
DIGEST

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Robideaux

HB No. 1237

Abstract: Provides for the forfeiture of public retirement benefits for public servants convicted of a felony sex crime involving a minor.

Proposed law provides for the forfeiture of public retirement benefits by any public servant convicted of certain felony sex crimes involving a minor. Specifies the state crimes conviction of which results in such forfeiture. Provides that conviction occurs when all appellate review is exhausted. Applies to "public retirement systems" defined as the any state, statewide, or local retirement system.

Proposed law (R.S. 11:293(B)) requires the forfeiture of all rights, benefits, and membership in a public retirement system for any public servant convicted of a felony sex crime involving a minor, whose retirement benefits have not vested on the effective date of proposed law. All employee contributions shall be refunded to such individual, except as provided by proposed law (R.S. 11:293(G)) providing for payment of restitution and fines.

Proposed law (R.S. 11:293(C)) provides that any such individual so convicted, whose benefits have vested on the effective date of proposed law, shall forfeit the service credit he earned from the effective date of proposed law. The final average compensation used to calculate such individual's retirement benefit shall not include any earned compensation after the effective date of proposed law. The corresponding employee contributions shall be refunded, except as provided by proposed law (R.S. 11:293(G)).

Proposed law (R.S. 11:293(D)) provides that such person so convicted, but who is receiving public retirement benefits, shall not be entitled to any cost-of-living adjustments (COLAs) payable after the effective date of proposed law or any interest on a Deferred Retirement Option Plan account (DROP) accruing after the effective date of proposed law.

Proposed law (R.S. 11:293(E)) provides that if any individual subject to forfeiture under proposed law has already received retirement benefits prior to forfeiting his benefits pursuant to proposed law, he shall repay to the system any amount exceeding that which he would have received pursuant to proposed law (R.S. 11:293(C)). Provides that if such individual fails to repay the retirement system, the system may seek civil redress and collect court costs and legal interest from the date of conviction.

Proposed law (R.S. 11:293(F)) provides that the provisions of proposed law shall not apply to any defined contribution plan.

Proposed law (R.S. 11:293(G)) provides that the employee contributions otherwise refundable pursuant to proposed law shall be available for the satisfaction of any court- ordered restitution or criminal fine. In the case of restitution, the retirement system shall pay the amount necessary to satisfy the order to the extent possible. In the case of a fine, the retirement system shall make such employee contributions available for collection by the sheriff or executive officer of the court that ordered the fine. Provides that any employee contributions remaining shall be refunded to the teacher or employee. Provides that in the event that the employee contributions are insufficient to satisfy both the restitution and the fine, the employee contributions shall be apportioned equally for the satisfaction of both.

Proposed law (R.S. 11:293(H)) provides that the prosecuting authority shall inform the secretary of the Dept. of Public Safety and Corrections in writing when a conviction has been obtained against a person to whom proposed law may apply. The secretary shall then report this information to the appropriate retirement system.

Present law (R.S. 13:3881(A) and R.S. 20:33) provides for a general exemption from seizure under any writ, mandate, or process whatsoever for certain income or property of a debtor. Specifies that, except as provided in present law, the following shall be exempt from all liability for any debt except alimony and child support:

- (1) All pensions.
- (2) All tax-deferred arrangements.
- (3) Annuity contracts.
- (4) All proceeds of and payments under all tax-deferred arrangements and annuity contracts.

Proposed law retains present law but provides that the pension or retirement benefit of a public servant may be subject to an order of restitution or fines under proposed law.

Various provisions of present law (R.S. 11:951.3 relative to the Orleans Parish School Employees' Retirement System, and R.S. 11:3770 relative to the Bus Drivers' Pension and Relief Fund of the city of Monroe) provide that any annuity, retirement allowance or benefit, or refund of contributions, or any optional benefit or any other benefit paid or payable to any person under the provisions of present law is exempt from any state or municipal tax and is exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and is unassignable.

Proposed law retains present law, but excepts orders of restitution and criminal fines pursuant to proposed law.

Effective if and when the proposed amendment of Art. X, §29(F) of the Constitution of La. contained in the Act which originated as HB No. 740 of the 2008 R.S. of the Legislature is adopted at the statewide election to be held on Nov. 4, 2008, and becomes effective.

(Amends R.S. 11:570, 951.3, 952.3, 1378, 1735(A), 1905, 3014, 3051, 3111, 3140, 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470, 3513, 3608(A), 3691, 3770, 3800, and 3823 and R.S. 13:3881(D)(1); Adds R.S. 11:293)