued liability as if a new agreement is executed. If a municipality transfers participation from Plan B to Plan A, the municipality may not convert the service credit and contributions standing to the credit of its employees in Plan B from Plan B to Plan A unless an actuarial study is conducted by the system's actuary, at the municipality's expense, to determine the actuarial cost associated with converting the Plan B credit to Plan A and the municipality pays to the system in a lump sum payment the actuarial cost associated with the conversion.

Part-time Public Officials; Membership Prohibited – R. S. 11:164

Members of city councils, city-parish councils, town councils, aldermen, and constables are deemed to be part-time officials and are not allowed to become or be members of the retirement system. However, this prohibition of membership in the retirement system does not apply to any person who was serving as a member of a city council, city-parish council, or town council or as an alderman or constable on January 1, 1997. Those persons are required to be members of the system if and when they serve as a member of a city council, city-parish council, or town council or as an alderman or constable.

(The mayors of all municipalities that joined the system prior to May 9, 2001 are presumed to work at least an average of thirty-five hours per week and are required to become and be members of the system. For municipalities that join the system on or after May 9, 2001, the mayor of such a municipality is required to notify the system of the average number of hours worked each week. Mayors who work an average of at least thirty-five hours a week must become and be a member of the system. Mayors who work less than an average of thirty-five hours a week may not participate in the system.)

Persons Who Become Eligible for Membership in Other Systems – R. S. 11:1752(C)

Any member who becomes eligible for membership in any other retirement system covering the same employment may elect to remain a member of this system in lieu of membership in the other system by filing a notice, in writing, with the system within ninety (90) days of becoming eligible for membership in the other system. Such election is irrevocable.

Membership of Employees After Consolidation – R. S. 11: 1753

If the governing authorities of a parish and a municipality consolidate into one governing authority and if the employees of the municipality are, at the time of the consolidation, members of this system, then, subsequent to the consolidation, those persons who are members of this system at the time of the consolidation will remain members of this system for as long as they remain continuously employed by the consolidated government. The consolidated government will be deemed to be the “employer” of such persons regarding participation in the system with all of the responsibilities incumbent therewith. A person who becomes employed by the consolidated government subsequent to the consolidation is not eligible for membership in the system.

Termination of Membership – R. S. 11:1754

An employee ceases to be a member of the system upon resignation, dismissal, other separation from service, or withdrawal from active service with a retirement or disability benefit provided by the system. Persons who are not actively contributing to the system, such as, but not limited to, persons who are participating in the Deferred Retirement Option Plan, on worker’s compensation, or on leave without pay are not members of the system and do not earn service credit during such times.

Members Who Have Credit in Plan A and Plan B

The provisions of a reciprocal recognition agreement relative to eligibility for retirement are applicable to a member who has credit in Plan A and Plan B as if the two plans are two distinct, separate, and independent public retirement systems. However, for benefit computation purposes, final compensation upon retirement will be based on all service in the system, regardless of the plan in which it was earned, as if all credit were in the same plan (unless there is concurrent service in both plans).

Dual Employment – R. S. 11:191

A person who is employed in more than one position of public employment and who, by reason of such dual employment, is eligible to be a member of more than one public retirement system, must be a contributing member of each retirement system applicable to their various positions of public employment. Credit in more than one system for the same period of time may not be transferred or reciprocally recognized to attain more than one year of credit in any one system for any one year.

PLAN A PROVISIONS

Normal Retirement Eligibility - R. S. 11:1781

A member of Plan A is eligible to retire and receive normal retirement benefits if:

- (1) The member has credit for at least twenty-five years of Plan A service, regardless of age; or,
- (2) The member has credit for at least ten years of Plan A service and is at least sixty years of age.

Normal Retirement Benefit Computation - R. S. 11:1782

The monthly maximum Plan A normal retirement benefit is an amount equal to three percent of the member's final compensation (see definition) multiplied by the member's years of creditable service, provided that:

- (1) A member who held an elective office in a participating municipality is paid an additional monthly benefit equal to one-half of one percent of final compensation multiplied by each year of such elective service; and,
- (2) For an employee who was a member only of the supplemental plan prior to the revision date, the monthly benefit earned for service credited prior to the revision date will be determined on the basis of one percent of final compensation plus two dollars per month for each year of service credited prior to the revision date, and three percent of final compensation for each year of service credited after the revision date.

Normal retirement benefits are paid for the life of the retiree and, if an optional mode of benefit payment is selected (see **Mode of Payment Options**), a benefit reduced from the maximum will be paid to the retiree for life. In addition, monthly benefits, payable upon the death of the retiree, as determined by the option selected at the time of retirement, will be paid to the option beneficiary according to the description of the option selected.

Applications for normal retirement should be submitted to the system at least six weeks prior to the planned retirement date. A copy of the member's birth certificate and, if an optional mode of benefit payment is selected (see **Mode of Payment Options**), a copy of the option beneficiary's birth certificate must be attached to the application for retirement.

If a retired member dies without receiving total retirement and/or DROP benefits equal to the accumulated employee contribution balance at retirement and leaves no

eligible survivors due any benefits, the difference between the accumulated employee contribution balance and the amount received in retirement benefits will be paid to the member's designated beneficiary or estate. Such a payment will be made only upon proper application.

Please note that under certain circumstances described in the statutes, a portion of the benefits payable to certain marshals is calculated in a different manner. For information on such benefits, please contact the retirement system or refer to R. S. 11:1732(12)(b) and R. S. 11:1782(3).

Normal Retirement Benefit Computation Example

The following is an example of the method used to compute a member's maximum monthly retirement benefit under the statutes in effect as of January 1, 2007:

If a member has service credit in Plan A for exactly twenty-seven years of service (after accounting for any breaks in service credit and/or periods of leave without pay), has not held elective office during the period of membership in the retirement system, and has a final compensation (see definition) of \$1,500 per month, the maximum normal retirement benefit would be computed as follows:

27 years of service credit × 3% per year × \$1,500 per month = \$1,215 per month.

This is a simple example that does not include service credit transferred into the retirement system at a different accrual rate, service in another plan within the retirement system, "supplemental only" service credit served prior to the revision date, or other complications. For an actual estimate of benefits, please contact the retirement system office.

Early Retirement Eligibility and Benefit Computation – R. S. 11:1781.1

A member of Plan A who has credit for twenty years of Plan A service, exclusive of military service and unused annual and sick leave, may retire at any age. However, the benefits paid to such a member must be actuarially reduced from the member's earliest normal retirement age assuming continuous service to that age. The early retirement eligibility standard is not available for participation in the Deferred Retirement Option Plan.

Applications for early retirement benefits must be signed by the member before the last day of employment. If the application is not signed before the member's last day of employment, retirement benefits shall be subject to the provisions of the "Deferred Normal Retirement/Vesting" section.

Disability Retirement Eligibility – R. S. 11:1783

A member of Plan A who has at least five years of Plan A service credit, is not eligible for normal retirement benefits, suffers disability, and is approved by the board of trustees after medical review is eligible to retire and receive disability retirement benefits. In order to be considered for disability by the board of trustees, a member must undergo the procedures for medical review as discussed in the section titled “Application For Disability Benefits, Rules Related to the Commencement of Disability Benefits, and the Payment of Disability Benefits” and be certified as disabled by the State Medical Disability Board.

Disability Retirement Benefit Computation – R. S. 11:1784

The monthly Maximum Plan A disability retirement benefit is the lesser of:

- (1) An amount equal to three percent of the member's final compensation (see definition) multiplied by the member's years of service, but not less than forty-five percent of the member's final compensation, or
- (2) An amount equal to what the member's normal retirement benefit would be based on the final compensation (see definition) at the time of disability, but assuming continuous service until the member's earliest normal retirement age and using the retirement benefit computation factors which would be applicable at the normal retirement age.

An applicant for disability retirement may select an optional mode of benefit payments as described in R. S. 11:1757 (For a description, see **Mode of Payment Options**). Option reductions for disability benefits will be based on the ages of the member and option beneficiary projected to the member's earliest normal retirement date assuming continuous service until that time.

Survivor Benefit Eligibility and Computation – R. S. 11:1785

Upon the death of a member of Plan A who has credit for five or more years of service and who is not eligible for normal retirement benefits, the following survivor benefits are payable to a qualifying spouse or minor child upon proper application. A surviving spouse must have been married to the deceased member for at least twelve months immediately preceding the member's death to be eligible for survivor benefits.

- (1) A surviving spouse with minor children – The statutes provide for a monthly benefit equal to sixty percent of the member's final compensation (see definition) to continue for as long as the spouse lives and cares for a

minor child. A surviving spouse is deemed to have minor children for as long as at least one minor child is legally under his care.

- (2) A surviving spouse with no minor children - The statutes provide for a monthly benefit equal to either;
 - (a) Forty percent of the member's final compensation (see definition), payable when the surviving spouse attains the age of sixty years or becomes disabled and payable for as long as the surviving spouse lives, or
 - (b) A benefit equal to the actuarial equivalent of the benefit described in subsection (a), but not less than twenty percent of the member's final compensation (see definition), payable upon the death of the member and payable for as long as the surviving spouse lives. (To select this form of benefit, a surviving spouse must notify the system of such selection within ninety days of the death of the member and such selection is final and irrevocable. Selecting the benefit in this section precludes the survivor from eligibility for the forty- percent benefit payable when the surviving spouse attains the age of sixty years).
- (3) A surviving minor child (or children) with no unmarried surviving spouse - The statutes provide for a monthly benefit equal to thirty percent of the member's final compensation (see definition) to each child; however, total payments may not exceed sixty percent of the member's final compensation (see definition). If more than two minor children survive the member and there is no unmarried surviving spouse, the benefit payable at any time to each child is an amount determined by dividing the total amount payable (sixty percent of the member's final compensation – see definition) by the number of children then eligible for a benefit. Only the person who has legal care, custody, and control of the minor child may apply for and be paid the minor child survivor benefits.

A member who is eligible for normal retirement at the time of death and who leaves a surviving spouse will be deemed to have retired and selected Option 2 benefits on behalf of the surviving spouse on the date of death. Such benefits will begin only upon proper application, and are paid in lieu of any other survivor benefits.

Upon the death of any member who is eligible for normal retirement at the time of death and who leaves surviving minor children but no surviving spouse, an amount equal to thirty percent of the member's final compensation (see definition) is payable to each minor child, however, the total amount paid cannot exceed an aggregate of sixty percent. If more than two minor children survive such a member, the benefit payable at any time to each child is an amount determined by dividing the total amount payable (sixty percent of the member's final compensation – see definition) by the number of children then eligible for a benefit. Minor child

survivor benefits may only be applied for and paid to the person who has legal care, custody, and control of the minor child.

A copy of the member and survivor's marriage license must be attached to the application for survivor benefits if the applicant is the surviving spouse of a member. A copy of the minor child's birth certificate and applicable custody judgment if the applicant is not the surviving spouse must be attached to the application for survivor benefits if the application is filed on behalf of a surviving minor child of a member.

As per R. S. 11:1759(C), if only one person is eligible for survivor benefits, that person may apply for and be paid a refund of the deceased member's accumulated employee contributions in lieu of payment of survivor benefits. A refund of the deceased member's accumulated employee contributions may be split among two or more persons eligible for survivor benefits in lieu of payment of survivor benefits if all eligible survivors agree to the refund and make proper application. The survivor(s) must notify the board in writing of the decision to request a refund in lieu of the survivor benefits prior to receiving any survivor benefits and must execute a waiver of the survivor benefits. Such refund payments are subject to the same provisions as are other refund payments.

Employee Contributions – R. S. 11:1786 and R. S. 11:62(7)

Each member of Plan A shall contribute 9.25% of earnings from each and every payment of earnings.

Employer Contributions – R. S. 11:103 through R. S. 11:105

Each participating employer of Plan A shall contribute a percentage of each employee's earnings as determined each year by the Public Retirement Systems' Actuarial Committee. However, subject to certain restrictions, the board of trustees may maintain the employer contribution rate for the next fiscal year at the same rate as the current year if the rate determined by the Public Retirement Systems' Actuarial Committee for the next fiscal year is less than the rate for the current year.

PLAN B PROVISIONS

Normal Retirement Eligibility – R. S. 11:1801

A member of Plan B is eligible to retire and receive normal retirement benefits if:

- (1) The member has credit for at least thirty years of Plan B service, regardless of age; or,
- (2) The member has credit for at least ten years of Plan B service and is at least sixty years of age.

Normal Retirement Benefit Computation – R. S. 11:1802

The monthly Maximum Plan B normal retirement benefit is an amount equal to two percent of the member's final compensation (see definition) multiplied by the member's years of creditable service. A member who held an elective office in a participating municipality is paid an additional monthly benefit equal to one-half of one percent of the member's final compensation (see definition) multiplied by each year of such elective service.

Normal retirement benefits are paid for the life of the retiree and, if an optional mode of benefit payment is selected (see **Mode of Payment Options**), a benefit reduced from the maximum will be paid to the retiree for life. In addition, monthly benefits, payable upon the death of the retiree, as determined by the option selected at the time of retirement, will be paid to the option beneficiary according to the description of the option selected.

Applications for normal retirement should be submitted to the system at least six weeks prior to the planned retirement date. A copy of the member's birth certificate and, if an optional mode of benefit payments is selected (see **Mode of Payment Options**), a copy of the option beneficiary's birth certificate must be attached to the application for retirement.

If a retired member dies without receiving total retirement benefits equal to the accumulated employee contribution balance at retirement and leaves no eligible survivors due any benefits, the difference between the accumulated employee contribution balance and the amount received in retirement benefits will be paid to the member's designated beneficiary or estate. Such a payment will be made only upon proper application.

Please note that under certain circumstances described in the statutes, a portion of the benefits payable to certain marshals is calculated in a different manner. For

information on such benefits, please contact the retirement system or refer to R. S. 11:1732(12)(b) and R. S. 11:1802(3).

Normal Retirement Benefit Computation Example

The following is an example of the method used to compute a member's Plan B maximum monthly retirement benefit under the statutes in effect as of January 1, 2007:

If a member has service credit in Plan B for exactly twenty-seven years of service (after accounting for any breaks in service credit and/or periods of leave without pay), has not held elective office during the period of membership in the retirement system, and has a final compensation (see definition) of \$1,500 per month, the maximum normal retirement benefit would be computed as follows:

$27 \text{ years of service credit} \times 2\% \text{ per year} \times \$1,500 \text{ per month} = \810 per month.

This is a simple example that does not include service credit transferred into the retirement system at a different accrual rate, service in another plan within the retirement system, or other complications. For an actual estimate of benefits, please contact the retirement system office.

Disability Retirement Eligibility – R. S. 11:1803

A member of Plan B who has at least ten years of Plan B service credit, is not eligible for normal retirement benefits, suffers disability, and is approved by the board of trustees after medical review is eligible to retire and receive disability retirement benefits. In order to be considered for disability by the board of trustees, a member must undergo the procedures for medical review as discussed in the section titled "Application For and Commencement and Payment of Disability Benefits" and be certified as disabled by the State Medical Disability Board.

Disability Retirement Benefit Computation – R. S. 11:1804

The monthly Maximum Plan B disability retirement benefit is the lesser of:

- (1) An amount equal to two percent of the member's final compensation (see definition) multiplied by his years of service, but not less than thirty percent of the member's final compensation, or
- (2) An amount equal to what the member's normal retirement benefit would be based on the final compensation (see definition) at the time of disability, but assuming continuous service until the member's earliest

normal retirement age and using the retirement benefit computation factors which would be applicable at the normal retirement age.

An applicant for disability retirement may select an optional mode of benefit payments as described in R. S. 11:1757 (for a description, see **Mode of Payment Options**). Option reductions for disability benefits will be based on the ages of the member and option beneficiary projected to the member's earliest normal retirement date assuming continuous service until that time.

Survivor Benefit Eligibility and Computation – R. S. 11:1805

A surviving spouse must have been married to the deceased member for at least twelve months immediately preceding the member's death to be eligible for survivor benefits.

Upon the death of a member of Plan B who has credit for five or more years of service and who is not eligible for normal retirement benefits, the following survivor benefits are payable to a qualifying spouse upon proper application.

In this case, a surviving spouse will be paid either:

- (1) A monthly benefit equal to thirty percent of the member's final compensation (see definition), payable when the surviving spouse attains the age of sixty years or becomes disabled and payable for as long as the surviving spouse lives, or
- (2) A monthly benefit equal to the actuarial equivalent of the benefit described in section (1), but not less than fifteen percent of the member's final compensation (see definition), payable upon the death of the member and payable for as long as the surviving spouse lives. (To select this form of benefit, a surviving spouse must notify the system of such selection within ninety days of the death of the member and such selection is final and irrevocable. Selecting the benefit in this section precludes the survivor from eligibility for the thirty-percent benefit payable when the surviving spouse attains the age of sixty years).

A member who is eligible for normal retirement at the time of death and who leaves a surviving spouse will be deemed to have retired and selected Option 2 benefits on behalf of the surviving spouse on the date of death. Such benefits will begin only upon proper application and are paid in lieu of any other survivor benefits. A copy of the member and survivor's marriage license must be attached to the application for survivor benefits.

As per R. S. 11:1759(C), a surviving spouse who is eligible for survivor benefits may apply for and be paid a refund of the deceased member's accumulated employee contributions in lieu of payment of survivor benefits. The survivor must notify the board in writing of the decision to request such a refund in lieu of the survivor benefits prior to receiving any survivor benefits and must execute a waiver of the survivor benefits. Such refund payments are subject to the same provisions as are other refund payments.

Employee Contributions – R. S. 11:1806 and R. S. 11:62(7)

Each member of Plan B shall contribute 5% of earnings from each and every payment of earnings.

Employer Contributions – R. S. 11:103 through R. S. 11:105

Each participating employer of Plan B shall contribute a percentage of each employee's earnings as determined each year by the Public Retirement Systems' Actuarial Committee. However, subject to certain restrictions, the board of trustees may maintain the employer contribution rate for the next fiscal year at the same rate as the current year if the rate determined by the Public Retirement Systems' Actuarial Committee for the next fiscal year is less than the rate for the current year.

GENERAL PROVISIONS

Payment of Benefits

Return of Accumulated Employee Contributions – R. S. 11:1759

A member who ceases to be an employee may apply for and be paid a refund of accumulated employee contributions. This application may be made at any time after the member ceases to be an employee.

If a member dies and does not leave a survivor eligible for benefits, upon receipt of a proper application, the accumulated employee contribution balance at the time of death will be paid to the designated beneficiary or estate.

Refunds of accumulated employee contributions may not be paid to a member, a designated beneficiary, or estate until and unless the member has been out of service with a participating municipality for thirty days and until all contributions for the member have been submitted by the member's employer. Refunds are paid in accordance with policies that are, from time to time, adopted by the board of trustees.

Employee contributions made prior to January 1, 2000 were not tax sheltered. Therefore, a member's taxable income was gross of such withheld employee contributions. Employee contributions made on or after January 1, 2000, when the retirement system became a qualified plan, are tax-sheltered. Therefore, a member's taxable income during this period is net of withheld employee contributions.

An employee who participated in the system prior to January 1, 2000, terminates employment after January 1, 2000, and who thereafter applies for a refund of accumulated employee contributions will have two categories of accumulated employee contributions:

- (1) Employee contributions paid prior to January 1, 2000 were not tax sheltered and therefore, if taxes were paid on the full gross salary of the member, refunded employee contributions for this period would not be considered a taxable distribution.
- (2) Employee contributions paid on and after January 1, 2000 may have been tax sheltered and therefore would require different treatment. Such sheltered employee contributions, unless rolled over into a qualified plan or IRA, have restrictions placed on their treatment at the time they are refunded.
 - (a) First, an employee would owe ordinary income taxes on refunded contributions that were not previously taxed as income.

- (b) A 10% income tax penalty may apply if the refund is made before the employee reaches age 59½. (Certain exceptions apply that include distributions made on or after an employee's death, a distribution attributable to the employee's being totally and permanently disabled, a distribution made to an employee after separation from service after attainment of age 55, a distribution made to satisfy a federal tax levy, a distribution to an alternate payee pursuant to a domestic relations order, or a distribution for certain medical expenses that would be allowable as an itemized deduction.)
- (c) The retirement system is required to withhold 20% of the sheltered employee contributions that are eligible for rollover if they are instead paid directly to the member. The 20% withholding may be more or less than the actual federal income taxes owed as a result of the refund.

Members should consult a tax accountant for advice on matters related to refunded employee contributions. The 10% income tax penalty and the 20% withholding requirement can be avoided if the employee elects to rollover all sheltered employee contributions into an IRA or other qualified retirement plan. The portion of any refund equal to those employee contributions that were paid prior to January 1, 2000 may not be rolled over.

Example:

Assume that an employee terminated employment on January 1, 2007, that the employee contribution balance includes \$1,000 in employee contributions made prior to January 1, 2000 and \$5,000 in sheltered employee contributions made on and after January 1, 2000. Upon proper application for a refund of contributions, the amount of \$1000 will be refunded directly to the member and is not subject to withholding or tax penalty since the employee has already paid federal income taxes on these contributions. The amount of the \$5,000 of sheltered employee contributions may either be (1) rolled-over into an IRA or other qualified retirement plan without withholding of federal income taxes, or (2) refunded directly to the member with 20% withheld. If a refund is made to the member with 20% withheld for federal income taxes, the distribution is a taxable event reported to the IRS and may be subject to a 10% penalty if the employee is under the age of 59½ years when the refund is paid and does not fit any of the exceptions provided for by the Internal Revenue Service.

Payment of a refund of employee contributions cancels all rights and credit in the system. Neither the former member nor any other person will be entitled to any benefits on the former member's account after a refund is paid.

A member who ceases to be an employee may leave the accumulated employee contributions on deposit with the system, but such funds do not accrue interest that could be paid to the former member at a subsequent time upon a request for a refund of accumulated employee contributions. A person who ceases to be an employee and who leaves their accumulated employee contributions on deposit with the system is not a member of the system unless they otherwise return to membership and will not, except as otherwise specified, be eligible for any benefits due members. A refund may be requested at any time and if a former member who had not withdrawn their accumulated employee contributions dies, the accumulated employee contributions on deposit will, upon proper application, be paid to the designated beneficiary or, if none, the former member's estate.

A few reasons exist for a member who ceases to be an employee to leave the accumulated employee contributions on deposit with the system. Such a member may:

- (1) Have enough years of service credit to be eligible for a deferred retirement benefit.
- (2) Expect to return to covered employment and become eligible for a benefit at a later date.
- (3) Expect to be employed by another public entity in Louisiana where they will become a member of another public retirement system. In this case, a terminated member with all employee contributions remaining on deposit may execute a reciprocal recognition agreement with another eligible public retirement system or complete a transfer of service credit. Upon completion of a transfer of service credit, an amount including the member's employee contribution balance will be sent to the receiving system (For more details see **Reciprocal Recognition of Credited Service in Other Public Retirement Systems and Transfers Between Public Retirement Systems**).

A person who was previously a member of the system and who returns to covered employment must again and at that time become a member of the system. The requirement to become a member of the system exists regardless of whether the member withdrew their contributions made during the previous period of membership.

If a retired member dies without having received in retirement benefits an amount equal to their accumulated employee contributions and if that member is survived by no person eligible for any other benefits, the difference between the accumulated employee contribution balance and the amount received in retirement benefits will be paid to the designated beneficiary or, if none, the member's estate.

Deferred Retirement Option Plan – R. S. 11:1763

In lieu of terminating employment and accepting a normal retirement benefit, a member who is eligible for normal retirement may elect to participate in the Deferred Retirement Option Plan (DROP). Credit in another retirement system may not be used to attain eligibility to participate in the DROP even if a reciprocal recognition agreement is in effect.

The duration of participation in DROP must be specified and may not exceed three years. A person may participate in DROP only once.

IMPORTANT: The member must select the mode of benefit payment and the option beneficiary prior to DROP entry. These selections are irrevocable and may not be changed at a later date even if there are unexpected changes in a person's life situation prior to terminating employment and receiving retirement benefits. (For information on available options, see **Mode of Payment Options**)

Upon the effective date of commencement of participation in the DROP, active contributing membership in the system terminates even though the participant continues in employment. Employer contributions continue to be payable by the employer during the DROP participation period, but payment of employee contributions cease during this period. For purposes of applying the calculation rules related to DROP, a participant's compensation and creditable service remain as they existed on the effective date of commencement in DROP. Therefore, retirement credit is not earned during DROP participation.

The monthly retirement benefits that would have been paid had the participant terminated employment and applied for normal retirement will be credited to the participant's individual DROP account. Amounts credited to a participant's account remain part of the retirement system's assets until paid to the participant and are not subject to state income tax while maintained in the DROP account or upon distribution.

A participant in the plan is not eligible to receive a cost-of-living adjustment to the benefit calculated at DROP entry while participating in the DROP. A former member is not eligible to receive a cost-of-living adjustment until one full year after termination of the employment, which made the participant eligible to be a member of the system.

The DROP is not subject to any fees, charges, or other similar expenses of any kind for any purpose.

If a participant dies during the DROP participation period, a lump sum payment equal to the DROP account balance will be paid to the named beneficiary or, if none, the estate. In order to receive such a payment, the system must receive a

properly executed application. If the member chose a reduced benefit at DROP entry in order to provide a survivor benefit under R. S. 11:1757, the survivor benefit as chosen may be payable to the beneficiary named to receive such benefit on the DROP application.

If a participant terminates employment prior to the end of the specified DROP participation period, the participant must apply in writing to receive payment of the DROP account balance and to begin payment of the monthly retirement benefit.

If a participant terminates employment at the end of the specified DROP participation period, the participant must apply in writing to receive payment of the DROP account balance and to begin payment of the monthly retirement benefit.

If a participant does not terminate employment at the end of the specified period of participation in the plan, payments to the participant's DROP account cease and the member must resume active contributing membership in the system. Payments to the participant from the DROP account may not be made until employment is terminated and the member has applied in writing. In addition, the monthly benefits that were being paid into the member's DROP account do not begin to be paid to the member until employment is terminated. When employment is terminated, the member must apply for retirement in order to receive payment of the DROP account balance and to begin payment of the monthly retirement benefit. The total monthly benefits payable to the applicant will include the monthly benefit that was previously being credited to the participant's DROP account and an additional benefit based on the service rendered since termination of participation in the plan. This additional benefit will be computed using the normal method of benefit computation, subject to the following:

- (1)(a) If the participant's first employment making them eligible for membership in the system began on or before June 30, 2006, and their period of additional service after termination of participation in the DROP is less than thirty-six months, the average compensation figure used to calculate the original benefit will be used to calculate the additional benefit.
- (1)(b) If the participant's first employment making them eligible for membership in the system began on or after July 1, 2006, and their period of additional service after termination of participation in the DROP is less than sixty months, the average compensation figure used to calculate the original benefit will be used to calculate the additional benefit.
- (2)(a) If the participant's first employment making them eligible for membership in the system began on or before June 30, 2006, and their period of additional service is thirty-six months or more, the average

compensation figure used to calculate the additional benefit will be based on the compensation earned during the period of additional service.

- (2)(b) If the participant's first employment making them eligible for membership in the system began on or after July 1, 2006, and their period of additional service is sixty months or more, the average compensation figure used to calculate the additional benefit will be based on the compensation earned during the period of additional service.

However, in no event may the additional benefit exceed an amount which, when combined with the original benefit that was being credited to the DROP account, equals the average compensation figure used to compute the additional benefit. If a person dies or becomes disabled during the period of additional service, it will be deemed that the member retired on the date of death or commencement of disability. ***Upon termination of employment, neither the mode of benefit payments nor the selection of the option beneficiary may be changed from that which was selected at the time participation in DROP began.***

Payment of the DROP account balance to retired members who were formerly in DROP, or their survivors, may be made as a lump sum payment from the system equal to the DROP account balance, a true annuity equal in value to the DROP account balance, or any other method of payment approved by the board.

After a participant in the plan has terminated DROP participation, the individual DROP account balance will earn interest. The method of interest accrual may be based upon the date the member became eligible for participation in the Deferred Retirement Option Plan. For greater details on the accrual of interest on DROP account balances, contact the retirement office.

Lump sum and periodic distributions (annual or monthly) which will result in distribution of the retiree's DROP account in less than ten years are eligible for rollover into an Individual Retirement Account (IRA) or other qualified retirement plan. If a lump-sum or eligible periodic DROP distribution is rolled-over into an IRA or other qualified retirement plan, the distribution by the retirement system is a non-taxable distribution, with federal tax being deferred until later distribution from the IRA or qualified plan; if such distributions are not rolled-over, then they are a taxable distribution and will be reported to the Internal Revenue Service as such.

If a lump sum DROP distribution is paid directly to the retiree by the retirement system, under most circumstances, the system is required by federal law to withhold 20% of the distribution for federal income taxes. Such a distribution is a taxable event in the calendar year the distribution is paid and will be reported to the IRS as such; the distribution may also be subject to a 10% tax penalty if the retiree is under the age of 59 ½ years. If a retiree elects to withdraw (and not rollover) a certain

dollar amount from the DROP account on an annual or monthly basis, which will result in distribution of the retiree's DROP account in less than ten years, the system must also withhold 20% of each annual or monthly withdrawal for federal taxes and report each distribution to the IRS.

DROP distributions received by a retiree on the basis of life expectancy, or periodic distributions that will result in distribution of the retiree's account in ten or more years, are not eligible to be rolled over. Such distributions are still subject to ordinary federal income tax, but the 10% tax penalty may not apply even if the retiree is under the age of 59 ½ years.

If a retiree reaches the age of 70 ½ years and still has funds in the DROP account, then mandatory minimum distributions must commence over the retiree's remaining life expectancy. These minimum distributions are not eligible to be rolled over and ordinary federal income taxes are payable, but the 10% tax penalty does not apply.

Application for Benefits, Rules Related to the Commencement of Benefits, and the Payment of Normal and Survivor Benefits – R. S. 11:1756

A member, or survivor of a member, who is eligible for benefits from the system must apply for such benefits before payment can be made.

As per R. S. 11:1757(D), if the member is married, the application must be signed by the member's spouse before the application may be submitted to the system. In lieu of signing the original application, the spouse may execute an agreement with the system consenting to the selection of the mode of benefit payments made by the member.

If a member attains eligibility for benefits prior to withdrawal from employment, benefits commence on the first day of the first month following withdrawal of the member from employment. If a member dies while employed and benefits are due to a beneficiary, such benefits will commence on the first day of the first month following receipt by the retirement system of a properly executed application for such benefits. If a member terminates with sufficient service to be vested in a deferred benefit (i.e. the member has sufficient service credit for receipt of benefits in the plan, but has not attained the necessary age required for receipt of benefits at the time of termination of service), the benefit will become payable on the first day of the first month following the member's properly executed application for such benefits. Such application is valid only after the member has reached the necessary age to be eligible for receipt of the benefit.

Normal retirement benefits are paid in equal monthly installments for the life of the retiree and survivor benefits are paid in equal monthly installments for as long as the survivor is eligible. Benefits may not be increased, decreased, revoked, or repealed except in the case of an error in the computation or where otherwise

specifically provided by law. If a normal or disability retiree selected an optional mode of benefit payments providing lifetime survivor benefits, the option beneficiary, upon the death of the retiree, will be paid benefits in equal monthly installments for the remainder of their life.

Mode of Payment Options – R. S. 11:1757

Upon applying for regular or disability retirement benefits, an applicant may elect to receive the maximum benefits payable for life computed as described in the sections on computing benefits. With the exception of a guarantee that normal retirees receive in benefits an amount equal to their accumulated contributions, maximum benefits do not provide for benefits to a designated beneficiary. An applicant may elect at the time of application for regular or disability retirement benefits to receive the actuarial equivalent of such benefits in a reduced retirement allowance payable throughout their life with payments to their designated beneficiary as described below:

- Option 2: Upon the member's death, the amount of the benefit payable to the member after option reduction will be continued throughout the life of and paid to the person that the member designated to receive such benefits on the retirement application.
- Option 3: Upon the member's death, one-half of the amount of the benefit payable to the member after option reduction will be continued throughout the life of and paid to the person that the member designated to receive such benefits on the retirement application.
- Option 4: At retirement, the member chooses a form of benefits to be paid to the member or to be paid to the member and designated beneficiary or beneficiaries, provided that the sum of all such benefits are certified by the system's actuary to be of equivalent actuarial value to the member's maximum retirement benefits. The board must approve any selection of the Option 4 mode of benefit payments.

FOR EXAMPLE: By selecting Option 4, a retiree may elect to take a reduced benefit with the provision that either all or one-half of the reduced benefit will be continued throughout the life of and be paid to the person designated to receive such continued benefits (like Options 2 and 3) EXCEPT that (unlike Option 2 or 3) if the designated beneficiary dies before the retiree, the benefit paid to the retiree after the beneficiary's death will increase to what the retiree's maximum benefit would have been at retirement.

A retiree may not change the designation of the option beneficiary and if the option beneficiary dies before the retiree, then all benefit payments cease when the retiree dies.

A retiree may not change the selection of an optional mode of benefit payments after sixty days after the application for retirement is received by the system.

When a disability retiree selects Option 2, 3, or 4, the computation of the benefits will be based upon the option factors the system utilizes for normal retirement and the ages of the member and the option beneficiary, projected to the member's earliest normal retirement age assuming that the member remains in continuous service until that time.

Conversion of Unused Leave to Retirement Credit – R. S. 11:1755(E)

The conversion of unused leave is allowed for any member of the system whose employing municipality **irrevocably** elects such coverage. The actuarial cost of the conversion of unused leave to retirement credit must be born solely by and paid to the system by the member's employing municipality within thirty days of the date that the member retires.

(PLEASE NOTE THAT ONCE A MUNICIPALITY ELECTS TO ALLOW THIS CONVERSION OPTION TO PROVIDE THEIR EMPLOYEES WITH THE USE OF UNUSED LEAVE FOR RETIREMENT CREDIT, THE MUNICIPALITY MAY NOT THEREAFTER CHANGE THAT DECISION.)

All unused earned annual and sick leave which has been accrued and accumulated by such a member and for which payment cannot be made shall be converted to retirement credit at the time of the member's retirement pursuant to the following scale:

<u>Days</u>	<u>Percentage of a Year</u>
1 - 26	10
27 - 52	20
53 - 78	30
79 - 104	40
105 - 130	50
131 - 156	60
157 - 182	70
183 - 208	80
209 - 234	90
235 - 260	100

There is no limit on the amount of unused leave that may be converted to retirement credit.

The conversion of unused leave may not be used by any member, survivor, or other beneficiary to attain eligibility for any type of benefit payable by the system.

The member's employer is required to submit a report of unused leave, computed in days only, at the time the member retires. Fractional days of one-half or more shall be granted as one day and less than one-half day shall be disregarded.

Any member who had previously terminated employment for any period of time, but who later becomes re-employed, must contribute to the system for at least eighteen months subsequent to re-employment before the member may be allowed to convert unused leave to retirement credit.

Credit obtained by the conversion of unused leave may not be used in the computation of average compensation.

Cost of Living Adjustments to Benefits – R. S. 11:241, R. S. 11:242, R. S. 11:246, and R. S. 11:1761

The section of statutes that relates to all state and statewide retirement systems in Louisiana provide two potential cost of living adjustments as detailed in R. S. 11:241 and R. S. 11:246.

R. S. 11:241 provides that cost of living benefits shall be in the form (unless the board otherwise specifies) of $\$X \times (A+B)$ where X is at most \$1 and "A" represents the number of years of credited service accrued at retirement or at death of the member or retiree and "B" is equal to the number of years since retirement or since death of the member or retiree to June 30th of the initial year of such increase.

R. S. 11:246 provides cost of living increases for retirees and beneficiaries over the age of 65 equal to 2% of the benefit in payment on October 1, 1977, or the date the benefit was originally received if retirement commenced after that date. Such an increase may be granted only in years where the system earns an actuarial rate of return in excess of the valuation interest rate. The adjustments are payable only from the investment income in excess of that determined by the application of the valuation interest rate to the actuarial value of assets.

R. S. 11:1761 provides for a cost of living formula specifically for the Municipal Employees' Retirement System. It allows the board of trustees to use interest earnings on Plan A and Plan B investments in excess of the normal requirements, as determined by an actuarial study, to provide cost-of-living adjustments to benefit recipients in their respective plans. Such recipients must have been retired for at least one year to qualify. The cumulative amount of the adjustment may not exceed two percent of the original benefit for each full calendar year of retirement.

R. S. 11:242 provides a restriction on the granting of any cost of living increase provided for in the statutes. In order to grant a cost of living increase as described in the statutes, the ratio of the plan's Actuarial Value of Assets to the Pension Benefit Obligation must exceed a minimum "target ratio", as described in the statutes.

GENERAL PROVISIONS

Deferred Benefits

Deferred Normal Retirement/Vesting – R. S. 11:1760

A person who has credit for ten or more years of service, who ceases to be an employee prior to attaining the age required for normal retirement eligibility, and who does not withdraw their accumulated employee contributions from the system will become eligible for normal retirement benefits upon attaining the required age. The computation of such benefits will be based on the provisions of law which were in effect at the time the former member withdrew from service and will be based on the final compensation (see definition) and creditable service at the time of withdrawal.

During the time between withdrawal from membership and attaining the age required for retirement, the former member is not a member of the system and is not eligible for any benefits due members.

Former members who return to covered employment prior to retiring with a benefit from the system, must become active, contributing members of the system and comply with the then effective laws, rules, policies, and regulations.

Deferred normal retirement benefits become payable on the first day of the first month following receipt by the retirement system of the application for such benefits. **(No deferred normal retirement benefits will be paid retroactively to a date preceding the date of application even though the former member was eligible to apply for such benefits at an earlier date.)**

Deferred Disability Retirement – R. S. 11:217

A person with twenty or more years of service credit who withdraws from active service prior to attaining the age required to be eligible for retirement may leave their contributions on deposit with the system and, if they become totally and permanently disabled prior to attaining the age required for normal retirement, they will be eligible for a benefit. The benefit will equal the lesser of either the applicable disability benefit or the applicable normal benefit and will be payable upon application and approval by the board of trustees. Upon attaining the normal vested retirement age, the disability benefit shall cease and the member will receive the full vested normal retirement.

Deferred Survivor Benefits – R. S. 11:1766

Upon the death of any former member of the retirement system who had credit for at least twenty years of service, who withdrew from active service prior to attaining the age required to be eligible for normal retirement benefits, and who had not withdrawn from the system their accumulated employee contributions, the surviving spouse of such former member shall be eligible for survivor benefits. The survivor benefits provided in such cases will equal the actuarial equivalent of the Option 2 benefits that would have become payable to the surviving spouse at the time the former member would have begun receiving deferred normal retirement benefits, had the member survived until that date, elected Option 2, and died at that time.

GENERAL PROVISIONS

Disability Benefit Procedures

Application For Disability Benefits, Rules Related to the Commencement of Disability Benefits, and the Payment of Disability Benefits – R. S. 11:210, R. S. 11:216, R. S. 11:218 and R. S. 11:1758

A member who becomes totally disabled, who files an application for disability benefits while in service, and who, upon medical examination and certification as set forth below, is determined to be totally disabled will, if otherwise qualified, be eligible for disability benefits if the disability was incurred while the member was an active contributing member of the system in active service. If the application for disability benefits is not filed while the member is in active service, it will be presumed that the disability was not incurred while the member was an active contributing member of the system in active service (unless the application is for **Deferred Disability Retirement** as described in R. S. 11:217). Such presumption may be overcome only by clear, competent, and convincing evidence that the disability was incurred while the member was an active contributing member of the system in active service.

The member's spouse must sign an application before the application may be submitted to the system. In lieu of signing the original application, the spouse may execute an agreement with the system that he/she consents to the selection of the mode of benefit payments made by the member.

A disability claimed by a member must have been incurred after commencement of membership in the system. Disability claims may not be honored in the case of preexisting conditions.

The applicant may submit any medical evidence, data, and other related material which the member feels is material, related to, or in support of the application for disability benefits along with the application for disability benefits. In addition, the applicant's supervisor must submit a report that includes a brief history of the case and the supervisor's opinion as to the applicant's present ability to perform their normal required duties. The board of trustees may require additional information be included in the application.

The applicant's disability case history will be examined either by that member of the State Medical Disability Board whose area of specialty most closely relates to the nature of the claimed disability or by an outside physician designated by the board. The examining physician will either conduct a medical examination of the applicant or waive the medical examination if obvious and overwhelming medical evidence of disability exists to his satisfaction. The cost of the examination, including costs of laboratory tests, X-rays, and other such direct examination procedures will be borne by the retirement system; however, all non-direct costs, such as hospital room

and board charges and other such expenses, must be borne by the applicant. The initial examination should be completed within six weeks of the date of the applicant's filing for benefits.

The examining physician must submit to the board an in-depth report that must include the physician's medical evaluation and conclusions as to the applicant's claimed disability. Each member of the State Medical Disability Board or any board-designated physician has full authority to certify total disability with regard to an applicant they examine. An applicant will be considered as certified totally disabled if, in the in-depth report submitted by the examining physician, the physician declares the applicant to be totally incapacitated for the further performance of the applicant's normal duties and states that such incapacity is likely to be permanent.

If either the applicant or the board of trustees contests the examining physician's final certification decision, the contesting party has the right to request a second medical examination. Such an examination is allowed if a written appeal is filed within thirty days of notification of the certification decision. This second examination will be performed by a member of the State Medical Disability Board or by a board-designated physician and will be performed at the expense of the requesting party. The second physician must also submit an in-depth report to the board. This report must include a medical evaluation of the applicant and conclusions as to the applicant's claimed disability.

If the second examining physician concurs in the findings and recommendations of the first physician, the first physician's decision will stand as final and binding and will not be subject to further appeal other than through the courts.

If the second examining physician disagrees with the findings and recommendations of the first physician, the two physicians must select a third specialist to conduct another examination and prepare and file a third report in the same manner as the first two. The majority opinion of the three examining physicians will be final and binding and not subject to further appeal other than through the courts. The cost of the third medical examination will be the responsibility of the retirement system if the applicant is certified as disabled or the applicant if the disability claim is denied.

The board should receive a final and binding disability certification from a member of the State Medical Disability Board, or a board-designated physician, and retire an eligible disability applicant within one hundred and twenty days of the applicant's date of filing for disability retirement. Disability benefits become payable on either the filing date of the application for disability retirement or the day following the exhaustion of all sick leave or annual leave claimed by the applicant, whichever is the later.

Certification of Continuing Eligibility for Disability Benefits - R. S. 11:220

Once each year during the first five years following disability retirement, and once in every three-year period thereafter, the board may require a disability retiree who has not yet attained the equivalent age of normal retirement to undergo a medical examination at the retiree's expense. The examination will be made at the place of residence of the retiree if such retiree is immovable or such other place agreed to by a physician on the State Medical Disability Board or a board designated specialist. The examining physician shall submit a report to the board recommending either the continuation or the cessation of the former member's disability status. If a member of the State Medical Disability Board issues a final and binding report to the board declaring a disability retiree's total disability to have ceased, the board must order the discontinuation of the disability benefit. A contested decision may be appealed pursuant to the procedures previously described.

If, in any year, a disability retiree, who has not yet attained the equivalent age of normal retirement, refuses to submit to at least one medical examination by a medical board physician or a physician designated by the board, payment of the disability benefit will be discontinued. Payment will be discontinued until the disability retiree submits to the examination. If the disability retiree's refusal continues for one year, the board will revoke all rights in and to the disability pension.

In the event that the retirement system receives a final and binding report from a member of the State Medical Disability Board declaring a beneficiary's total disability to have ceased, the board will discontinue the disability allowance.

Neither the former receipt of nor the involuntary termination of disability benefits will affect the right of a person to normal retirement benefits based upon age or service to which such person may be or become eligible.

Authority of the Board to Modify Disability Benefits - R. S. 11:221

If the board of trustees determines that a disability retiree is engaged in or is able to engage in a gainful occupation paying more than the difference between the disability retirement benefit and the disability recipient's average final compensation (see definition), then the amount of the disability benefit will be reduced. The total disability benefit will be set equal to an amount that when added together with the amount earned or earnable by the disability retiree equals the average final compensation (see definition). If the former member's earning capacity later changes, the amount of the disability benefit may be further modified. Such modification may not cause the new benefit to exceed the amount of the original benefit or an amount which, when added to the amount earnable by the former member, equals the recipient's average final compensation.

Each disability retiree must submit to the board of trustees by May 1st of every year a notarized annual earnings statement detailing any earned income from employment in the previous tax year. If a disability retiree refuses to submit such an earnings statement by May 1st, their disability benefit may be discontinued, without retroactive reimbursement, until the statement is filed. If such a refusal continues for the remainder of the calendar year, the board of trustees may revoke all rights in and to the disability pension.

A disability retirement benefit will be modified when the sum of a whole life annuity equivalent of the benefits or financial awards which accrue to a disability retiree solely as a result of their disability and the disability benefit to which they are entitled exceeds their final compensation (see definition). The disability retirement benefit is reset so that the sum of the above equals the final compensation (see definition). If these outside benefits or awards are reduced, exhausted, or terminated, the board may increase the disability benefit then being paid so that the sum of the disability benefit and the outside benefits equals the amount of the disability retiree's final compensation (see definition). However, in no case may the disability benefit be increased to an amount greater than that to which the retiree was originally entitled at retirement.

Individual private insurance settlements and separate private retirement accounts and other similar non-system resources, including disability benefits from the Social Security Administration and the Veterans Administration, other than worker's compensation, are exempt from consideration in these computations. Social security will not be considered if the plan from which the member is retired provides for joint participation and benefits with social security.

An annual cost-of-living adjustment will be made to the average final compensation figure used in all disability benefit modification computations. This cost-of-living adjustment will be based upon and directly reflect the annual percentage increase or decrease in the Consumer Price Index for the preceding calendar year.

A member who retires while in service on a disability retirement and who has credit for the number of years of service required for normal retirement will, upon attainment of the age required for normal retirement, be eligible to receive full normal retirement benefits. To receive such benefits, the member must file an application with the board and, upon the commencement of payments of normal retirement benefits, the payment of disability benefits shall cease.

**Rules Related to Disability Retirees Who Return to Service – R. S. 11:224
and R. S. 11:1758**

A disability retiree who is restored to active service with a participating municipality at a salary less than his final compensation may not become a member of the system.

If a disability retiree is restored to service with a participating municipality with compensation equal to or greater than the prior period final compensation, payment of the disability benefit will stop and the recipient must again become an active contributing member of the system. Upon becoming a member again, the former disability retiree is subject to the laws, rules, policies, and regulations then in effect. All prior service in effect at the beginning of disability retirement will be restored to full force and effect and upon subsequent normal retirement, the member will be credited with all additional service. If such a member contributes for at least three years, the period of time on disability will be counted as service for purposes of establishing eligibility, but not used in the computation of normal retirement benefits.

GENERAL PROVISIONS

Miscellaneous Benefit Provisions

Retirement Benefit Estimates

Members who are within three years of retirement eligibility may request an estimate of retirement benefits payable at retirement eligibility. To request an estimate of retirement benefits, a written request, signed by the member, must be submitted to the system. An estimate requested within six months of a previously issued estimate will be subject to an administrative fee.

Payment of Monthly Benefits; Electronic Transfer; Direct Deposit

Monthly normal retirement, disability retirement, and survivor benefit checks are mailed to eligible persons on the last business day of each month, and dated the first of the following month. A person who is eligible for any type of monthly benefit may request that benefit payment be electronically transferred or directly deposited into their account at a financial institution. To begin receiving benefits electronically, a retiree or beneficiary should submit the request in writing including in such correspondence their social security number, name, complete address, routing number of the financial institution, account number in that financial institution, and a statement describing whether the account is a regular checking account or a savings account. **For electronic transfer into a checking account, please enclose a voided check with such a request. For electronic transfer into a savings account, please enclose a deposit slip or other document with the appropriate account information.** A request for direct deposit must be signed by the person eligible to receive the benefit payment.

Maximum Benefit Limitation – R. S. 11:1764

The actual retirement benefit paid to a retiree at the time of retirement, whether for normal or disability retirement and whether the benefit is the full maximum allowable or is reduced because of the selection of an optional mode of benefit payments, may be as much as but not more than the retiree's final salary or final compensation (see definition), whichever is greater.

Receipt of Benefits – R. S. 11:155

Other than payments from the Deferred Retirement Option Plan and refunds of accumulated employee contributions, all benefits may only be paid in equal monthly payments; benefits may not be paid in a lump sum or actuarial equivalent lump sum.

Re-employment of Normal Retirees – R. S. 11:1762

If a retiree receiving normal retirement benefits is re-employed in any capacity by any participating employer and has monthly earnings equal to or less than the difference between their final compensation (see definition) and monthly retirement benefit, payment of the retirement benefit continues and the former retiree may not be a member of the system.

If a retiree receiving normal retirement benefits is re-employed in any capacity by any participating employer and has monthly earnings that exceed the difference between their final compensation (see definition) and monthly retirement benefit, the monthly retirement benefit will be reduced by the amount of excess for every month of re-employment. In addition, such a re-employed retiree may not be a member of the system.

Both the retired member and the employer are required to immediately notify the board of trustees of the retiree's date of employment, the amount of monthly earnings, any changes in earnings, the number of hours worked per week, the estimated duration of employment, and the date of the termination of employment.

The average final compensation (see definition) figure used to determine whether a benefit is continued or reduced will be subjected to an annual cost-of-living adjustment based upon the annual percentage increase or decrease in the Consumer Price Index for the preceding calendar year or years.

GENERAL PROVISIONS

Miscellaneous

Venue for any Legal Action Against the System – R. S. 11:264.7

The venue for any legal action (lawsuit) that may be brought against the system is exclusively in the Nineteenth Judicial District Court of Louisiana.

Failure to Timely Remit Contributions – R. S. 11:281

Delinquent payments of employer and employee contributions must include interest at the rate of legal interest computed from the date the payment became delinquent. Delinquent contribution payments will be charged interest at the rate of legal interest computed from the date the payments became delinquent and may be recovered by action in a court of competent jurisdiction against the relevant employer or may, upon due certification of delinquency and at the request of the board, be deducted from any funds payable to the employer by any department or agency of the state.

Community Property Interests – R. S. 11:291

Payment of a benefit (including payment of a DROP benefit) or return of accumulated employee contributions is subject to a temporary restraining order or injunction issued by a court in connection with an action which would result in a termination of a community property regime or partition of community assets and liabilities after such termination if the order or injunction involves a member or retiree of the system and his/her spouse or former spouse and provides that community assets not be disbursed, disposed of, alienated, or otherwise encumbered, **but only after** a certified copy of the order or judgment is received by the retirement system.

Payment of a benefit or return of employee contributions is subject to a court order issued by a court upon or after termination of a community property regime if the order recognizes the community interest of a spouse or former spouse of a member or retiree of the retirement system and provides that a benefit or return of employee contributions be divided by the retirement system between the spouse or former spouse and the member or retiree, **but only after** a certified copy of such order has been received by the system and has been determined by the retirement system to be in compliance with applicable laws, rules, and regulations.

In those instances in which no certified copy of an injunction, temporary restraining order, or court order for division of a benefit or a return of employee contributions has been received and/or approved by the system, the system shall pay the entire

amount of any benefit or return of employee contributions to the member, retiree, designated beneficiary, survivor benefit recipient, or the estate of a deceased member and payment so made shall constitute a release of all accrued rights of every kind and nature against the retirement system, including, but not limited to, community property rights of a spouse or former spouse and any rights of an heir or legatee of such spouse or former spouse.

In those instances in which the spouse or former spouse with whom the retirement system is to divide a benefit or a return of employee contributions dies, the retirement system shall pay the entire amount of the benefit or return of employee contributions to the member, retiree, designated beneficiary, survivor benefit recipient, or the estate of a deceased member and payment so made shall constitute a release of all accrued rights of every kind and nature against the retirement system including, but not limited to, any rights of an heir or legatee of the spouse or former spouse.

The system may not pay any funds to any person until the payment normally becomes otherwise legally payable to the member.

Protection Against Fraud – R. S. 11:1736

A person who knowingly makes any false statement or falsifies or permits to be falsified any system record or records in an attempt to defraud the system is guilty of a misdemeanor and, on conviction thereof by a court of competent jurisdiction, will be punished by a fine not to exceed one thousand dollars or imprisonment in the parish jail not to exceed twelve months, such fine and imprisonment to be determined at the discretion of the court.

Correction of Errors – R. S. 11:1737 and R. S. 11:192

If a change or error in the system's records (either through administrative error or fraud) causes a member or beneficiary to receive from the system more or less than would have been received if the records had been correct, or if the system makes a payment which is not actually due, the error will be corrected and future payments will be adjusted to the correct amount. The system may recover an overpayment by reducing the corrected benefit so that the overpayment will be recovered within a reasonable time. The system will notify the person who received the overpayment of the amount of overpayment and the amount of the adjustment in the future payments thirty days prior to reducing the corrected benefit.

Application of Statutory Amendments – R. S. 11:1738

Amendments to those statutes contained in Chapter 4, Subtitle III of Title 11 of the Louisiana Revised Statutes which have been or may be enacted are applicable only to persons who on or after the effective date of the amendment are in service as participating members, unless the amendatory act specifies otherwise.

Changes in Laws Which Govern the Retirement System – Article 10 of the Constitution of the State of Louisiana of 1974 – Section 29(C)

No proposal to effect any change in existing laws or constitutional provisions relating to the retirement system may be introduced in the legislature unless notice of intention to introduce the proposal has been published in the official state journal on two separate days. The last day of publication must be at least thirty days before introduction of the bill. The notice must state the substance of the contemplated law or proposal, and the bill must contain a recital that the notice has been given.

Membership Information; Public Access and Exemptions – R. S. 44:15 - R. S. 44:16 and R. S. 44:31 - R. S. 44:33

Any person of the age of majority may inspect, copy or reproduce, or obtain a reproduction of information deemed public records under the law. Such available information includes the following data regarding any active member of the system:

- (1) The names of members of the system
- (2) The name of the employing municipality or agency
- (3) The dates of any employment of the member in which the member has been eligible for membership in the system
- (4) The salary reported by the member's employer for the purpose of determining contributions paid or payable to the system

Retirement system records concerning the system's retirees and those persons who are participating in or who have participated in the Deferred Retirement Option Plan are exempt from the state's public records laws with a few specific exceptions. The system will provide data including the amount of a person's retirement allowance, final average compensation, the length of the person's service, the name of the municipality by which the person was employed, and the dates the person was employed. However, the exemption does not apply to requests for records by any member of the Louisiana Legislature, by any state agency, by any municipality that participates in the system, or any association of individuals who receive a retirement benefit from the system.

All medical records, application forms, doctor's reports and evaluations, agency certifications, and other health records of persons applying for disability retirement in the custody of the system are exempt from the public records law.

For more details see the appropriate sections of the statutes.

Compulsory Retirement Prohibited – R. S. 11:133

No employee may be separated from public service by his appointing authority solely because the employee has attained any particular age. (See R. S. 11:133(B) for exceptions related to certain public safety employees)

GENERAL PROVISIONS

Transactions That Alter Service Credit

Repayment of Withdrawn Contributions – R. S. 11:1755(C)

A former member of the system who withdraws their accumulated employee contributions, again becomes a member of the system, and earns credit in the system for an additional six months of service may repay to the system the amount withdrawn plus interest. The amount required to repay withdrawn contributions is calculated as the withdrawn contributions plus interest at the actuarial valuation interest rate in effect at the time of the repayment, compounded annually and computed from the date of withdrawal of such contributions until repaid. Payment for service credit may be made in the form of a cash payment to the system or a trustee-to-trustee transfer of monies from an annuity in compliance with Section 403(b) of the Internal Revenue Code or from a deferred compensation plan in compliance with Section 457 of the Internal Revenue Code as long as the transfer complies with all applicable provisions of state and federal law.

To repay withdrawn contributions, an application, including the member's social security number, the name of the employing municipality and the approximate date that the refund was paid must be filed with the system.

Upon such repayment, the member is given credit for the prior service, which was cancelled at the time of the prior refund. The repayment restores all other rights that the member had in the system at the time of withdrawal.

Upon approval by the board of trustees, a former member of the system who becomes a member of a plan other than the plan of their original membership may receive credit in the new plan for such prior service only after payment of an amount to be determined by an actuarial study. The cost of such a purchase will be computed as an amount to be actuarially equivalent to the change in benefits in the new plan.

Reciprocal Recognition of Credited Service in Other Public Retirement Systems – R. S. 11:142

A member of the system, or an eligible survivor of a member, who has credit for service in any other Louisiana state, municipal, or parochial public retirement system may combine all service for which the member has credit in order that eligibility for regular retirement, disability retirement, or survivor benefits may be acquired. Such reciprocal recognition is available only to members who have earned credit for at least six months service in this system.

To exercise such option, a member or survivor of a member must make application to this system. The application must contain the name of all other retirement systems in which the member claims membership service credit and any other necessary information. An application for reciprocal recognition made by an eligible survivor of a deceased member must be approved by the board of trustees.

Each retirement system permanently keeps and retains complete records on each member and retains and maintains all contributions and liabilities for service performed by the member while a member of that retirement system.

Eligibility for regular retirement, disability retirement, or survivor benefits requires the member to meet the highest age and years of service requirements of each system in which he/she has membership service credit. Service in any one system sufficient to meet the eligibility requirements of that system will qualify the member to receive benefits from that system, but no member will be eligible to receive benefits from any system while contributing to another system.

Upon retirement, each system in which a member has membership service credit will compute the benefit due from that system using its benefit formula and the following provisions apply:

- (1) Only the compensation and years of service actually earned or credited in each system will be used in the computation of benefits payable by each system.
- (2) If the benefit computation of a system requires the use of a minimum number of years and the member has credit in the system for fewer than the minimum number of years, the benefit will be a pro rata portion of the benefit using the minimum required years of service. The pro rata will be based on the membership service credit in the system as a percentage of the minimum number of years required.

No more than one year of membership service may be credited for any one calendar or fiscal year, and there may be no duplication of membership service credit for any period, including credit for military service. No more than a total of four years of military service may be credited unless five years of such credit has been obtained under the rules applicable in a system, in which case a maximum of five years may be credited. In the event of duplication of military service credit in more than one system or a total credit for military service in excess of five years, the retirement systems involved will mutually agree on an appropriate procedure to assure that maximum credit in all systems does not exceed five years.

The total benefits payable from all systems, plus primary employee social security benefits then available by reason of the fact that social security is a part of any of the retirement systems involved, may not exceed:

- (1) One hundred percent of the highest average compensation on which benefits are based, or,
- (2) The highest benefit that any one of the systems would provide if all service had been credited in that system.

If the total computation exceeds either (1) or (2) above, then each retirement system must reduce the benefits it will pay in the proportion its benefits represent of total computed benefits.

Membership in any state, municipal, or parochial public retirement system for which a member's employment makes him eligible may not be denied an employee by reason of attained age if that employee's credited service in another state, municipal, or parochial public retirement system, together with the prospective employment in that system until normal retirement age, would make him eligible for regular retirement benefits.

In those retirement systems where thirty-six months or three years is used in the computation of average compensation, the average salary will be computed on the actual time in the retirement system when the person has less than thirty-six months of service.

A member may cancel an application for or agreement of reciprocal recognition of service credit prior to retirement by notifying each system in which the member has service credit.

Transfers Between Public Retirement Systems – R. S. 11:143

A member of this system who has been a member of the system for at least six months and who has membership credit in any other Louisiana state, municipal, or parochial public retirement system may transfer all of their credit from every other system to this system.

All credit that the employee has in the system, fund, or plan from which he/she is transferring, whether credit for regular service, prior service, military service, or other credit, must be transferred, except as provided below:

- (1) In the event that the member has six months or more of concurrent service in the transferring system and this system, the concurrent service in the transferring system and the funds attributable to such service shall remain in the transferring system; and,
- (2) In the event that the member has less than six months of concurrent service in the transferring system and this system, the concurrent service

in the transferring system shall be canceled and the funds attributable to such service shall be transferred to this system.

The system from which the person transfers such credit will transfer to this system an amount equal to the lesser of the following:

- (1) The greater of the actuarial cost to this system for the credit transferred or all employee contributions previously made to the transferring system; or,
- (2) All employee and employer contributions made to the transferring system by and/or on behalf of such person, and interest on those contributions equal to the transferring system's actuarial valuation rate, compounded annually from each year of contribution to the date of the transfer. In systems where the employer contribution is not a fixed percentage of the employee's earnings, an employer contribution equal to the employee's contributions will be transferred.

If the amount of funds transferred from the transferring system is less than an amount which, on an actuarial basis, totally offsets the increase in accrued liability resulting from the transfer of the credit, then the person transferring, except as otherwise provided, must pay the difference between the amount of the funds transferred and the actuarial value of the credit transferred. In lieu of paying the difference, the person may, but only at the time of the transfer, be granted an amount of credit in this system based on the actuarial value of the amount of funds actually transferred by the transferring system.

If a person completes a transfer, the retirement accrual factor of the transferring system will be used to calculate the portion of the retirement benefit that is based on the transferred credit.

After the transfer is completed, the system from which the member transferred will have no future liability with respect to the person who transferred.

A member of this system must make a written application to this system to request a transfer.

If a member dies after a written application for a transfer is received in the office of this system, this system will complete the transfer and it will be considered as having been completed the day before the death of the member.

A survivor, heir, or the estate of a deceased person or member may not request a transfer.

In addition, and subject to all of the above conditions, a member may execute a reverse transfer (i.e. transfer from his current public retirement system to the public

retirement system to which he last contributed). Such a transfer may only be executed once and the transfer must be executed immediately prior to retirement from the receiving system. The request for a reverse transfer must be accompanied by the member's application for retirement from the receiving system and, on the day of the transfer, the member must terminate employment that made him eligible to be a member of the transferring system. The member's date of retirement from the receiving system shall be made effective on the next business day following the transfer. The member is allowed to apply the transferred credit toward attainment of the retirement eligibility requirements of the receiving system. Any member who would not be eligible to retire from the receiving system after the transfer may not execute a reverse transfer. Any member who executes a reverse transfer and is re-employed by an employer who participates in the transferring system shall be ineligible for membership in the transferring system after the effective date of the transfer.

A person who formerly was a member of this system, who has credit and contributions on deposit with this system, and who becomes a member of any of the other public retirement systems in this state may transfer credit and contributions plus interest out of this retirement system into the other public retirement system if the other system allows such transfers.

Repayment of Refunded Contributions for Purposes of Reciprocal Recognition or Transfer – R. S. 11:144

A member of this system who has credit in this system for at least six months of service may repay refunded contributions to any other state, municipal, or parochial public retirement system, plus compounded interest at the other system's board approved actuarial valuation interest rate from the date of refund until repayment, to reestablish such credited service for purposes of attaining reciprocal recognition of service credit in more than one system or transfer service credit to this system.

Likewise, a member of any other public retirement system in this state who has credit therein for at least six months of service may repay refunded contributions to this system, plus compounded interest thereon at this system's board approved actuarial valuation rate from the date of refund until repayment, to reestablish such credited service for purposes of reciprocal recognition or to transfer such service to the other system.

Purchase of Military Service Credit – R. S. 11:153

A member of the system may purchase credit for regular or non-regular military service. Regular military service means any state or federal full-time active duty military service. Non-regular military service means any state or federal military service, which is not regular service, for which retirement points are assigned for

participation in such service, including, but not limited to, duty served in the state national guard, coast guard, or any reserve component of the United States armed forces.

A member may purchase credit for up to four years of either regular or non-regular military service, or a combination of both, not exceeding four years total. In order to purchase military service, an application must be filed with the system. Included with the application must be proof of the inclusive dates of military service, such as a copy of the member's Form DD 214, or an official copy of the record of retirement points as maintained by the member's respective military branch.

Credit for regular service shall be based on one day of retirement credit for each day of full-time service. Credit for non-regular service shall be based on one day of retirement credit for each one of the member's accrued retirement points.

In order to purchase credit for such regular or non-regular military service, the member must pay, in one lump sum, an amount determined by the general rule relative to the purchase price of retirement credit (see **Purchase Price of Retirement Credit - Actuarial Cost**). Generally, this is an amount that, on an actuarial basis, totally offsets the increase in accrued liability of the system resulting from the purchase of the credit.

No member may purchase credit for military service if credit has already been granted for such service in any other Louisiana public retirement system from which the member is receiving any form of retirement benefits.

No member who previously received credit for military service in any retirement system for members of the armed forces of the United States from which plan the member is drawing a regular retirement benefit may purchase such military credit. This restriction does not apply to members who are drawing disability benefits based on twenty-five percent or less disability received as a result of military service. In addition, members who are receiving retirement benefits pursuant to Chapter 1223 of Title 10 of the United States Code may purchase credit for military service, either regular or non-regular, provided that the service was rendered prior to the initial date of municipal employment.

Military service may not be used for the purpose of acquiring eligibility for early retirement, disability, or survivor's benefits. Military service may only be used to attain eligibility for normal retirement benefits under the provision of twenty-five years of service regardless of age in Plan A and thirty years of service regardless of age in Plan B. In addition, any retiree who has earned benefits equal to one hundred percent of average final compensation may purchase military credit only for the limited purpose of using such credit for survivor benefits.

Military service credit may not be used to satisfy the normal retirement eligibility requirement of ten years of service upon attaining the age of sixty years in either Plan A or B.

Military service credit may not be used in the computation of average compensation for retirement benefit computation purposes.

No member who was released or discharged from service under less than honorable conditions may purchase credit for military service.

Credit for Certain Military Service Which Interrupts Covered Employment – R. S. 29:411-412 and R. S. 29:414

Any employee who leaves covered employment to perform military service, completes service in the uniformed services, and applies for re-employment upon release from service or discharge from hospitalization incidental to service is entitled to receive up to a maximum of four years of retirement credit for such period of service.

For purposes of these provisions, the term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty. Active duty by members of the National Guard who are activated pursuant to a call of the governor as provided by law, and service in the armed forces of the United States pursuant to Congressional authority or presidential proclamation under the War Powers Resolution, also qualifies.

Members that wish to continue to receive retirement credit for their period of military service may pay the required employee contributions to the retirement system during such period of service in the uniformed services. Employee contributions that would have been deducted from the member’s compensation for retirement system coverage must be paid to the employer on a timely basis. Upon receipt, the employer must remit the employee contributions to the retirement system along with the employer contributions that would have been contributed on behalf of the member. The employee must notify the employer of the election to pay the required employee contributions at the time of entry into service in the uniformed services.

Any member who did not elect to make employee contributions as provided above can receive credit for service in the uniformed services upon payment into the system of an amount equal to the employee contributions that would have been paid had the member continued in employment and not been called to service in the uniformed services, together with interest on such contributions at the valuation interest rate of the system in effect at the time payment is made. The contributions

must be based on the salary, including any increases in compensation, which the member would have received had he/she remained in employment during the period of service in the uniformed services. Upon such payment by the employee of the employee contributions and interest, the employer must pay the employer contributions that would have been paid had the employee remained in service, plus interest at the valuation interest rate in effect at the time payment is made. The employer contributions and interest must be paid within thirty days after the employee has paid all of the employee contributions due to the system. All employee contributions and interest due under this provision must be received by the system within four years of the member's re-employment. If the member fails to pay the required contributions and interest within four years, the credit for service in the uniformed services shall only count toward determining eligibility for retirement benefits and not toward the computation of such benefits.

The member's period of service in the uniformed services is counted as creditable service for purposes of determining eligibility for survivor benefits and in the computation of such benefits if the following conditions are satisfied:

1. The beneficiary of survivor benefits provides payment of the unpaid portion of the employee contributions, plus applicable interest, of the deceased member. The beneficiary may agree, in writing, to have the payment of the unpaid portion deducted from the benefits over a period of time, not to exceed four years. Alternatively, the beneficiary may pay the actuarial cost of such additional credit in a lump sum prior to the distribution of benefits.
2. If there is more than one beneficiary, a written agreement to pay the unpaid contributions must be unanimous. In the event that a beneficiary is a minor child, the legal guardian of the minor child must express consent for the minor child.

If the above conditions are satisfied, the employer must pay the employer contributions plus applicable interest. If the beneficiary elects not to pay the employee contributions, the computation of the survivor benefits shall be based on the actual credit of the member prior to being called to service in the uniformed services.

The provisions of this entire section do not apply to any member who is a participant in the Deferred Retirement Option Plan.

The Purchase of Service as a City Councilman or Alderman for Which Credit has not Been Received – R. S. 11:1765

A member of the system serving, or who has served, as a city councilman or alderman, and who has prior service in that office and has been precluded from purchasing credit for that service may purchase credit for such service. To obtain such credit, the member must pay to the system an amount as determined by the general rule relative to the purchase price of retirement credit (see **Purchase Price of Retirement Credit - Actuarial Cost**). Payment may only be made in a lump-sum amount. The member must apply to the system to make such a purchase and must furnish a detailed statement of all service for which credit is claimed.

ADMINISTRATION

Board of Trustees; Membership; Term of Office; Compensation; Voting Power; Vacancies – R. S. 11:1821, R. S. 11:181

The board of trustees is authorized and empowered to administer the provisions of the system and to establish such rules and regulations as are required for the administration of the system and the transaction of its business.

The board consists of nine trustees: three are active and contributing members of the system who must have credit for at least ten years of service and who are elected officials of participating municipalities, elected by the members of the system in accordance with the election rules prescribed by the board; three are active and contributing members of the system who must have credit for at least ten years of service and who are not elected officials of participating municipalities, elected by the members of the system in accordance with the election rules prescribed by the board; one is the president of the Louisiana Municipal Association; one is the chairman of the Senate Retirement Committee, or his designee; and one is the chairman of the House Retirement Committee, or his designee.

Any person whose name is submitted to the system as a candidate for election to the board shall have his/her name included on the election ballot, provided their name is submitted in accordance with the rules applicable to all candidates for such election. Only elected officials of participating municipalities who have credit for at least ten years of service may be nominated when the seat on the board up for election is one then occupied by an elected official. Only non-elected officials of participating municipalities who have credit for at least ten years of service may be nominated when the seat on the board up for election is one then occupied by a non-elected official. Each nominee shall be eligible to attend the counting of the ballots and the director of the system shall provide sufficient advance written notice to each person whose name appears on the ballot, stating the time, date, and location that the ballots will be counted and the results announced. For purposes of eligibility to run for election to the board and voting in any board member election, persons who are participating in the system's Deferred Retirement Option Plan are considered to be active and contributing members of the system and, as such, are eligible to run for election to the board and vote in any board member election.

The term of office for the six trustees who are elected by the members of the system is six years except that the term of office for the member elected in 2003 is five years and the member elected in 2006 is seven years.

Each trustee serves without compensation but is paid, as per R. S. 11:181, a per diem of seventy-five dollars plus the normal expense allowance for attendance at meetings of the board.

Each trustee is entitled to one vote on any and all actions before the board and a majority of concurring votes is required for every decision or action taken by the board.

If there is a vacancy on the board in one of the six elected seats and the remainder of the term is at least two years, it is filled for the remainder of the term through election by the members of the system. A vacancy on the board in one of the six elected seats where the remainder of the term is less than two years may be filled by the appointment of a new member by the board of trustees to complete the remainder of the term. If a trustee retires during a term, that trustee may continue to serve for the remainder of the elected term. If a trustee otherwise separates from membership, that trustee must resign from the board and the vacated seat is to be filled under the rules outlined above.

Board Officers – R. S. 11:1822

The board elects from its members a chairman and vice-chairman who serve at the board's pleasure without compensation.

Board Responsibilities, Powers, and Duties – R. S. 11:1823

Each member of the board must discharge their fiduciary duties solely in the interest of the system's members and beneficiaries and for the exclusive purpose of providing benefits to the members and their beneficiaries, with the care, skill, prudence and diligence under the circumstances then prevailing, that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

The board has the following powers and duties in administering the system:

- (1) To formulate and promulgate any and all necessary rules and regulations to facilitate the proper functioning of the system or the administration of any of its funds. The board has full authority to determine all questions of coverage and qualifications as to participation in and receipt of benefits from the system and to construe, interpret, and apply the provisions of law which govern the system. Discretionary actions taken by the board with respect to the classification of the employees, contributions, or benefits must be uniform in their nature and applicable to all employees similarly situated.
- (2) To authorize or suspend the payment of any benefit in accordance with applicable law.

- (3) To prepare and approve, prior to the beginning of each fiscal year, a budget of operating expenses for such year.
- (4) To compel witnesses to attend meetings and to testify upon any necessary matter concerning the system.
- (5) To request such information from any member or participating employer as is necessary for the proper operation of the system.
- (6) To determine the length of prior service from such information as is available.
- (7) To establish an office or offices with suitable space for meetings of the board and for use of the necessary administrative personnel.
- (8) To appoint an administrative director to manage the office and carry out technical administrative duties of the system.
- (9) To appoint an actuary to perform all the necessary actuarial requirements of the system.
- (10) To appoint such investment counsel as may be required from time to time.
- (11) To obtain by employment or by contract such additional actuarial, legal, medical, clerical, or other services as may be required for the efficient administration of the system.
- (12) To determine and fix the rate of compensation to be paid to the administrative director, actuary, investment counsel, auditor, legal or medical counsel, and system employees and contractees.
- (13) To have the accounts of the system audited annually by a certified public accountant.
- (14) To submit an annual statement to the authorized agent of each participating employer as soon after the end of each fiscal year as possible. The statement shall include items such as a balance sheet showing the financial and actuarial condition of the system as of the end of the fiscal year, a statement of receipts and disbursements during the year, and additional statistics as are deemed necessary for a proper interpretation of the condition of the system.
- (15) To submit an individual statement to any participating member upon their reasonable request. The statement shall indicate the amount of creditable service and accumulated contributions standing to the employee's credit as of the latest date practicable.

- (16) To determine the limitations on the amount of cash to be invested in order to maintain such cash balances as may be deemed advisable to meet current requirements, and invest the available cash within these limits.
- (17) To keep in convenient form the data necessary for all required calculations and valuations as required by the actuary.
- (18) To keep a permanent record of the proceedings of the board and such other records as may be necessary or desirable for the administration of the system.
- (19) To establish such rules and regulations in accordance with applicable law as may be necessary or desirable for the efficient administration of the system, including the time and manner of reporting and making contributions by participating employers.
- (20) To appoint committees of three or more trustees to perform such functions as may be directed by the board.
- (21) To carry on generally any other reasonable activities, including, without limitation, the making of administrative decisions on participation and coverage, which are necessary for carrying out the intent of the system in accordance with applicable law.

**Educational Requirements for Members of the Board of Trustees –
R. S. 11:185**

Members of the Board of Trustees must complete continuing education or professional development training each year of their participation on the Board of Trustees. This includes education on topics such as investment decisions, actuarial science, laws and rules of the retirement system, and fiduciary duties and ethics. Members of the Board must meet certain minimum requirements to be permitted to vote and receive per diem payments.

Duties of the Administrative Director – R. S. 11:1824

The administrative director is in charge of the general administration of the system. The administrative director has such special powers and duties as may be properly delegated or assigned by the board from time to time. Such general administrative duties include: the employment of the system's office staff; the correlation of the board's actions with the authorized agent of each employer; the supervision of periodic disclosures to the members and beneficiaries of information necessary for the full understanding of their rights and obligations under the system; the computation of the amounts of benefits, prior service credits, and contributions

required for reinstatement of credits for board consideration; the processing of accrued benefit claims and expenses of administration for payment; the placing of any and all matters before the board which require action or are in the interest of the board or system; the preparation and maintenance of necessary and proper records for administrative and actuarial purposes; the preparation of any necessary or desirable communications in the course of operations of the system; and the carrying out of any actions of the board which are so delegated.

The State Medical Disability Board – R. S. 11:219

The State Medical Disability Board is to be composed of physicians appointed by the board of trustees. Each medical board member is responsible for either reviewing the medical case histories or conducting medical examinations of members of the system who apply for disability benefits and for submitting findings and recommendations to the board of trustees. The State Medical Disability Board or any member thereof or the board of trustees may call upon physicians in any area of medical specialty and from any area of the state either to review case histories or to conduct regular or appeal examinations of disability retirement applicants or retirees. These alternate physicians shall follow the same procedures and have the same authority as regular members of the State Medical Disability Board.

Actuary – R. S. 11:1826

The actuary is the technical advisor to the board on matters regarding the operation of the funds of the system.

The actuary makes actuarial investigations of the members as to mortality, disability, retirement, separation, marital status, re-marriage of surviving spouses, interest, and earning rates.

In addition to such other duties as the board may prescribe, the actuary:

- (1) Recommends actuarial tables to be used for computing benefits and rates of contribution required of participating employers and members.
- (2) Makes an annual valuation of the liabilities and reserves for present and prospective annuities and benefits.
- (3) Reviews the terms of each new agreement as pertains to prior service, conducts such investigations as are necessary to determine the existing liability, and recommends to the board the payment required to offset such liability.

Authorized Agent; Powers and Duties – R. S. 11:1827

The authorized agent is the representative of the employer to act on behalf of the employer with and for the system. The authorized agent is the agent of and acts on behalf of the employer, not the retirement system. Such person has a duty to act within the terms of the agreement between the board and the respective employer to facilitate the efficient operation of the system as it pertains to those employees of the employer who are members. Their duties include:

- (1) Attendance at board meetings on behalf of their employer when necessary.
- (2) Presenting membership and retirement applications from their employer's members to the system.
- (3) Coordinating with the administrative director to insure that information and data pertinent to the employer is recorded correctly.
- (4) Acting on behalf of the employer on all questions of eligibility, participation, benefits, coverage, administration, and contributions to the system.
- (5) Ensuring that all communication from the system to the employer or its employees are properly distributed and disseminated.

Investment of Funds by the Board of Trustees – R. S. 11:1841

The board of trustees is the trustee of the system's funds and has full power to invest and reinvest such funds in accordance with applicable law. The board has full power to hold, purchase, sell, assign, transfer, and dispose of the securities and investments in which the system's funds may have been invested as well as the proceeds of the investments and any assets belonging to the system's funds. The board is the custodian of the system's funds.

The assets of the system are held for the exclusive benefit of the system's members and retirees and their survivors and beneficiaries. The system's assets may not be used for or diverted to purposes other than the exclusive benefit of such members and retirees and their survivors or beneficiaries.

Private Interest of Trustees and Employees in Financial Operation of the System Is Prohibited – R. S. 11:1845

No trustee or employee of the board may have any direct interest in the gains or profits of any investment made by the board, nor, as such, receive any pay or emolument for his service other than reimbursement of expenses. No trustee or

employee of the board may, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the board, nor may any trustee or employee of the board become an endorser or surety or in any manner an obligor for assets loaned or borrowed by the board of trustees.

Fiduciary and Investment Responsibilities – R. S. 11:263 and R. S. 11:264

The system is required to apply the prudent-man rule with regard to the investment of system funds. This rule requires each fiduciary of the system and the board of trustees acting collectively on behalf of the system to act with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent institutional investor acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

The standard requires the exercise of reasonable care, skill, and caution, and is to be applied, with regard to investments, not in isolation, but in the context of the trust portfolio, and as part of an overall investment strategy, which shall include an asset allocation study and plan for its implementation, incorporating risk and return objectives reasonably suitable to the trust (i.e. the retirement system).

Notwithstanding the prudent-man rule, the board may invest more than fifty-five percent of the system's total portfolio in equities, so long as not more than sixty-five percent of the total portfolio is invested in equities and at least ten percent of the total equity portfolio is invested in one or more index funds which seek to replicate the performance of the chosen index or indices.

The prudent man rule does not prohibit investment in small and emerging businesses, small business investment companies, and venture capital firms. The board of trustees may but is not required to divest itself of any holding in a company having facilities or employees or both located in Iran, Libya, North Korea, Sudan, or Syria.

Fiduciaries are those persons who (1) exercise any discretionary authority or discretionary control with respect to the management of system funds or assets or (2) render investment advice or services for compensation, direct or indirect, with respect to system funds or assets. However, legislators, state officials, system attorneys, accountants, and actuaries shall not be considered to be fiduciaries unless they exercise discretionary control over the management or administration of the system or some authority or control over system assets.

Any person who has been convicted of a felony offense shall be restricted from serving as a system fiduciary for a period of five years after the conviction or after the end of imprisonment, whichever is later.

Fiduciaries must discharge their duties solely in the interest of system members and beneficiaries for the exclusive purpose of providing benefits to participants and beneficiaries, and paying the expenses of administering the plan.

A fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries shall be personally liable to make good to the system any losses to the system resulting from each breach, and to restore to the system any profits of the fiduciary which have been made through the use of system assets by the fiduciary. Fiduciaries of the system are subject to such other equitable or remedial relief, as a court may deem appropriate, including removal of the fiduciary.

No fiduciary is liable with respect to a breach of a fiduciary duty if the breach was committed before he/she became a fiduciary or after he/she ceased to be a fiduciary.

Any fiduciary who participates in a breach committed by a co-fiduciary, or who tries to conceal a co-fiduciary's breach, shall be held liable jointly for breach of fiduciary duty. Co-fiduciary liability also results from a fiduciary's failure to use reasonable care to prevent a co-fiduciary from committing a breach

Any fiduciary who has knowledge of a co-fiduciary's breach has a duty to remedy the breach.

Any member, beneficiary, or survivor who can demonstrate a personal interest in the system may bring a civil action to enforce these fiduciary provisions. In any enforcement proceeding, the plaintiff may seek and the court may grant any or all of the following forms of relief:

1. A writ of mandamus;
2. Injunctive relief;
3. Declaratory judgment;
4. Judgment rendering certain actions of the board as void;
5. Judgment awarding civil damages.
6. Judgment requiring payment of the amounts in R.S. 11:269.

Exclusive original jurisdiction for enforcement proceedings shall be in the Nineteenth Judicial District Court of Louisiana. In any enforcement proceeding, the court has jurisdiction and authority to issue all necessary orders to require compliance with, or to prevent noncompliance with, or to declare the rights of

parties provided by these fiduciary provisions. Any noncompliance with the orders of the court may be punished as contempt of court.

If a person who brings an enforcement proceeding prevails, he shall be awarded reasonable attorney fees and other costs of litigation. If such person prevails in part, the court may award him reasonable attorney fees or an appropriate portion thereof. If the court finds that the proceeding was of a frivolous nature and was brought with no substantial justification, it may award reasonable attorney fees to the prevailing party.

The system may not submit a proposed regulation or approve any internal policy to relieve a fiduciary from responsibility for a breach of fiduciary duty. However, the system may purchase insurance to cover liability or losses due to acts or omissions of fiduciaries. Any such insurance shall maintain the insurance company's right of subrogation. A fiduciary may purchase insurance to cover his own liability, without condition.

Actuarial Soundness – Constitution of the State of Louisiana, Article 10, Section 29(E)

Neither the state nor the board of trustees may take any action that will cause the actuarial present value of expected future expenditures of the system to exceed or further exceed the sum of the current actuarial value of assets and the actuarial present value of expected future receipts of the retirement system, except with respect to the following:

- (1) Normal business operating expenses of the system.
- (2) Capital outlay expenditures of the system.
- (3) Management of investments of the system.
- (4) Cost-of-living increases to retirees, as provided by law, provided the system is approaching actuarial soundness as provided by law and the granting of such increase does not cause an increase in the actuarially required contribution rate.

All assets, proceeds, or income of the retirement system and all contributions and payments made to the system to provide for retirement and related benefits are held, invested as authorized by law, or disbursed as in trust for the exclusive purpose of providing such benefits, refunds, and administrative expenses under the management of the board of trustees and may not be encumbered for or diverted to any other purpose. The accrued benefits of members may not be diminished or impaired. Future benefit provisions for members of the system may only be altered by legislative enactment.

METHOD OF FINANCING

Payment of Contributions; Penalty for Delinquent Contributions; Deductions – R. S. 11:281, R. S. 11:1864

Each participating employer must pay to the system, with respect to its employees' earnings, at such time or times as the board may by regulation prescribe, contributions in the amounts and at the rates prescribed by the board as set by law.

Every employer required to make such contributions is authorized to impose upon its employees a contribution with respect to earnings and to deduct the amount of such contribution from earnings as and when paid. Contributions so collected must be paid to the board in partial discharge of the liability of the employer. Failure to deduct such contributions does not relieve the employee or employer of liability thereof.

Reports of a municipality's employees' earnings and payment of the employee and employer contributions are due monthly and become delinquent if not received by the system on the 10th of the following month.

Delinquent contribution payments will be charged interest at the rate of legal interest computed from the date the payments became delinquent. Such delinquent contributions and interest may be recovered by action in a court of competent jurisdiction against the employer. Otherwise, once the delinquent contributions and interest has been certified, the board may request that such amounts be deducted from any funds payable to the employer by any department or agency of the state.

The deductions must be made notwithstanding that the minimum compensation provided by law for a member will be reduced thereby. Every member is deemed to consent and agree to the deductions. The payment of salary or compensation less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided by the system. The employer must certify to the board on each and every payroll or in such other manner as the board may prescribe, the amounts to be deducted and each of said amounts must be deducted and when deducted be paid to the system and credited to the individual account of the member from whose compensation the deduction was made.

Purchase Price of Retirement Credit - Actuarial Cost – R. S. 11:158(C)

The purchase of retirement credit, other than the receipt of current credit which requires regular employee and employer contributions and the repayment of refunded contributions, which is otherwise authorized, requires payment to the system of the greater of either:

- (1) The actuarial cost of the credit which is defined as an amount that, on an actuarial basis, totally offsets the increase in accrued liability of the system resulting from the purchase of the credit, or,
- (2) The employee and employer contributions that would have been paid plus interest thereon, compounded annually from the time the contributions would have been paid, at the system's assumed actuarial valuation rate of interest.

The amount payable will be calculated by use of the system's actuarial funding method, assumptions, and tables in use at the time of application for purchase of the credit. The actuary may modify the assumptions utilized to reflect the effects of anti-selection.

Tax Sheltering of Employee Contributions – R. S. 11:154

Tax sheltering of employee contributions means that a member does not pay federal income taxes on, and the employer does not report as taxable income, that portion of income that is deducted from gross earnings and remitted to the retirement system as an employee contribution.

All employee contributions withheld from a member's earnings on and after January 1, 2000 are tax sheltered. Therefore, the employee does not pay federal income taxes on, and the employer does not report as taxable income, such contributions. Employee contributions that were withheld from a member's earnings prior to January 1, 2000 were not given this treatment.

Example:

Assume an employee's salary is \$1,000 per month.

In Plan A, such an employee would contribute \$92.50 (9.25% of earnings). Prior to January 1, 2000, the taxable income was \$1,000 per month. However, on and after January 1, 2000, the taxable income is only \$907.50 per month. This represents the employee's gross monthly salary of \$1,000 minus the employee's sheltered retirement contribution of \$92.50. At the end of the calendar year, the annual taxable earnings that would be reported to the Internal Revenue Service (IRS) under

such a scenario are \$10,890 ($\907.50×12), not \$12,000 ($\$1,000 \times 12$) as would be the case without tax sheltering.

In Plan B, such an employee would contribute \$50.00 (5% of earnings) to the Municipal Employees' Retirement System. Prior to January 1, 2000, the taxable income was \$1,000 per month. However, on and after January 1, 2000, the taxable income is only \$950.00 per month. This represents the employee's gross monthly

salary of \$1,000 minus the employee's sheltered retirement contribution of \$50.00. At the end of the calendar year, the annual taxable earnings that would be reported to the Internal Revenue Service (IRS) under such a scenario are \$11,400 ($\950.00×12), not \$12,000 ($\$1,000 \times 12$) as would be the case without tax sheltering.

Funds Payable to a Succession or Estate – R. S. 11:165 and R. S. 9:1515

When funds are payable by the retirement system to the succession or estate of a deceased member or retiree, the funds may be paid to the member's surviving spouse, provided that neither the member or spouse had previously instituted divorce proceedings. If the deceased member leaves no surviving spouse, or if either the member or the spouse had instituted a divorce proceeding, the funds may be paid to any major child of the deceased member.

In order to receive such funds, the surviving spouse or major child must execute an instrument before two witnesses that provides the following:

- (1) Name, address, date, and place of death of the deceased member.
- (2) The relationship of the person requesting payment to the deceased member.
- (3) The name and address of the deceased member's surviving spouse or children, if any.
- (4) Such other information as the system may require.

The system may make these payments without any court proceedings, court order, or authorizing judgment of a court (i.e. the formal opening of a succession) and without determining whether any inheritance taxes may be due or whether the funds belong to the separate estate of the decedent or to the community that existed between the decedent and the surviving spouse. Such payments should only be made in cases where the system forwards an affidavit stating the name of the deceased, the amount paid, the name of the recipient, and a copy of the release document substantiating the release to the secretary of the Department of Revenue within ten calendar days of the release of the funds.

The execution of the instrument by the recipient and the receipt by such person of such payment constitutes a full release and discharge of the system for the amount paid and for all inheritance taxes which may be determined to be due. No person, natural or juridical, shall have any right or cause of action against the system because of such payment.

Surviving Minor's Benefit Placed in Trust – R. S. 11:235 (B)

If a trust has been created under Louisiana law by a member of the system for the benefit of the member's minor child(ren), the terms of the instrument creating the trust so provide, and the retirement system has been provided with a certified copy of the trust document, then a survivor benefit due a minor child(ren) shall be paid to the trustee for addition to the trust property.

Exemption from Execution and State Income Tax – R. S. 11:1735

The right of a person to a normal retirement, disability retirement, survivor benefit, return of contributions, or any other right accrued or accruing to any person from and/or by the system, and the assets in the various system funds are exempt from any state or municipal tax and from levy and sale, garnishment, attachment, or any other process whatsoever except as provided in R. S. 11:292. The exception provided in R. S. 11:292 states that any retirement benefit paid to any retiree is subject to garnishment or court-ordered assignment to pay child support. In addition, the system is required to honor Internal Revenue Service levies and garnishments.

If the contributions of an employee are paid by a municipality to purchase credit for prior service, these funds may be assigned to the municipality. Such assignment shall continue until the employee has repaid to the municipality the amount of the contributions paid or the municipality has released the contributions it paid by giving written notice to the board.

Benefits paid by the system are exempt from state income tax. Benefit and refund payments are also subject to certain court orders (see section labeled **Community Property Interests**).

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