

Regular Session, 2008

HOUSE BILL NO. 226

BY REPRESENTATIVE ARMES

RETIREMENT/TEACHERS: Provides relative to the Teachers' Retirement System of Louisiana with respect to disability retirement rehires

1 AN ACT

2 To amend and reenact R.S. 11:780.1, relative to employment of disability retirees of the
3 Teachers' Retirement System of Louisiana; to provide for employment of disability
4 retirees as substitute teachers; to provide for limitations; and to provide for related
5 matters.

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 11:780.1 is hereby amended and reenacted to read as follows:

11 §780.1. Employment; termination of benefits

12 A. ~~If Except as provided in Subsection B of this Section, if~~ a disability
13 retiree from the Teachers' Retirement System of Louisiana becomes employed in any
14 employment in the field of education, whether public or private, his disability benefit
15 shall terminate.

16 B.(1) Notwithstanding the provisions of Subsection A of this Section or any
17 other law to the contrary, a disability retiree of the Teachers' Retirement System of
18 Louisiana may be employed as a substitute teacher and receive disability benefits as
19 provided in and subject to the limitations of this Section and R.S. 11:780. Such

1 person shall not become a member of the system upon reemployment as a substitute
2 teacher.

3 (2) A disability retiree may become employed as a substitute teacher if all
4 of the following requirements are met:

5 (a) A member of the medical board, or a physician designated by the board
6 as authorized by R.S. 11:218, hereafter referred to in this Section as a "designated
7 physician", reports and certifies to the board of trustees that the disability retiree is
8 able to engage in substitute teaching but is not able to engage in teaching other than
9 on a substitute basis.

10 (b) A member of the medical board or a designated physician certifies to the
11 board of trustees a limitation on the extent of the substitute teaching in which the
12 disability retiree is able to engage.

13 (c) A member of the medical board or a designated physician certifies to the
14 board of trustees a schedule for periodic review of the disability retiree's disability
15 for determination of the ability of the retiree to engage in substitute teaching and of
16 the ability of the retiree to engage in teaching other than on a substitute basis, and a
17 member of the medical board or a designated physician reviews such disability in
18 accordance with such schedule and recertifies the ability of the retiree as provided
19 in Subparagraphs (a) and (b) of this Paragraph. Costs of examinations pursuant to
20 this Subparagraph shall be the responsibility of the disability retiree.

21 (d) The disability retiree does not engage in substitute teaching beyond the
22 limitation certified pursuant to Subparagraph (b) or (c) of this Paragraph.

23 C. Upon the application of a member who is applying for disability
24 retirement, or of a disability retiree who is not engaged in substitute teaching, to
25 engage in substitute teaching pursuant to this Subsection, the retirement system shall
26 provide for an examination of the eligibility of the applicant to engage in substitute
27 teaching. Such examination shall be subject to the provisions of R.S. 11:218(B)
28 through (E) and 219(A). The cost of a third examination as provided in R.S.
29 11:218(D)(3), if any, shall be borne by the system if the applicant to engage in

1 substitute teaching is certified as eligible to engage in substitute teaching and by the
2 applicant if the application to engage in substitute teaching is denied.

3 Section 2. The cost of this Act, if any, shall be funded with additional employer
4 contributions in compliance with Article X, Section 29(E)(5)(b) of the Constitution of
5 Louisiana.

6 Section 3. This Act shall become effective upon signature by the governor or, if not
7 signed by the governor, upon expiration of the time for bills to become law without signature
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
10 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Armes

HB No. 226

Abstract: Relative to the Teachers' Retirement System of Louisiana (TRSL), provides for employment of disability retirees as substitute teachers, subject to specified limitations.

Present law (R.S. 11:203) provides for disability benefits for a TRSL member who becomes disabled, who files for disability benefits while in service, and who upon medical examination and certification (as required by law) is found to be totally disabled for any cause. In order to be eligible, requires that the member has had at least five years of creditable service and that the disability was incurred while the member was an active contributing member in active service.

Present law (R.S. 11:779) provides that a disability retirement allowance shall be equal to 2-1/2 % of average compensation times years of creditable service, not to exceed 50% of average compensation. The allowance must be at least the lesser of 40% of the state minimum salary for a beginning teacher with a bachelor's degree or 75% of average compensation. Also provides for benefits for a surviving spouse and minor children of a disability retiree who dies.

Present law (R.S. 11:780.1) provides that the disability benefits of a disability retiree of the TRSL shall terminate if the disability retiree becomes employed in any employment in the field of education, whether public or private.

Proposed law (R.S. 11:780.1) allows a TRSL disability retiree to be employed as a substitute teacher and continue to receive disability benefits subject to limitations of proposed law and R.S. 11:780.

Proposed law provides that a disability retiree may be employed as a substitute teacher subject to all of the following requirements:

- (1) A state Medical Disability Board member or a physician designated by the medical board certifies to the system board that the disability retiree is able to engage in substitute teaching but is not able to engage in teaching other than on a substitute basis.
- (2) A medical board member or a designated physician certifies to the system board a limitation on the extent of the substitute teaching in which the disability retiree is able to engage.
- (3) A medical board member or a designated physician certifies to the system board a schedule for periodic review of the disability retiree's disability for determination of the ability of the retiree to engage in substitute teaching and to engage in teaching other than on a substitute basis, and a medical board member or a designated physician reviews such disability in accordance with such schedule and recertifies the eligibility of the retiree. Provides that costs of such scheduled reexaminations are the responsibility of the beneficiary.
- (4) The disability retiree does not engage in substitute teaching beyond the limitation certified.

Proposed law also requires, when either a TRSL member who is applying for disability retirement or a disability retiree who is not engaged in substitute teaching applies to engage in substitute teaching, that the retirement system must provide for an examination of the applicant's eligibility to engage in substitute teaching. Such examinations are subject to present law provisions for disability examinations, direct costs of which are borne by the system, except that if the finding is contested by the retiree or the system board, the cost of a reexamination is borne by the contesting party. If the second examination differs from the first, provides that cost of a third examination, if any, is borne by the system if the applicant is certified as able to engage in substitute teaching and by the applicant if he is not.

Present law (R.S. 11:780) requires a disability retiree who has not attained age 60 to undergo a medical examination at the beneficiary's expense made by a physician(s) designated by the board of trustees. Requires that the examination be completed once each year during the first five years following any disability retirement and once in every three-year period thereafter. Provides for discontinuance of reexaminations upon medical board advice that the retiree's condition is terminal or that chances of recovery are highly improbable. Refusal to submit to the examination may result in discontinuance of benefits until withdrawal of refusal, but if refusal continues for one year, the board of trustees may revoke all pension rights. Present law requires every disability beneficiary (unless he had no earnings) who is determined by TRSL to be incapacitated or who is residing in a nursing home to submit annually to the board of trustees by May 1 a notarized annual earnings statement detailing his earned income from employment in the previous tax year. Refusal to submit such statement by May 1 may result in discontinuance of benefits without retroactive reimbursement until the statement is filed. If refusal continues for the remainder of the calendar year, the board may revoke his rights to his disability pension.

Present law (R.S. 11:780) further provides for pension reduction if the medical board certifies to the system board that a disability retiree is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and the board concurs in the report. Requires in such case that his pension be reduced to an amount, which when added to his annuity and the amount earnable by him, equals his average final compensation. If his earning capacity changes, permits further modification of his pension amount, but the new pension cannot exceed the amount of the pension originally granted nor an amount which, when added to his annuity and the amount earnable by him, equals his average final compensation. Excludes from the pay used to reduce benefits an amount equal to the difference between the beneficiary's total annual benefit and the poverty threshold for a family unit of one person under age 65 as determined by the U.S. Bureau of the Census for the year the pay is earned.

Present law (R.S. 11:780) requires a disability retiree who is engaged in a gainful occupation to provide any information or documentation requested by the system to implement present law.

Present law (R.S. 11:780) provides for exclusion of income earned while working the 20 hours per week required by the DSS vocational rehabilitation program in order to obtain use of durable medical equipment provided by such program from pay used to calculate disability benefits for certain disability retirees of TRSL who retired pursuant to a reciprocal agreement between TRSL and another state or statewide retirement system, subject to certain conditions and limitations.

Present law (R.S. 11:780) provides for an annual cost-of-living adjustment to the average final compensation figure used in the modification computations.

Present law (R.S. 11:780) provides that if a disability retiree is restored to active service, his retirement allowance shall cease, he shall again become a member of the retirement system, and he shall contribute thereafter at the current rate in effect at the time he is restored to service. Provides that if he contributes for at least three years, the period of time on disability shall be counted for purposes of establishing retirement eligibility, but not for computation of benefits. Provides for restoration of service used in computation of his retirement and for crediting to him all his service as a member upon subsequent retirement.

Proposed law makes present law (R.S. 11:780) applicable to disability retirees who teach on a substitute basis pursuant to proposed law (R.S. 11:780.1(B)).

The cost of this proposed law, if any, shall be funded with additional employer contributions in compliance with Article X, Section 29(E)(5)(b) of the Constitution of Louisiana.

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

(Amends R.S. 11:780.1)