

# **Clerks' of Court Retirement and Relief Fund**

## **SUMMARY PLAN DESCRIPTION AND HANDBOOK OF INFORMATION**

**Updated as of August 1, 2010**

## INTRODUCTION

The information contained in this pamphlet is updated as of August 1, 2010 and is meant to be a summarization of the most important Louisiana Revised Statutes (R.S.) related to the Clerks' of Court Retirement and Relief Fund effective on that date. Other sections of the state's revised statutes and/or federal codes and regulations may affect members' retirement benefits. All of this information is subject to legislative amendment and revision and/or changes that may be adopted and implemented by the fund'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 FUND. 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 CLERKS' OF COURT RETIREMENT AND RELIEF FUND.**

Official legal references for the Clerks' of Court Retirement and Relief Fund are found in the Louisiana Revised Statutes 11:1501 through 1578. The Fund is also governed by many of the General Revised Statutes found in R.S. 11:1 through 323. The retirement fund and its members and employers are covered by other sections of state law and by federal laws and regulations. This booklet is not a full restatement of all applicable laws or regulations. Instead, it is meant to provide convenient access to many of the statutory 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 provides a restatement of the Louisiana Revised Statutes under which the retirement fund 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. Sections or subsections of the revised statutes which in general do not pertain to the Clerks' of Court Retirement and Relief Fund are indicated by the use of the statement, "Not applicable to Clerks' of Court Retirement and Relief Fund". Although every attempt was made to avoid any typographical or formatting errors, if errors are found they will be addressed in future printings.

As a qualified public pension plan, the Clerks' of Court Retirement and Relief Fund is subject to certain IRS codes and regulations. This handbook does not include such codes and regulations.

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

**Address correspondence to:** Clerks' of Court Retirement and Relief Fund  
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For additional information on the retirement fund, please go to our website at [www.laclerksofcourt.org](http://www.laclerksofcourt.org) or email us at [info@laclerksofcourt.org](mailto:info@laclerksofcourt.org).

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## GENERAL PROVISIONS

### Name, Powers and Privileges, and Establishment of the System – (See R. S. 11:1501 – R. S. 11:1502)

The retirement system has the power and privileges of a corporation and is known as the “Clerks’ of Court Retirement and Relief Fund.” The system is administered and managed by a board of trustees for the purpose of providing regular, disability, and survivor benefits for clerks of court, their deputies and other employees, and the beneficiaries of the clerks of court, their deputies, and other employees.

### Definitions – (See R. S. 11:1503)

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 employee contributions"* means the sum of all amounts deducted from a member's salary, paid to the fund, and credited to the individual employee's account in the fund.

*"Board"* means the board of trustees of the Clerks' of Court Retirement and Relief Fund.

*"Designated beneficiary"* means the person most recently designated in writing by a member to receive any benefits to which a beneficiary may be entitled.

*"Employee"* means any regular employee of a clerk, minute clerk, and employees of the Louisiana Clerks of Court Association, the Louisiana Clerks' of Court Retirement and Relief Fund, and the Louisiana Clerks of Court Insurance Fund, who works more than an average of twenty hours per week. Additionally, court reporters who were employed by either Orleans Parish or East Baton Rouge Parish, and were enrolled in the fund on or before July 1, 2001, are allowed to remain in the fund as members of the fund and to become eligible to receive retirement benefits as required by law.

*"Fund"* means the Clerks' of Court Retirement and Relief Fund.

*"Minor child"* means a child who is less than the age of eighteen years or who is physically or mentally disabled, regardless of age, who is the issue of a marriage of the member or former member, the legally adopted child of a member or former member, the natural child of a female member or former member, or the child of a male member or former member if a court of competent jurisdiction has, during the lifetime of such male member or former member, issued an order of filiation declaring the paternity of such male member for the child.

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

*"Monthly average final compensation"* for a member whose first employment making him eligible for membership in the system began on or before June 30, 2006 and who retires prior to January 1, 2011, means the average of a member's monthly salary during the highest compensated thirty-six consecutive months or successive joined months if service was interrupted. However, the salary to be considered for the middle twelve months may not exceed one hundred ten percent of the salary for the twelve months most distant in time from the date of retirement, and the salary to be considered for the most recent twelve months may not exceed one hundred twenty-one percent of the salary for the twelve months most distant in time from the date of retirement.

*"Monthly average final compensation"* for a member whose first employment making him eligible for membership in the system began on or before June 30, 2006 and who retires on or after January 1, 2011, means the average of a member's monthly salary during the highest compensated consecutive or successive joined months where the number of such months is defined as the lesser of sixty months or thirty-six months plus the number of whole months since January 1, 2011. However, the salary to be considered for the thirteenth through the twenty-fourth month may not exceed one hundred ten percent of the salary for the first through the twelfth month. The salary to be considered for the twenty-fifth through the thirty-sixth month may not exceed one hundred ten percent of the salary for the thirteenth through the twenty-fourth month. The salary to be considered for the thirty-seventh through the forty-eighth month may not exceed one hundred ten percent of the salary for the twenty-fifth through the thirty-sixth month. The salary to be considered for the forty-ninth through the sixtieth month may not exceed one hundred ten percent of the salary for the thirty-seventh through the forty-eighth month. The monthly average final compensation used to calculate such a member's benefits will not be less than the thirty-six month average final compensation earned through December 31, 2010.

*"Salary"* means the full rate of regular compensation paid to a member for the

performance of his official duties, but shall not include bonuses, payment for accrued vacation, annual or sick leave, payment for overtime, terminal pay, severance pay, deferred salary, or any other type of irregular or nonrecurring payment. It shall include salary supplement payments from the Clerks' Supplemental Compensation Fund as authorized by R.S. 13:761 and the expense allowance authorized by R.S. 13:782(H).

*"Surviving spouse"* means the spouse of a deceased member or former member who was married to and living with the deceased member or former member at the time of his death.

*"System"* means the Clerks' of Court Retirement and Relief Fund.

*"Per-page transcription"* payments means the amount a court reporter earns for each page of a court proceeding that is transcribed, at the rate per page established by each district court.

#### **Protection Against Fraud – (See R. S. 11:1504)**

Any person who, in an attempt to defraud the system, knowingly makes any false statement, falsifies any record of this system, or allows such record to be falsified will be guilty of a misdemeanor. Upon conviction of such crime(s) by any court of competent jurisdiction, the individual will be punished by a fine not to exceed one thousand dollars or imprisonment in the parish jail not to exceed twelve months, at the discretion of the court.

## **MEMBERSHIP AND SERVICE CREDIT**

#### **Membership – (See R. S. 11:1511)**

The clerk of the supreme court, each of the courts of appeal, each of the district courts, and each of the city and traffic courts in cities having a population in excess of four hundred thousand, and the employees of such clerks, whether full-time or part-time, and the employees of the Louisiana Clerks of Court Association, the Louisiana Clerks' of Court Retirement and Relief Fund, and the Louisiana Clerks of Court Insurance Fund, are required to become members of the system during service as such.

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

**Each employee shall complete an "Application for Membership 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.) shall be submitted to the system in writing on a "Member's Request for Change Form" that includes the member's signature in order to become effective.**

#### **Policy Guidelines for Definition of "Employee" – (See Board Policy approved December 9, 2010)**

La. R.S. 11:1511 et seq. provides for the membership in Clerks' of Court Retirement and Relief Fund ("LCCR"). La. R.S. 11:1503(4) defines as "Employee," entitled to enroll in LCCR, the following:

"Employee" means any regular employee of a clerk, minute clerk, and employees of the Louisiana Clerks of Court Association, the Louisiana Clerks' of Court Retirement and Relief Fund, and the Louisiana Clerks of Court Insurance Fund, who works more than an average of twenty hours per week. Any court reporter employed by either Orleans Parish or East Baton Rouge Parish who was enrolled in the fund on or before July 1, 2001, shall be allowed to remain in the fund as a member or active member of the fund and to become eligible to receive retirement benefits as required by law.

There has been some confusion and inconsistency between the various courthouses as to which employees are validly Clerk of Court employees and should be enrolled in LCCR. This document outlines the policy established by LCCR to define the

“regular employee of a clerk” in order to determine who should be properly enrolled in LCCR, in order to have a consistent policy. It will continue to be the policy of LCCR that the employer certify that the list of employees for whom contributions are being made on a periodic basis fits these guidelines for LCCR.

### **Judicial District Court System**

For all employees working at the judicial district court there has been little confusion in the past few years as to the definition of employee as found at LA R.S. 11:1503(4) and all employees regularly employed by the Judicial District Clerk should be included.

### **Court of Appeal**

There has been inconsistency among the circuits as to the classification of employee, i.e. whether someone is an employee of the clerk’s office, and thereby in LCCR, or an employee of the judges, therefore a member of LASERS. It is the policy of LCCR, as of January 1, 2011, that employees of the judges are not considered to be employees of the clerk and that these employees are the following:

1. Judge’s personal secretary
2. Judge’s personal law clerk
3. Everyone in Central Staff

It is the policy of LCCR, as of January 1, 2011, that everyone else employed at the court of appeal is a clerk’s employee, and therefore a member of LCCR, including, but not necessarily limited to:

1. All personnel working directly in the clerk’s office
2. All IT staff
3. All security staff
4. All couriers

In order to avoid confusion in the future, any and all additional positions established at a court of appeal that do not fit in a category named above will generally be in LCCR when that position serves the Clerk of Court or serves both the Clerk of Court and the judges. If any new position is established which serves just a judge, that position should not be included in LCCR.

### **Supreme Court**

Beginning January 1, 2011, the following personnel at the Supreme Court should be considered employees of the Judiciary and therefore not employees of the Clerk:

1. Judge’s personal secretary

2. Judge’s personal law clerk
3. Everyone in Central Staff
4. Judicial administrator and all employees under him/her

It is the position of LCCR as of January 1, 2011 that all remaining personnel at the Supreme Court should be enrolled in LCCR unless there is a position that services solely the judges. If a position services the clerk’s office or services both the clerk’s office and the judge’s office, that person should be enrolled in LCCR.

### **Effect on Current Enrollment**

LCCR is cognizant of the fact that not every employee has been enrolled properly based on the policy definition stated above. In all instances of which LCCR is aware, the confusion has been between enrollment in LCCR and in LASERS. Both LCCR and LASERS have confirmed the below policy for employees enrolled in either system as of December 31, 2010:

1. An employee currently enrolled in its system may continue to be enrolled in that system regardless of whether the above scheme would dictate a different system.
2. If an employee desires to transfer into LCCR or LASERS as dictated by the formula above, that employee shall be allowed to do so under the same terms and conditions by which he or she could move from employment in one system to employment in another as per LA R.S. 11:143 et seq.
3. The employee may elect to maintain the membership service credit in the system in which he or she is currently enrolled, and simply apply by new application to join the system in which the above definition would require enrollment.

### **Termination of Membership – (See R. S. 11:1512)**

Membership in the system ceases when a member resigns, is dismissed, retires, or is otherwise separated from service as a clerk or employee.

### **Reemployment of a Retiree – (See R. S. 11:1513)**

If a retiree is reemployed in any capacity for more than sixty working days, or the equivalent thereof, during any calendar year, the benefits payable to the retiree must be reduced by the amount earned after sixty working days, or the equivalent thereof. There is an exception for some retirees who were receiving retirement benefits from the system on January 1, 2007. This exception expires July 1, 2012. The exception allows retirees to be temporarily reemployed by a clerk whose office is located in a parish designated under the Robert T. Stafford Disaster Relief and Emergency

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Assistance Act as eligible for individual assistance, or individual assistance and public assistance following Hurricane Katrina or Rita. If such retiree is reemployed by such a clerk in any capacity for more than one hundred eighty working days, or the equivalent thereof, during any calendar year, the benefits payable to the retiree will be reduced by the amount earned after one hundred eighty working days, or the equivalent thereof. In either case, a retiree cannot be or become a member of the system during reemployment.

The retiree and the clerk shall immediately notify the board of the date of reemployment, the amount of salary paid, any changes in salary, the number of hours employed per week, the estimated duration of reemployment, and the date of the termination of the reemployment. If the retiree dies during reemployment, benefits will be paid to the retiree's beneficiary based on any option which may have been selected by the retiree at the time of retirement.

### **Service Credit – (See R. S. 11:1514)**

A member will receive credit for all service as a member of the system, provided that the required contributions have been paid to the fund and not withdrawn.

### **Dual Employment – (See 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, shall be a contributing member of each retirement system or fund during the terms of such employment. In no event may such person be allowed to earn more than one year of service credit in any one year. 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.

### **Submission of Reports to Legislature – (See R. S. 11:171)**

The fund shall submit to the chairmen of the standing committees on retirement of the House of Representatives and the Senate, a copy of the most recent official actuarial report prepared by the system's fully accredited actuarial firm at least thirty days prior to the beginning of each regular session of the legislature, together with a financial statement of the system for the fiscal year immediately preceding each such session of the legislature. The actuarial report shall include, but not be limited to, an actuarial evaluation of the assets and liabilities of the system, actuarial assumptions and considerations, cost of living adjustment evaluations, and a five-year projection of cash flow requirements, with the number of retirees and amounts of benefits based on an annual basis.

### **Audit Reports; Certified Public Accountants – (See R. S. 11:173)**

The board of trustees shall have an annual audit of the system performed by a certified public accountant at the expense of the system or performed in accordance with R.S. 24:513. A copy of the report shall be forwarded to the chairman of the House Committee on Retirement and the chairman of the Senate Committee on Retirement.

### **Death Reports – (See R. S. 11:174)**

The retirement fund is entitled to receive a report by the tenth day of each month, certified as correct by the secretary of the Department of Health and Hospitals containing the name, date of birth, date of death, address, and sex of each person who died in the state within the preceding calendar month. The director of the system shall have the custody and control of these reports which shall be kept confidential and shall not be considered as public records under R.S. 44:1, et seq. Such information is to be used for statistical and administrative purposes only and shall not be divulged to any person or persons for any reason, except that the department may authorize the Social Security Administration to share information on name, date of death, place of death, sex, race, and date of birth as necessary with federal and state agencies for the sole purpose of identifying payments erroneously issued to beneficiaries after their deaths.

### **Operating Budget Approval – (See R. S. 11:176)**

The system is required to submit a proposed annual operating budget and any modifications to the Joint Legislative Committee on the Budget for its review.



**Financial Disclosure; Retirement Systems – (See R. S. 42:1114.2)**

Each person who has or is seeking to obtain contractual or other business or financial relationships with a state or statewide public retirement system shall file with the Board of Ethics, in the manner provided in this Section, a report of all expenditures for a retirement official or retirement officials.

A report shall be filed semiannually as follows:

- (1) By August 15th for the period from January 1st through June 30th.
- (2) By February 15<sup>th</sup> for the period from July 1st through December 31st.

The report shall be filed on forms prescribed by the board, shall be signed by the person filing, and shall include a certification of accuracy by the person responsible for filing the report.

Each report shall include, in the manner prescribed by the Board of Ethics, the following:

- (1) The total of all expenditures per retirement system made during each reporting period, which shall include all expenditures for retirement officials associated with that system whether such expenditures are attributable to an individual retirement official or not.
- (2) The aggregate total of expenditures attributable to an individual retirement official as provided below this Section during each reporting period, including the name of the retirement official.
- (3) The aggregate total of expenditures per retirement system for all reporting periods during the same calendar year, which shall include all expenditures for retirement officials associated with that system whether such expenditures are attributable to an individual retirement official or not.
- (4) The aggregate total of all expenditures attributable to an individual retirement official as provided below this Section for all reporting periods during the same calendar year, including the name of the retirement official.

When the aggregate expenditure for any one retirement official exceeds the sum of fifty dollars on any one occasion, or when the aggregate expenditure for any one retirement official exceeds the sum of two hundred fifty dollars in a reporting period, then the total amount of expenditures for the retirement official during the reporting period shall be attributable to the individual retirement official.

- (1) For the purposes of this Section "retirement official" shall mean a member of a board of trustees of a state or a statewide public retirement system, a public employee of such a system, or an employee of the Department of the Treasury whose function is to assist any such system or systems.
- (2) For the purposes of this Section "expenditure" shall mean a purchase, payment, donation, advance, deposit, or gift or payment of money or anything of economic value or the purchase, donation, or gift of promotional

items, food, drink, or refreshment, transportation, and entertainment for a retirement official.

The chairman of the board of trustees of each state or statewide public retirement system shall provide notice to every person associated with his system whom such chairman knows or reasonably should know is required to file a report pursuant to this Section. The chairman shall forward a copy of each such notification to the Board of Ethics no later than fifteen days after the original notification was sent. The failure of a chairman to give notice as required by the provisions of this Subsection shall not relieve any person from the reporting requirements of this Section or any penalties as provided in this Section.

The contents of the notice required to be given pursuant to this Subsection shall be prescribed by the Board of Ethics.

Failure to file a report, failure to timely file a report, failure to disclose required information, or filing a false report shall subject a person required to file to penalties as provided by this Chapter.

Whoever fails to file a report required by this Section, or knowingly and willfully fails to timely file any such report, or knowingly and willfully fails to disclose or to accurately disclose any information required by this Section shall be assessed a civil penalty pursuant to R.S. 42:1157 for each day until such report or the required accurate information is filed. The amount of the penalty shall be one hundred dollars per day.

Notwithstanding any other provision of this Section to the contrary, if a person makes expenditures as defined in this Section of less than five hundred dollars in a calendar year, such person shall not be required to file a report pursuant to this Section.

## RETIREMENT AND RETIREMENT BENEFITS

### Normal Retirement Benefits

#### Eligibility for Regular Retirement Benefits – (See R. S. 11:1521)

A member or former member hired on or before December 31, 2010, will be eligible for regular retirement benefits if he has twelve or more years of eligible service, is at least age fifty-five, and has terminated his employment.

A member or former member hired on or after January 1, 2011, will be eligible for regular retirement benefits if he has twelve or more years of eligible service, is at least age sixty, and has terminated his employment.

A person who is eligible for retirement, shall submit an application to the board. The application shall provide proof of service, age, date of termination of employment, and any other information required by the board. The person's employer shall certify the accuracy of all information contained in the application and forward the application to the fund.

#### Computation of Regular Retirement Benefits – (See R. S. 11:1521)

Applicants hired on or before December 31, 2010 who are eligible for regular retirement benefits will be paid a monthly benefit using the following accrual rates multiplied by their monthly average final compensation (see definition):

- (a) Three percent of his monthly average final compensation (see definition), multiplied by the number of years of service credit accrued on and before June 30, 1999.
- (b) Three and one-third percent of his monthly average final compensation (see definition), multiplied by the number of years of service credit accrued on and after July 1, 1999.

Applicants hired on or after January 1, 2011 who are eligible for regular retirement benefits will be paid a monthly benefit equal to three percent of their monthly average final compensation (see definition) multiplied by the number of years of service credit accrued.

Note: The monthly retirement benefit as calculated above cannot exceed one hundred percent of the member's monthly average final compensation.

Normal retirement benefits are paid for the life of the retiree and, if an optional mode of benefit payment is selected (see the section titled "**Optional Benefit Payments**"), 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/DROP date. Proof of age shall accompany the retirement application. If other than maximum retirement benefit is chosen, proof of age of the beneficiary must also accompany the retirement application.

#### **Normal Retirement Benefit Computation Examples:**

The following are examples of a member's maximum monthly retirement benefit computation under the statutes:

#### **Member hired before July 1, 2006 and retiring before January 1, 2011:**

A member age fifty-five with service credit for the period of July 1, 1990 through June 30, 2010 is eligible for normal retirement benefits under the 12 years at age 55 rule. Such member would have 9 years of service credit through June 30, 1999 at a three percent accrual rate and 11 years of service credit after June 30, 1999 at a three and one-third percent accrual rate. With a thirty-six month average final compensation of \$4,000 per month the maximum monthly benefit would be calculated as:

$((9 \text{ years} \times 3\%) + (11 \text{ years} \times 3 \frac{1}{3}\%)) \times \$4,000 \text{ per month} = \$2,546.67 \text{ per month}$

#### **Member hired before July 1, 2006 and retiring in the period between January 1, 2011 and December 31, 2012:**

A member age fifty-five with service credit for the period of July 1, 1990 through June 30, 2011 is eligible for normal retirement benefits under the 12 years at age 55 rule. Such member would have 9 years of service credit through June 30, 1999 at a three percent accrual rate and 12 years of service credit after June 30, 1999 at a three and one-third percent accrual rate. Since such a member has completed six months since January 1, 2011, his benefits will be calculated using the greater of a forty-two month average final compensation and the thirty-six month average final compensation for salaries earned through December 31, 2010. With a forty-two month average final compensation of \$4,000 per month (assuming a thirty-six month average final compensation based on their salaries through December 31, 2010 of less than \$4,000), the maximum monthly benefit would be calculated as:

$((9 \text{ years} \times 3\%) + (12 \text{ years} \times 3 \frac{1}{3}\%)) \times \$4,000 \text{ per month} = \$2,680.00 \text{ per month}$

#### **Member hired before July 1, 2006 and retiring after December 31, 2012:**

A member age fifty-five with service credit for the period of July 1, 1990 through June 30, 2013 is eligible for normal retirement benefits under the 12 years at age 55 rule. Such member would have 9 years of service credit through June 30, 1999 at a three percent accrual rate and 14 years of service credit after June 30, 1999 at a three and one-third percent accrual rate. Members hired before July 1, 2006 who retire after December 31, 2012 will receive benefits based on the greater of their sixty-month average final compensation and the highest thirty-six month average compensation using salaries through December 31, 2010. With a sixty-month average final compensation of \$4,000 per month (assuming a thirty-six month

average final compensation based on their salaries through December 31, 2010 of less than \$4,000), the maximum monthly benefit would be calculated as:

$((9 \text{ years} \times 3\%) + (14 \text{ years} \times 3 \frac{1}{3}\%)) \times \$4,000 \text{ per month} = \$2,946.66 \text{ per month}$

**Member hired between July 1, 2006 and December 31, 2010**

A member age fifty-five with service credit for the period of July 1, 2007 through June 30, 2019 is eligible for normal retirement benefits under the 12 years at age 55 rule. Such member would have 12 years of service credit at a three and one-third percent accrual rate. Members hired between July 1, 2006 and December 31, 2010 have benefits calculated using a sixty-month average final compensation. With a sixty-month average final compensation of \$4,000 per month, the maximum monthly benefit would be calculated as:

$(12 \text{ years} \times 3 \frac{1}{3}\%) \times \$4,000 \text{ per month} = \$1,600.00 \text{ per month}$

**Member hired on or after January 1, 2011:**

A member age sixty with service credit beginning January 1, 2011 and ending December 31, 2022, will be eligible for normal retirement benefits under the 12 years at age 60 rule. Members hired on or after January 1, 2011 will earn three percent accrual per year of service and are not eligible to retire until reaching twelve years of service and at least age sixty. With 12 years of service credit and an average final compensation of \$4,000 per month, the maximum monthly benefit would be calculated as:

$12 \text{ years} \times 3\% \times \$4,000 \text{ per month} = \$1,440.00 \text{ per month}$

These are simple examples that do not include reciprocal service credit, service credit transferred into the retirement system at a different accrual rate, breaks in service, or other complications. For an actual estimate of benefits, please contact the retirement system office.

**Additional Monthly Benefit: Computation – (See R. S. 11:1521.1)**

Any member who contributed on income received from per-page transcription fees will be paid a monthly regular retirement benefit in addition to the regular retirement benefits provided above. The additional benefit will be based on the monthly average of the six highest consecutive or joined calendar years during which a member received such income and was a member of the fund for the full calendar year. This average salary is multiplied by the number of calendar years that the member received such income (provided that the credit for each year does not exceed the regular retirement credit earned for that calendar year), and further multiplied by the regular retirement accrual rate applicable to the time that the income was earned. If a member has credit for earning such income for less than six years, the monthly average of the actual number of calendar years during which the member received such income will be used to determine this additional benefit. Any court reporter employed by either Orleans Parish or East Baton Rouge Parish who received per-page transcription income on or before July 1, 2001, will receive credit for those years in which employee and employer contributions previously

have been paid to, and are on deposit with, the Fund.

## RETIREMENT AND RETIREMENT BENEFITS

### Deferred Retirement Option Plan

#### Deferred Retirement Option Plan – (See R. S. 11:1530)

The Deferred Retirement Option Plan (DROP) is an alternative to regular retirement which allows a member to accrue a lump sum in addition to the monthly, lifetime annuity benefit. DROP is not the best choice for all members as it may not provide the highest value benefit in all cases.

Members who are eligible for a service retirement allowance under R.S. 11:1521 may elect to participate in DROP and defer the receipt of benefits under these provisions. A member may not use service in another retirement system for which he has a reciprocal agreement in place to meet eligibility to participate in DROP. Therefore, a member must have at least twelve years of service credit in the Clerks of Court Retirement and Relief Fund and meet the age requirement to enter DROP.

For those who choose to participate in DROP, the system has established a Deferred Retirement Option Plan Account which is a part of the fund. The system maintains subaccounts within this account reflecting the credits attributed to each participant in the plan, but the monies in the account remain a part of the fund until disbursed to a participant in accordance with the plan provisions.

Eligible members who choose to participate in DROP must specify on their application for DROP entry the desired duration of participation in the plan. The duration of DROP participation may not exceed three years. A person may participate in the plan only once. At the time the member elects to participate in the plan, the member may select an optional benefit, which reduces his benefit at DROP entry in order to provide a survivor benefit (see section titled “Optional Benefit Payments”). **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.**

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 ceases 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 payable had the person elected to terminate employment and receive a service retirement allowance will be paid into the Deferred Retirement Option Plan Fund.

Please note that although a member choosing to enter DROP accrues a lump sum benefit worth up to thirty-six times the monthly benefit accrued at DROP entry, at retirement such individual’s monthly retirement benefit is generally lower than it would have been had they never entered DROP. In addition, the benefit calculated upon DROP entry cannot be recalculated even if you choose to remain employed after completing your specified DROP period.

A person who participates in this plan will not be eligible to receive a cost-of-living adjustment while participating in DROP, and will not be eligible for a cost-of-living increase until his employment which made him eligible to be a member of the system has been terminated for at least one full calendar year.

Interest is not credited to the DROP account while a member is participating in DROP and accumulating a DROP account balance. Interest is credited to the DROP account of individuals who remain employed after completing the period specified for participation in the plan. For those who were eligible to participate in DROP prior to January 1, 2004, such interest is credited based on the actual rate of return earned on the account as certified by the custodian of such assets. The funds in such accounts are invested as directed by the Board. For those who remain employed after completing the period specified for participation in DROP who became eligible for DROP on or after January 1, 2004, DROP accounts will be placed in liquid asset money market investments at the discretion of the Board of Trustees and the actual rate of return less one-fourth of one percent per annum will be credited to the account unless the Board of Trustees elects to allow members the right to self direct investment of the funds.

When funds are transferred to the self-directed subaccount for the investment period, the system is authorized to hire a third party provider. The third party provider acts as an agent of the system for purposes of investing balances in the self-directed subaccounts of the participant as directed by the participant. The participant is given such options that comply with federal law for self-directed plans. The participant in the self-directed portion of this plan agrees that the benefits payable to the participant are not the obligations of the state or the system, and that any returns and other rights of the plan are the sole liability and responsibility of the participant and the designated provider to which contributions have been made. Furthermore, each participant in the self directed accounts, expressly waives his rights as set forth in Article X, Section 29(A) and (B) of the Louisiana Constitution as it relates to his subaccount in the self-directed portion of the plan. By participating in the self-directed portion of the plan, the participant agrees that he and the provider shall be responsible for complying with all applicable provisions of the Internal Revenue Code. The participant also agrees that if any violation of the Internal Revenue Code occurs as a result of the participant's participation in the self-directed portion of the plan, it shall be the sole responsibility and liability of the participant and the provider, not the state or the system. Participants in the self directed accounts waive any liability on the part of the state, the system, or its agents or employees, for any action taken by the

participant for choices the participant makes in relationship to the funds in which he chooses to place his subaccount balance.

The Deferred Retirement Option Plan Fund will not be subject to any fees, charges, or other similar expenses of any kind for any purpose.

Upon termination of employment prior to or at the end of the specified period of participation, a participant in the DROP may apply for and begin receiving payment of their monthly benefit that was being paid into the DROP Account along with payment of their DROP Account Balance according to the options outlined in the following section, titled “Deferred Retirement Option Plan Account Payment Options – (See R. S. 11:1530)”.

If the participant dies during the period of participation in DROP, a lump sum payment equal to his DROP account balance will be paid to his designated beneficiary or, if none, to his estate. In order to receive such a payment, the system shall receive a properly executed application. If the member chose a reduced benefit at DROP entry in order to provide a survivor benefit, the survivor benefit as chosen may be payable to the beneficiary named to receive such benefit on the DROP application.

If employment is not terminated at the end of the period specified for participation in the plan, payments into the DROP fund will cease and the person will resume active contributing membership in the system. Distributions from the DROP Account will not be made until employment is terminated, nor will the monthly benefits which were being paid into the DROP Account during the period of participation be payable to the person until he terminates employment and applies for such benefits.

Upon termination of employment, the person may receive his DROP Account Balance according to the options outlined in the following section, titled “Deferred Retirement Option Plan Account Payment Options – (See R. S. 11:1530)”. In addition, the monthly benefit payments that were being paid into the Deferred Retirement Option Plan Fund will begin to be paid to the retiree and he will receive an additional benefit based on his additional service rendered since termination of participation in the fund, using the normal method of computation of benefits, subject to the following:

1. For members who enter DROP before January 1, 2011, the average final compensation used to calculate the additional benefit will be determined as follows:
  - (a) If his period of additional service is less than thirty-six months, the monthly average final compensation figure used to calculate the additional benefit will be equal to the average final compensation used to calculate his original benefit.

- (b) If his period of additional service is thirty-six months or more, the monthly average final compensation figure used to calculate the additional benefit will be based on his compensation during the period of additional service.
2. For members who enter DROP on or after January 1, 2011, the average final compensation used to calculate the additional benefit will be determined as follows:
  - (a) If his period of additional service is less than the number of months used to calculate the average final compensation for the DROP benefit, the monthly average final compensation figure used to calculate the additional benefit will be equal to the lesser of the average final compensation used to calculate his original benefit or his total salary during the period of additional service divided by the number of months of such service.
  - (b) If his period of additional service is at least the number of months used to calculate the average final compensation for the DROP benefit, the monthly average final compensation figure used to calculate the additional benefit will be based on his compensation during the period of additional service.

In no event will the monthly post-DROP retirement benefit that a member receives exceed an amount which, when combined with the original service retirement benefit, equals one hundred percent of the monthly average final compensation figure used to compute the additional benefit.

If a person dies or becomes disabled during the period of additional service, he will be considered as having retired on the date of death or commencement of disability.

**Deferred Retirement Option Plan Account Payment Options – (See R. S. 11:1530)**

Payment of the Deferred Retirement Option Plan Account Balance can be requested under the following options:

1. Lump sum payment equal to the balance in the Deferred Retirement Option Plan Account.
2. Partial lump sum payment together with a true life annuity based upon the remaining balance in the Deferred Retirement Option Plan Account.
3. True life annuity based upon the entire account balance in the Deferred Retirement Option Plan Account.

If a true life annuity is elected, the terms of the annuity must be approved by the Board of Trustees.

With respect to any individual who becomes eligible to participate in the Deferred Retirement Option Plan on or after January 1, 2004, in lieu of payment, the Deferred Retirement Option Plan account balance may be transferred to a self

directed subaccount. Details concerning these accounts are given in the previous section.

#### **Deferred Retirement Option Plan Account Payment – Tax Considerations**

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.

**(A member should always consult a CPA or tax advisor prior to making any decision regarding the disposition of any retirement lump sum or periodic payment.)**

## **RETIREMENT AND RETIREMENT BENEFITS**

### **Disability Benefits and Procedures**

#### **Eligibility for Disability Retirement Benefits – (See R. S. 11:1522)**

A member who has at least ten years of service credit, or whose disability was caused solely as a result of injuries sustained in the performance of his official duties, will be eligible to receive disability retirement benefits once his request has been approved by the board of trustees. 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 totally and permanently disabled by the State Medical Disability Board.

#### **Calculation of Disability Retirement Benefits – (See R. S. 11:1522)**

Once the board of trustees has approved his application for disability retirement, a member shall be paid monthly disability retirement benefits equal to the greater of forty percent of his monthly average final compensation or seventy-five percent of his monthly regular retirement benefit calculated as explained in the section titled "Computation of Regular Retirement Benefits"

#### **Application For Disability Benefits, Rules Related to the Commencement of Disability Benefits, and the Payment of Disability Benefits – (See R.S. 11: 216 and R.S. 11: 218)**

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 retirement described in the section title "Deferred Disability Retirement"). 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.

A disability claimed by a member shall 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 shall 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 to be included in the application.

The applicant's disability case history shall 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 shall 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 shall 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 shall 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.

#### **Disability Vesting (Deferred Disability Retirement) – (See 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 will cease and the member will receive the full vested normal retirement.

#### **The State Medical Disability Board – (See 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.

#### **Certification of Continuing Eligibility for Disability Benefits – (See 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 the retiree is immovable or any other place agreed to by a physician on the State Medical Disability Board or board designated specialist. The examining physician must submit a report to the board recommending either continuing or ceasing the former member's disability status. If a member of the State Medical Disability Board issues a final and binding report to the board stating that a disability retiree's total disability has ceased, the board must order the discontinuation of the disability benefit. A contested decision may be appealed pursuant to the procedures described in the section titled "**Application For Disability Benefits, Rules Related to the Commencement of Disability Benefits, and the Payment of Disability Benefits.**"

If a disability retiree who has not yet attained the equivalent age of normal retirement refuses to submit to a medical examination by 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 to the disability pension.

A person's right to normal retirement benefits based upon age and service will not be affected by either having received disability benefits in the past or having the disability benefits terminated involuntarily.

#### **Authority of the Board to Modify Disability Benefits – (See R. S. 11:221)**

If the board of trustees determines that a disability retiree is engaged 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 an amount that, when added to 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 changed. Such a change 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, exceeds 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 average final compensation (see definition). The disability retirement benefit is reset so that the sum of the above equals the average 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 – (See R. S. 11:224)**

If a disability retiree under the age of sixty is restored to service with a participating employer, his retirement allowance will cease, and he must again become an active contributing member of the system. Upon becoming a member again, he will be required to contribute at the rate in effect at that time. 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.



## **RETIREMENT AND RETIREMENT BENEFITS**

### **Survivor Benefits and Procedures**

#### **Survivor Benefits – (See R. S. 11:1523)**

Upon the death of any actively contributing member who has credit for less than five years service, or any former member who has credit for less than twelve years service, and has neither retired nor received a refund of his accumulated employee contributions, the amount of his accumulated employee contributions will be paid to his designated beneficiary or, if none, to his estate.

Upon the death of any actively contributing member who has credit for five or more years of service and is survived by a legal spouse, the surviving spouse will be paid either:

- (1) An automatic option number 2 benefit with monthly payments commencing on the date the member would have first become eligible for a regular retirement assuming that he had continued working. The calculation of the monthly benefit will be based on the member's service credit and monthly average final compensation as they were on the date of the member's death, and using the option number 2 factors based on the ages of the member and surviving spouse as they would have been on the date the member would have first become eligible for normal retirement; or
- (2) A benefit with monthly payments commencing on the member's date of death in an amount calculated as explained in (1) above but reduced by one quarter of one percent for each month or fraction thereof by which payments commence in advance of the member's earliest normal retirement age.

In order to select (2) above, a surviving spouse must notify the board of such selection within ninety days of the death of the member. The selection will be final and irrevocable and will be in lieu of eligibility for (1) above.

If an actively contributing member who has credit for five or more years service, dies and doesn't have a surviving spouse, the legal guardian of any surviving minor child(ren) will be paid a monthly benefit on behalf of the surviving child(ren). The total benefit will be equal to one-half of the member's accrued benefit based on the member's service credit and monthly average final compensation as they were on the date of his death. The total benefit will be divided equally among all minor children.

Upon the death of any former member who has credit for twelve or more years service, and who has neither retired nor received a refund of his accumulated employee contributions, the surviving spouse will be paid an automatic option number 2 benefit with monthly payments commencing on the date the member

would have first become eligible for a deferred regular retirement benefit based on the member's service credit and monthly average final compensation as they were on the date of the member's termination of covered employment. The calculation of the monthly benefit will be based on the ages of the member and surviving spouse as they would be on the date the member would have first become eligible for a deferred regular retirement.

Any survivor of a member or former member who is eligible for a monthly survivor benefit may apply for and receive a refund of the member's accumulated employee contributions in lieu of monthly survivor benefits by notifying the board in writing and executing a waiver of all survivor benefits.

When a minor child applies for survivor benefits based upon being disabled, the issues of disability and continuation of disability shall be determined as if the application were for disability benefits.

**Payment of Death and Survivor Benefits; Public Retirement – (See R. S. 29:415)**

The employee's period of service in the uniformed services must be counted as creditable service in the public retirement system in which he was a member, for determining eligibility for death and survivor benefits and in the computation of benefits, provided that the following conditions are satisfied:

- (1) The beneficiary of the death or survivor benefits provides payment of the unpaid portion of the contributions of the deceased member. The beneficiary may agree in writing to have the payment of the unpaid portion of the contributions of the deceased member deducted from the benefits over a period not to exceed four years. The beneficiary may pay, in the alternative, 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 of the deceased member must be unanimous. In the event that a recipient is a minor child, the legal guardian of the minor child must express consent for the minor child.
- (3) The board of trustees of every public retirement system defined in R.S. 29:403, is required to adopt a written policy covering all beneficiaries' and survivors' rights to pay the required contributions in order to have the employee's military service computed in the computation of any death or survivor benefits payable under the system.

If all of the conditions set forth above are satisfied, the employer must pay the employer contributions in a manner consistent with this Subpart.

If the beneficiary of the death or survivor benefits of the deceased member elects not to pay the employee contributions due the system on account for such service in the uniformed services credit, the computation of death and survivor benefits will be based on the actual service of the reservist in the system prior to his call to service in the uniformed services. The death or survivor benefits provided for herein will be due and payable upon the death of the reservist.

If the application of any provision set forth in this Section results in an unpaid actuarial cost to the retirement system, it will be borne by the employers through reflection in the employer rate established by the Public Retirement Systems Actuarial Committee.

**Inapplicability to Deferred Retirement Option Plans; Public Retirement – (See R. S. 29:415.1)**

The provisions of this Subpart are inapplicable with respect to employees who are participants in a deferred retirement option plan.

**Survivor Benefits – (See R. S. 11:234)**

Notwithstanding any other provision of law to the contrary, any person who, after June 22, 1993, is receiving survivor benefits or becomes eligible to receive survivor benefits shall not have their benefits discontinued upon remarriage if such remarriage occurs after their attaining age fifty-five.

**Surviving Minor's Benefit Placed in Trust – (See 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.

**Funds Payable to a Succession or Estate – (See 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.

## **WITHDRAWAL AND REFUND BENEFITS**

### **Withdrawal of Accumulated Employee Contributions – (See R. S. 11:1515)**

If an employee is terminated, and is not eligible to retire, he is eligible to receive a refund of his accumulated employee contributions. Before payment can be made to the former member, he must remain out of service for sixty days, all contributions withheld from his salary must have been received by the fund, and his former employer must certify that the information on the application is accurate. Once a former member receives a refund of his employee contributions, all service credit attributable to the contributions will be cancelled. Neither the former member nor his beneficiary will be entitled to receive any benefits related to such service.

### **Tax Treatment of Refunds**

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, 2009, 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 \$1,000 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.

**Important Considerations Prior to Requesting a Refund of Accumulated Employee Contributions**

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.

## **GENERAL PROVISIONS**

### **Payment of Benefits**

#### **Guaranteed Return of Accumulated Contributions – (See R. S. 11:1525)**

A member or former member, who has not retired, regardless of whether he is entitled to any retirement benefits from the fund, may elect to withdraw his accumulated employee contributions. In order to do so, he must file a written request with the board of trustees after he has terminated his membership in the fund but prior to receiving any retirement benefit from the fund. He must have remained out of service in a clerk of court's office for at least thirty days, and all contributions withheld on behalf of the member or former member must have been received by the fund. If such a member or former member makes such a withdrawal, neither he nor any other person after his death will be entitled to any benefits on his account. All rights in the fund will be cancelled and credit for all service shall be forfeited.

If the total of all benefits paid to a retiree and all benefits paid on his account after his death, if applicable, is less than the retiree's accumulated employee contributions, the remaining accumulated employee contributions will be paid to the retiree's designated beneficiary.

Upon the death of a member or former member who has not been paid any benefits from the fund, including a withdrawal of accumulated employee contributions, and who is not survived by any person eligible for any benefits from the fund, the accumulated employee contributions of the member or former member will be paid to his designated beneficiary.

A member or former member may, at any time prior to his death, withdraw, refile, or amend the written designation of his beneficiary. (Please note that upon retirement, in cases where the member chooses to provide optional benefits to a named beneficiary, no change in beneficiary is permitted for the purposes of the optional benefits.)

If any sum becomes payable to a member's or former member's designated beneficiary, and that beneficiary predeceased the member or former member or if any sum would otherwise be payable to a beneficiary but none was designated by the member or former member, then such sum will be paid to the estate of the member or former member.

If the member or former member dies and survivor benefits become payable, the survivor may elect to be paid in one lump sum the member's or former member's accumulated employee contributions in lieu of survivor benefits. The survivor must do so by notifying the board in writing and waiving the right to all other benefits. If survivor benefits are payable to more than one person, no payment of the remaining

accumulated employee contributions may be made unless all persons eligible for survivor benefits agree in writing to the distribution of the remaining accumulated contributions.

Payments made pursuant to this section will be paid only upon receipt by the board of an application for such a payment. The applicant must provide any information requested in the form required by the board. Such payment will discharge the board and the fund from any other responsibility or liability to any other person, will cancel all rights in the fund and cause credit for all service to be forfeited, and neither the former member nor any other person will be entitled to any benefits on the former member's account.

#### **Exemption from Taxes and Execution – (See R. S. 11:1526)**

The right of any person to receive a regular, disability, survivor, or other benefit from the fund, including the right to receive a refund of accumulated employee contributions and any optional benefit and any other right accrued or accruing to any person, and the monies in the fund are exempt from all state and municipal taxes, including all state income taxes, and shall be exempt from levy and sale, garnishment, attachment, or any other process whatsoever, except as provided in the section titled “**Seizure for Child Support**”, and shall be unassignable in whole or in part.

#### **Conditions for Payment of Benefit – (See R. S. 11:1527)**

No regular, disability, survivor, or other benefit from the fund, including a refund of accumulated employee contributions and any optional benefit, will be payable until and unless an application is filed with the board. The application must provide the information required by the Board in the form specified by the retirement system. All contributions by or for the member or former member must have been received by the Board, and the member or former member must have terminated his service as an employee or a Clerk of Court. No benefit from the fund will be paid to any Clerk or former Clerk whose membership in the fund was suspended and not reinstated.

#### **Commencement of Benefits – (See R. S. 11:1529)**

If an application for any benefits is received by the board within ninety days of the date the applicant became eligible for the benefit, benefits will be paid retroactive to the date of eligibility. If an application for any benefit is received by the board after ninety days since the date the applicant became eligible, benefits will be paid only from the date the application is received by the board.

#### **Maximum Benefits – (See R. S. 11:1531)**

Unless provided by any other provision of this pension plan to the contrary, no member may receive a benefit in any year that exceeds of the sum of the maximum employer-financed benefit and the member-financed benefit. The maximum employer-financed benefit is ninety thousand dollars. The member-financed benefit is the annual benefit that can be provided by annuitizing the member's after-tax accumulated contributions. Any benefit reduction required will, to the extent possible, reduce the monthly pension to which the member would otherwise have been entitled and will not affect the member's Deferred Retirement Option Plan account.

If the annual benefit begins before the member reaches age sixty-two, the ninety thousand dollars limit established above, as adjusted, will be reduced in a manner prescribed by the secretary of the United States Treasury. Such adjustment, however, may not reduce the member's annual benefit below seventy-five thousand dollars, if the member's benefit begins at or after age fifty-five, or the actuarial equivalent of seventy-five thousand dollars beginning at age fifty-five if benefits begin before age fifty-five.

If the annual benefit begins after the member attains age sixty-five, the ninety thousand dollar limit, as adjusted, will be increased so that it is the actuarial equivalent of the ninety thousand dollars limit at age sixty-five. The ninety thousand dollar limit on annual benefits, but not the seventy-five thousand dollars limit, will be adjusted annually as provided by Section 415(d) of the Internal Revenue Code, hereinafter referred to in this Section as "the Code", and the regulations prescribed by the secretary of the United States Treasury to reflect cost-of-living adjustments. The adjusted limit is effective as of January first of each calendar year and is applicable to benefits commencing during that calendar year. As a result of a cost-of-living increase, a pension that had been limited by the provisions of this Section in a previous year may be increased with respect to future payments to the lesser of the new limit or the amount of pension that would have been payable under this pension plan without regard to the provisions of this Section.

Annual benefits may not be paid in an amount greater than the accrued benefit under the plan. The maximum limit will apply to a single-life pension. If the benefit is payable in a form other than a single-life annuity, the maximum limit will apply to the pension that is the actuarial equivalent of such single-life annuity, using an applicable interest rate and mortality table as prescribed by the Internal Revenue Service. However, the limit will not be reduced for any benefit received as a disability retirement allowance or any payments received by the beneficiaries, survivors, or estate of a member as a result of the death of the member.

This plan may still pay an annual benefit to any member in excess of the limit otherwise allowed under this Section if the annual benefit derived from the employer contributions under this and all other qualified plans subject to the limitations of Section 415(b) of the Code does not in the aggregate exceed ten

thousand dollars for the plan year or for any prior year, and the member has not at any time participated in a defined contribution plan maintained by the employer. For purposes of this Subsection only, a member's own contributions to the pension plan are not considered a separate defined contribution plan maintained by the employer.

If a member is or has been a participant in one or more defined contribution plans maintained by the employer, the sum of the member's contributions under this pension plan and any other qualified defined benefit plans of the employer and the annual additions under the defined contribution plan or plans may not exceed the lesser of twenty-five percent of the member's earned compensation or thirty thousand dollars, as adjusted by the secretary of the United States Treasury. Further, the sum of the defined benefit plan fraction, as defined in Section 415 of the Code, and the defined contribution plan fraction, as defined in Section 415 of the Code, for any plan year in which Section 415(e) of the Code is in effect, may not exceed one for any calendar year in which the limits of Section 415(d) of the Code are in effect and enforced by the Internal Revenue Service. If the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds one in any such year for any member, or if the benefits under this plan and one or more other defined benefit plans would otherwise exceed the maximum employer-financed benefit, and the administrator of the other plan does not reduce the contributions or benefits under the other plan, the employer-financed benefit under this plan shall be reduced to the extent necessary to ensure that the limitations under Section 415 of the Code are met.

If the United States Congress or the Internal Revenue Service later amends laws, regulations, or other guidelines pertaining to Section 415 of the Code in order to permit higher service retirement benefits, then, for any retired member who had previously had a benefit reduced because it exceeded the limits in this Section, the board of trustees shall recalculate the retired member's benefit to be the smaller of the unreduced benefit based on the pension plan's service retirement benefit formula in effect on the date the member retired, or the maximum permissible benefit calculated under the amended laws or regulations. If a retroactive change is permissible, the board of trustees shall pay the retired member in a single payment an amount equal to the difference between the adjusted higher monthly benefit and the reduced benefit for the number of months the member has received the reduced benefit. Notwithstanding the foregoing, no member shall receive any benefit under this Section to the extent that he has received a distribution with respect to such benefit from an excess benefit plan.

#### **Direct Rollover of Eligible Rollover Distributions – (See R. S. 11:1532)**

Notwithstanding any provision of the law that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner

prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For this purpose, an eligible rollover distribution is any distribution made on or after December 1, 1994, of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code, hereinafter referred to in this Section as "the Code"; and the portion of any distribution that is not includable in gross income. An eligible retirement plan is an individual retirement account described in Section 408(b) of the Code, an individual retirement annuity described in Section 408(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. In the case of an eligible rollover distribution to a surviving spouse, however, an eligible retirement plan is only an individual retirement account or individual retirement annuity. A distributee includes a member or former member.

In addition, the member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A direct rollover is payment by the plan to the eligible retirement plan specified by the distributee.

#### **Internal Revenue Code Qualification Requirements – (See R. S. 11:1533)**

The assets of this pension plan shall be held for the exclusive benefit of the employees who are or become participating members of the pension plan and their survivors and beneficiaries, and of retirees and their survivors and beneficiaries. It shall be impossible for any part of the corpus or income of the pension plan to be used for or diverted to purposes other than the exclusive benefit of such members and retirees, or their survivors or beneficiaries, whether by operation or natural termination of the plan, by power of revocation or amendment, by the happening of a contingency, by collateral assignment, or by any other means.

The retirement benefit earned by a member shall be fully vested and nonforfeitable no later than the date he becomes eligible to retire. Benefits of affected members shall also become vested (nonforfeitable) to the extent funded, upon the termination or partial termination of the pension plan or the complete discontinuance of contributions thereunder.

Forfeitures resulting from a termination of employment or a withdrawal of a member's own contributions may not be used to increase benefits to remaining members. This shall not preclude an increase in benefits by amendment to the benefit formula made possible by favorable investment results or for any other

reason.

A member's benefits shall be distributed, or commence to be distributed, to the member not later than April first of the year following the later of the calendar year in which such member attains age seventy and one-half years or terminates employment. Distributions to a member and the member's beneficiary shall be made in accordance with Section 401(a)(9) of the Internal Revenue Code, hereinafter referred to in this Section as "the Code", including Section 401(a)(9)(D) thereof relating to incidental death benefits. Except as otherwise provided in this Subsection, payments of death benefits to the survivor of a member who dies before any retirement benefits have been paid shall commence no later than one year after the death of the member. Payments on behalf of any deceased member, including lump-sum payments, need not commence within the one-year period if all such payments on behalf of the deceased member are completed within five years after the member's death. Furthermore, if the deceased member's spouse is the sole survivor, benefits to the spouse may begin as late as December thirty-first of the year the member would have attained age seventy and one-half years had such member lived. If a member dies after retirement benefits have commenced, benefits must continue to be distributed to the survivor at least as rapidly as provided for under the option elected by the member before his death.

Benefits in the event of termination of this pension plan shall be limited as follows:

- (1) In the event of a termination of this pension plan, the benefit of any highly compensated member or former member is limited to a benefit that is nondiscriminatory under Section 401(a)(4) of the Code. Benefits distributed to any member who was one of the twenty-five most highly compensated active and most highly compensated former employees of the employer are restricted such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the member under a single-life annuity that is the actuarial equivalent of the sum of the member's accrued benefit and the member's other benefits under the pension plan.
- (2) The provisions of Paragraph (1) of this Subsection shall not apply if, after payment of the benefit to a member described in that Paragraph, the value of plan assets equals or exceeds one hundred ten percent of the value of the current liabilities, as defined in Section 412(1)(7) of the Code, or if the value of the benefits for a member described in that Paragraph is less than one percent of the value of all current liabilities of the plan.
- (3) For purposes of this Subsection, benefit includes loans in excess of the amount set forth in Section 72(p)(2)(A) of the Code, any periodic income, any withdrawal values payable to a living member, and any death benefits not provided for by insurance on the member's life.

**Payment of warrants – (See R. S. 11:1548)**

All monies paid from the fund will be paid by the secretary of the board only upon warrants signed by the president of the board and countersigned by the secretary of the board. No warrants will be drawn except by orders of the board, duly entered upon the records of the proceedings of the board.

**Excess Benefit Plan – (See R. S. 11:1575 – R. S. 11:1578)**

As part of the statutes related to the Clerks of Court Retirement and Relief Fund, a separate, unfunded, non-qualified excess benefit plan is created as defined in Section 415(m)(3) of the Internal Revenue Code. The excess benefit plan is created under the statutes to be used in the event that benefits calculated under the Fund's statutes exceed Internal Revenue Code limits set forth in Section 415. This excess benefit plan would allow the Fund a mechanism to pay benefits that are due under the Louisiana Revised Statutes but exceed limits set forth in the Internal Revenue Code. For details, refer to the specific revised statutes.

**Receipt of Benefits – (See 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.

**Early Retirement Eligibility – (See R. S. 11:272)**

Any member who, on September 1, 1985, has earned sufficient service credit to be eligible for a normal retirement on or before August 31, 1995, but has not, on September 1, 1985, attained the normal retirement age, shall, during the ten year period from September 1, 1985, through August 31, 1995, be eligible for an early retirement, regardless of age, with benefits reduced to a level which would be actuarially equivalent to a retirement at the normal retirement age using the normal retirement formula.

The actuary for the system shall develop reduction factors for use in computing the reduced benefit applicable to early retirement. However, in no event shall such benefit reduction be less than one percent for each calendar quarter by which the effective date of retirement is advanced before normal retirement eligibility.

Any member who, on January 1, 1982, had earned ten years of service credit, shall be eligible for an early retirement, regardless of age, with benefits reduced to a level which would be actuarially equivalent to a retirement at the normal retirement age using the normal retirement formula.

**Seizure for Child Support – (See R. S. 11:292)**

Any retirement allowance, benefit, or refund of accumulated contributions paid to any member, former member, or retiree under the provisions of any public retirement system, or the portion of a retirement allowance, benefit, or refund of accumulated contributions paid to a spouse or former spouse under the provisions of R. S. 11:291 (as described in the section titled "Community Property interest"), shall be subject to garnishment or court-ordered assignment to pay child support.

**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.

Members are allowed to receive up to five requests for DROP/Retirement estimates at no cost. There will be a cost of \$20.00 for each estimate thereafter.

**Payment of Monthly Benefits; Electronic Transfer; Direct Deposit**

Monthly normal retirement, disability retirement, and survivor benefits are electronically transferred or directly deposited into your checking or savings account. For electronic transfer into a checking account, a voided check shall be included with such a request. For electronic transfer into a savings account, a deposit slip or other document with the appropriate account information shall be included.



## GENERAL PROVISIONS

### Optional Forms of Payment

#### Optional Benefit Payments – (See R. S. 11:1524)

Upon application for regular or disability retirement benefits, and prior to receipt of any such benefits, an applicant may elect to receive the maximum benefits payable throughout his life (or until cessation of total and permanent disability, if applicable) computed as described in the sections on computing benefits. With the exception of a guarantee that retirees receive in benefits an amount equal to their accumulated contributions (see section titled “Guaranteed return of accumulated contributions”), maximum benefits do not provide for benefits to a designated beneficiary. At the time of application for regular or disability retirement benefits, an applicant may instead choose an optional form of benefit which is actuarially equivalent to the maximum benefit. The optional benefits require a reduction in the amount received by the member in order to account for benefits payable to a surviving, designated beneficiary upon the member’s death. A description of the options is below:

- Option 1: If the retiree dies before he has received, in annuity payments purchased by his contributions, the amount of his contributions accumulated at the time of his retirement, the balance thereof shall be paid to his designated beneficiary or, if none, to his estate
- 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 member’s designated beneficiary.
- 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 his designated beneficiary.
- 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.
- Option 5: The retiree may elect to receive ninety percent of his maximum retirement and upon death, if he is survived by a spouse to whom he was married at the time of his retirement, fifty percent of the member’s benefit will be paid to the surviving spouse during his or her lifetime.

No change in the option elected or the selection of the option beneficiary will be permitted after the retiree has received his initial monthly benefit payment unless the retiree is subsequently elected Clerk of Court, or if a former member who

retired under disability retirement and disability ceases returns to service prior to attaining the age of fifty-five years. If a retiree who has elected to receive a reduced monthly benefit to provide a survivor benefit upon his death dies after receiving his initial monthly benefit payment, the benefits payable under the option selected shall constitute the limit of benefits payable from the fund. The payment of the optional benefit will be in lieu of all other benefits which might otherwise have been due the retiree, his surviving spouse, children, parents, or any other persons whomsoever, except as provided in the event the sum total of benefits paid are less than his accumulated employee contributions to the fund (see the section titled “**Guaranteed Return of Accumulated Contributions.**”)

#### Automatic Cost-of-Living Adjustments – (See R. S. 11:247)

Upon application for retirement or participation in the Deferred Retirement Option Plan, any member may elect to receive an actuarially reduced retirement allowance which would provide them an automatic annual two and one-half percent cost-of-living adjustment, subject to a few restrictions detailed below.

The election to receive benefits in this form is irrevocable after the effective date of retirement or after the beginning date of participation in the Deferred Retirement Option Plan. The reduced retirement allowance together with the automatic cost-of-living adjustment must be in an amount certified by the system actuary as actuarially equivalent to the member's maximum allowance and must be approved by the system's Board of Trustees.

The automatic, annual cost-of-living adjustments provided under this section will be based on the retiree’s actual reduced benefit being paid on the effective date of the increase, inclusive of cost-of-living adjustments paid pursuant to this Section, but exclusive of cost-of-living adjustments separately approved by the Board and paid under any other provision of law.

The annual cost-of-living adjustment of any Deferred Retirement Option Plan participant will be credited to the participant's Deferred Retirement Option Plan subaccount during the participation period.

Following participation in the Deferred Retirement Option Plan, the annual cost-of-living adjustment will be applied to the reduced, optional monthly benefit allowance, inclusive of cost-of-living adjustments paid under this Section, but exclusive of cost-of-living adjustments separately approved by the Board and paid under any other provision of law. The monthly benefit allowance upon retirement shall reflect the annual benefit adjustments set forth in this Paragraph.

Upon retirement of a Deferred Retirement Option Plan participant who continued to work after completing the DROP participation period, the annual cost-of-living adjustment shall also be applied to any supplemental benefit earned after the

participation period in accordance with applicable law.

If a retiree or Deferred Retirement Option Plan participant has chosen an optional retirement allowance which provides that a spouse who has been designated as beneficiary will receive a continuing benefit upon the retiree's or Deferred Retirement Option Plan participant's death, the spouse's cost-of-living adjustment will be payable based on the spouse's allowance on the effective date of the increase.

The automatic, annual cost-of-living adjustment authorized by this section will be effective annually on the anniversary date of retirement and will be payable to any retiree who is age fifty-five or older and not before the retiree would have attained such age if his spouse is receiving the retirement allowance as his designated beneficiary.

Additional cost-of-living adjustments granted by the system's board of trustees, as otherwise provided by law, will be computed on the basis of the retiree's benefit amount on the date such cost-of-living adjustment is granted. If an additional cost-of-living adjustment is scheduled to be effective on the same day as the automatic, annual cost-of-living adjustment, the automatic, annual cost-of-living adjustment is to be calculated first.

Upon application for retirement or participation in the Deferred Retirement Option Plan and upon certifying that he is contemplating availing himself of the provisions of this Section, a member of a state or statewide retirement system may request that the system provide actuarial estimates of the benefits that such member would receive under this section for the fifth, tenth, and fifteenth year following the member's anticipated retirement date. The system will provide such actuarial estimates to the member upon request.

Persons receiving disability retirement benefits pursuant to the provisions of this Title will only be eligible to elect this retirement option upon conversion to a service retirement, if applicable, under the provisions of this Title.

## **GENERAL PROVISIONS**

### **Cost of Living Adjustments**

#### **Cost-of-living Adjustments – (See R. S. 11:1549)**

The Board of Trustees may, upon majority vote, grant or provide a cost-of-living adjustment to retired members who have been retired for at least one full calendar year as provided for in the section titled "Calculation of Cost-of-living Adjustments," but only in the event that:

- (1) At the end of the system's current fiscal year, the funded ratio of the system as of the end of the previous fiscal year equals or exceeds the target ratio as of that date for the system, and
- (2) The level of the Consumer Price Index for All Urban Consumers (CPI-U) for the current fiscal year is at least three percent higher than the level of the CPI-U for the fiscal year in which the last cost-of-living adjustment was granted.

The "funded ratio" as of any fiscal year end, as applied above, is defined to be the ratio of the actuarial value of assets to the actuarial accrued liability under the funding method prescribed by the office of the legislative auditor. The actuarial value of assets and actuarial accrued liability for the system will be the amounts reported to the office of the legislative auditor in the Annual Report for Public Retirement Systems.

The "target ratio" as of any fiscal year end, as applied above, is defined as the lesser of (1) or (2) below:

- (1) One hundred percent
- (2) The sum of (a), (b), (c), and (d) below:
  - (a) The funded ratio as of the 1986 Fiscal Year end.
  - (b) The number of fiscal years elapsed since the 1986 Fiscal Year end multiplied by one-thirtieth of the difference between one hundred percent and the funded ratio of the system as of the 1986 Fiscal Year end.
  - (c) The amount of each change in funded ratio due to mergers or changes in actuarial methods or assumptions occurring after the 1986 Fiscal Year end.
  - (d) For each change in funded ratio due to mergers or changes in actuarial methods or assumptions occurring after the 1986 Fiscal Year end, an amount of opposite arithmetic sign from such change in funded ratio equal in absolute value to the number of fiscal years since the change in funded ratio multiplied by one-thirtieth of the original change in funded ratio due to the merger or change in actuarial methods or assumptions.

**Amount of Cost-of-living Adjustment Payable Under R. S. 11:1549**

Any cost-of-living adjustment granted by the board of trustees, based on this section of law, must not exceed the lesser of:

- (1) An increase in benefits of two and one-half percent per year for each full calendar year of retirement.
- (2) An increase in benefits of forty dollars per month in any one year.

**Cost of Living Adjustments to Benefits – (See R. S. 11:241, R. S. 11:242, and R. S. 11:246)**

The section of statutes that relates to all state and statewide retirement systems in Louisiana provides for two potential cost of living adjustments as detailed in R. S. 11:241 and R. S. 11:246, which differ from that contained in R.S. 11:1549.

R. S. 11:241 provides that cost of living benefits may be in the form 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 30<sup>th</sup> of the initial year of such increase.

R. S. 11:246 provides for a cost of living increase 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 (which is 8% as of July 1, 2009). 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. 11:242 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 Retirement – (See R. S. 11:1521 and 11:1528)**

If any member, hired prior to January 1, 2011, who has twelve or more years of credited service terminates employment prior to the time the member becomes fifty-five years of age, the former member may leave his contributions in the fund, and upon attaining the age of fifty-five years will be eligible for a regular retirement benefit.

If any member, hired on or after January 1, 2011, who has twelve or more years of credited service terminates employment prior to the time the member becomes sixty years of age, the former member may leave his contributions in the fund, and upon attaining the age of sixty years will be eligible for a regular retirement benefit.

(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.)

## GENERAL PROVISIONS

### Miscellaneous

#### Compulsory Retirement Prohibited – (See 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)

#### Correction of Errors Due to Overpayment of Benefits – (See R. S. 11:192)

If the system makes a payment to any retiree, beneficiary, or survivor in any amount that 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.

#### Community Property Interests – (See 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.*

#### Community Property; Allocation and Assignment of Ownership – (See R. S. 9:2801.1)

When federal law or the provisions of a statutory pension or retirement plan, state or federal, preempt or preclude community classification of property that would have been classified as community property under the principles of the Civil Code, the spouse of the person entitled to such property shall be allocated or assigned the ownership of community property equal in value to such property prior to the division of the rest of the community property. Nevertheless, if such property consists of a spouse's right to receive social security benefits or the benefits themselves, then the court in its discretion may allocate or assign other community property equal in value to the other spouse.

#### Membership Information; Public Access – (See R. S. 11:175)

In addition to the public records that are made accessible pursuant to the provisions of R.S. 44:16, any person of the age of majority is eligible to inspect, copy or reproduce, or obtain a reproduction of the following information from the records of any public retirement system, plan, or fund regarding any active member of the system, plan, or fund:

- (1) The name of the employing agency or agencies and the dates of any employment of the member in which the member has been eligible for membership in the system, plan, or fund.

- (2) The salary reported by the member's employer or employers for the purpose of determining contributions paid or payable to the system and the number of years of service credited to the member's account.
- (3) The amount of benefits paid or payable to the member's Deferred Retirement Option Plan account, if any.

Any information requested under this Section must be provided by the system in accordance with the laws relative to public records, R.S. 44:1 et seq.

**Membership Information; Public Access and Exemptions –  
(See 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. Available information for such members includes:

- (1) The member's retirement allowance
- (2) The member's final average compensation
- (3) The member's years of creditable service
- (4) The names of the agencies with which the member was employed
- (5) The dates of the member's employment

The exemption mentioned above does not apply to requests for records by any member of the Louisiana Legislature, by any state agency or employer reporting information to the plan/fund, 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.

**GENERAL PROVISIONS  
Transactions That Alter Service Credit**

**Repayment of Withdrawn Accumulated Employee Contributions –  
(See R. S. 11: 1516)**

If a former member who has withdrawn his accumulated employee contributions again becomes a member of the fund, he has the option to repay the amount he withdrew plus compounded interest. Upon such repayment, the member is given credit for the prior service, which was cancelled at the time of the prior refund. The amount he repays must be paid in a lump sum, and will include compound interest of eight percent per year beginning on the date the refund was issued.

For the purpose of repayment of a refund of employee contributions, the fund will accept payment by a trustee-to-trustee transfer to the fund from an annuity in compliance with Section 403(b) of the Internal Revenue Code or any successor thereto, or from a deferred compensation plan in compliance with Section 457 of the Internal Revenue Code or any successor thereto, as long as the transfer complies with all other applicable provisions of federal and state law.

**Credit for Noncredited Prior Service – (See R. S. 11:1517)**

Any person who was eligible for membership in the fund but was not enrolled for any reason may receive credit for the time such person was otherwise eligible for membership. The clerk for whom the person was employed must certify the dates of employment and the salary earned by the member during these dates, or the person shall submit such other evidence in lieu thereof as shall be requested by the board. The person, the clerk for whom the person was employed, and any other person submitting evidence on his behalf, shall certify all evidence by an affidavit in authentic form. Should any facts or evidence not be true which would disqualify him from benefits, the person shall lose all rights to any benefits from the system. In order to receive such credit the person shall pay to the system an amount which, on an actuarial basis, totally offsets the increase in accrued liability of the fund resulting from the receipt of the credit. The amount payable shall be calculated by use of the actuarial funding method, assumptions, and tables in use by the fund at the time of application for credit. No credit shall be given until the payment is paid in full.

**Reciprocal Recognition of Credited Service in Other Public Retirement Systems – (See 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 this option, a member or survivor of a member must make application to the 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 must permanently keep and retain complete records on each member and retain and maintain 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.

Each system must notify the others of the amount of benefits payable by it and show the computation of the benefit. In addition, all of the systems involved may agree that benefit payments will be made by one system, with the other systems to reimburse the system making the payments for their portion of the total benefit.

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 the 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 – (See R. S. 11:143)**

A person 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 into this system, based upon the following.

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 – (See 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 – (See 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 (or, if agreed to by the Board of Trustees, in installments over no more than three years), 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 employment covered by this system.

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 in the computation of average final 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.

#### **Purchase Price of Retirement Credit - Actuarial Cost (See 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.

#### **Credit for Certain Military Service Which Interrupts Covered Employment (See 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 the greater of four years of the member's re-employment or the period of time allowable under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). If the member fails to pay the required contributions and interest within the allotted period, 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.

## ADMINISTRATION

### **Board Of Trustees; Membership; Officers; Vacancies – (See R. S. 11:1541)**

The board of trustees is composed of eleven members all of whom, except the designated ex officio members, must have credit in the system for at least five years of service. The president of the Louisiana Clerks of Court Association acts as the president of the board, the first vice president of the association acts as the vice president of the board, and the treasurer of the association acts as the treasurer of the board. The board is further composed of the second vice president of the association, the immediate past president of the Louisiana Clerks of Court Association, a retired clerk of court who is receiving regular or disability retirement benefits and is elected by the association to serve a two year term on the board, and three of the directors of the association who are elected to the board by the association to serve five year terms. The chairman of the House Committee on Retirement and the chairman of the Senate Committee on Retirement or their authorized designees also serve as ex officio voting members of the board of trustees. Any vacancy on the board will be filled by an election by the board of directors of the Louisiana Clerks of Court Association within sixty days of the creation of the vacancy.

### **Board of Trustees; Powers and Duties – (See R. S. 11: 1542)**

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

- (1) To carry a blanket fidelity insurance policy covering all officers and employees who handle the money or securities of the fund in the amount of five hundred thousand dollars, and to pay the premiums for the policy from board funds.
- (2) To manage and control the funds of the system, to draw sums of money from its treasury, and to invest such sums in the name of the fund in accordance with the section titled "Fiduciary and Investment Responsibilities."
- (3) To deposit all money received by the system in the bank or banks of its selection, provided the deposits are secured by the federal insurance plan.
- (4) To appoint a secretary and other employees of the fund, to define and designate their powers and duties, and to determine and pay salaries as compensation for such services, which will be paid from system monies.
- (5) To adopt such mortality, actuarial, and other tables necessary for the proper administration and management of the fund.
- (6) To formulate, establish, promulgate, make, alter, and amend any and all rules and regulations necessary, desirable, or required for the establishment,

maintenance, and administration of the system and to facilitate the proper functioning of the system and the transaction of its business

- (7) To determine all questions of coverage and qualifications as to participation in and receipt of benefits from the system.
- (8) To construe and administer the provisions of laws applicable to the Clerks' of Court Retirement and Relief Fund.
- (9) To authorize or suspend the payment of any benefit in accordance with law.
- (10) To compel witnesses to attend meetings and to testify on any matter concerning the system.
- (11) To hear appeals from persons who claim their rights under the laws or the rules of the system have been violated and to issue appropriate orders in such cases.
- (12) To obtain by employment or by contract actuarial services, investment counsel, legal services and counsel, and medical, clerical, or other services as may be required for the efficient management and administration of the system and to determine the rate of pay or compensation from system monies for such services.
- (13) To request such information from any member, former member, beneficiary, or clerk as is necessary for the proper operation of the system.
- (14) To establish an office or offices with suitable space for meetings of the board and for use by system personnel, including furnishing such office or offices as necessary. Unless otherwise designated by the board, the office will hold all of the system's books and records.
- (15) 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, to invest the available cash within these limits, and to buy and sell securities for investment.
- (16) To keep cash available on deposit in one or more banks or trust companies of the state of Louisiana organized under the laws of the state of Louisiana or of the United States for the purpose of making disbursements for pensions, annuities, and other payments.
- (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 all the proceedings of the board and such other records as shall be necessary or desirable for administration of the system.

- (19) To appoint committees of at least four trustees to perform such functions as may be directed by the board.
- (20) To perform any other reasonable activities which are necessary for carrying out the intent of the system in accordance with the provisions of law.
- (21) The board of trustees must establish an Investment Advisory Subcommittee, composed of at least four board members, which is responsible to monitor the investment of system assets, including the rate of return, and make such reports and recommendations regarding those investments as requested by the board.
- (22) To meet at least quarterly but not more than six times per year.

**Board of Trustees; Oath of Office – (See R. S. 11:1543)**

Each trustee must take an oath of office that he will diligently and honestly administer the affairs of the board. The oath must take place no later than the first board meeting following his election or appointment. As a part of such oath, he must state that he will not knowingly or willingly permit any provision of law applicable to the system to be violated. Such oath shall be subscribed to by the member, certified by a board officer, and immediately filed with the secretary of state.

**Board of Trustees; Voting – (See R. S. 11:1544)**

Each trustee shall be entitled to one vote on any and all actions before the board, with a majority of concurring votes being required for every decision or action by the board at any of its meetings. No decision or action shall become effective unless presented and so approved at a regular or duly called special meeting of the board.

**Board of trustees; custodian of fund; investment of fund – (See R. S. 11:1545)**

The board shall be the custodian and the trustees of the fund and all system monies shall be held in trust or invested for the exclusive benefit of system members and beneficiaries, present and future. The board may invest and reinvest system monies and may hold, purchase, sell, assign, and transfer and dispose of any of the securities, assets, and investments of the system as well as the proceeds of the investments and any other monies belonging to the system in accordance with the provisions of R.S. 11:263. All interest earned on any fund bank deposits, securities, or any and all other fund investments and assets shall belong to and constitute a part of the fund. No system monies may be deposited or invested unless such is

authorized by the board.

**Private interest of trustees and employees in financial operation of system prohibited – (See R. S. 11:1546)**

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

**Secretary of the Board – (See R. S. 11:1547)**

The secretary maintains a full and complete record of all proceedings of the board, particularly with reference to the investment of funds belonging to the fund. The secretary files and keeps all correspondence of the board, keeps minutes of all its meetings, and performs other duties as may be assigned by the board, including the preparation of warrants for the various disbursements from the fund and the keeping of an accurate record thereof.

The secretary maintains a record of each member and former member of the fund which contains the member's or former member's name, age, date of membership in the fund, date of entry into the service of a clerk of court's office, monthly wage, monthly contributions to the fund, marital status, name and age of spouse, if any, name and date of birth of all minor children, if any, all interruptions of service in a clerk of court's office and the causes thereof, whether by injury, illness, leave of absence agreed to in writing by the clerk of court and the employee, or by voluntary resignation and reappointment, and other information necessary to the proper administration of the fund.

The secretary maintains a list of all retirees and other beneficiaries of the fund which includes the amount of the benefit being paid to each retiree or other beneficiary.

The secretary is required to file a report with the president and all members of the Louisiana Clerks of Court Association at least once a year, which includes a list of all retirees and other beneficiaries of the fund and a summary of the audit of the fund's accounts made by an accountant selected by the board.

Each clerk of court must furnish to the secretary an initial record of all his employees, including himself, who become members of the fund, not later than the date upon which each such member's first contribution to the fund is remitted to the secretary. This record must provide the name, date of membership in the system and date of entry into the service of a clerk of court's office, monthly wage, monthly contributions to the fund, marital status, name and age of spouse, if any, and name and date of birth of all minor children, if any, a statement of all prior creditable service of such member, and any other information necessary to the proper

administration of the fund. The record must be signed by the clerk of court and approved in writing by the employee. When filed with the secretary, this record, if it includes claims of prior creditable service, will be subject to change that increases such prior creditable service only with approval of the board and upon such terms as the board may stipulate. Each clerk of court must, upon the written request of the secretary, furnish such information regarding himself, his deputies, and employees as relates to any of the facts required to be disclosed by the initial record, whether the information sought relates to the initial record or to a subsequent change of circumstances. Each deputy clerk and employee of a clerk of court must, upon the written request of the secretary, furnish such information regarding himself/herself as shall relate to any of the facts required to be disclosed by the initial record or to a subsequent change of circumstances.

**Composition of Governing Boards of Statewide Systems; Per Diem and Expenses – (See R. S. 11:181)**

The chairman of the House Committee on Retirement and the chairman of the Senate Committee on Retirement, or their designees serve as voting ex officio members of the fund. A majority of members of the board is required to constitute a quorum necessary for meetings unless a greater number is specified by statute. Each trustee serves without compensation but is paid for attendance at meetings of the Board, as provided by R. S. 11:181, a per diem of seventy-five dollars per day plus the normal expense allowance allowed state employees by the division of administration, provided funds are available for this purpose. There can be no per diem payment for those meetings in excess of the number allowed by law (as found in R. S. 11:1542(22)).

The chairmen of the House and Senate Committees on Retirement, or their designees if members of the legislature, receive the same per diem and expenses for attendance at meetings of the Board of Trustees as they receive for attendance at legislative committee meetings, and from the same sources.

**Boards of Trustees of State and Statewide Public Retirement Systems; Per Diem and Expenses – (See R. S. 11:182)**

Members of the Board of Trustees shall receive for attendance at meetings of the board a per diem of seventy-five dollars per meeting plus the normal expense allowance, provided funds are available for this purpose.

If more than one board meeting occurs during any seven calendar day period, members shall receive per diems only for such board meetings which exceed three hours in duration. However, at least one per diem shall be paid for such seven calendar day period in which there occurs at least one board meeting. No more than one per diem shall be paid for more than one board meeting in one calendar day. Mileage expenses for attendance at board meetings shall not be allowed when travel

to such meetings takes place in a governmentally owned vehicle, nor shall more than one member be reimbursed for mileage when more than one member travels to a board meeting in the same vehicle.

The board shall receive per diem for each meeting required by law. There shall be no such per diem payments for those meetings above and beyond the number required by law.

**Board Members Subject to Code of Governmental Ethics – (See R. S. 11:183)**

Any member of a state or statewide retirement system board of trustees who does not hold an office by virtue of an election conducted pursuant to the Louisiana Election Code shall be deemed a public employee for purposes of compliance with Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950.

**Meetings of State and Statewide Retirement Boards and Committees – (See R. S. 11:184)**

By December first of each calendar year, the board of trustees of each state and statewide retirement system must submit to the House and Senate committees on retirement a proposed schedule of all board and committee meetings for the following calendar year. The proposed schedule is subject to review by the committees, and the chairman of either committee may request changes in the proposed schedule of any system in order to avoid conflicting meetings or for any other purpose.

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

Members of the Board of Trustees must complete continuing education or professional development training in each twelve-month period from September 1<sup>st</sup> through the next August 31<sup>st</sup>. By October 15<sup>th</sup> of each year, the Board of Trustees must submit a letter to the House and Senate Committees on Retirement stating whether or not each board member has or has not met the requirements of this section for the previous year and giving the dates upon which the required training hours were completed by each member.

The annual training requirement for each board member includes at least eight hours of education on investment topics, at least two hours of training on actuarial science, at least one hour of education on the laws, rules, and regulations applicable to the retirement system, and one hour of instruction on fiduciary duties and ethics.

In order to vote and receive per diem payments, a board member must have completed the fiduciary and ethics requirements, and at least one hour each of investment, actuarial science, and legal education in the current twelve-month

cycle. The system must submit evidence of this training to the speaker of the House of Representatives and the president of the Senate within fourteen days after the completion of the training.

In addition, no new board member may vote on any matter until he has completed one hour of education in each of the four required areas.

**Legal Counsel, Certified Public Accountants, Professional Investment Personnel – (See R. S. 11:251)**

Notwithstanding any other provisions of law to the contrary, the Board is hereby authorized to either employ or appoint at their own cost and expense legal counsel, certified public accountants, and professional investment personnel who are full-time in-house staff members with membership in the Fund and participation in health benefits, or to retain legal counsel to represent the system who will not be a member of the Fund.

## **FIDUCIARY AND INVESTMENT RESPONSIBILITIES**

**Purpose – (See R. S. 11:261)**

The legislature recognizes that the fiscal integrity of various governments of and within this state and the financial security of employees and citizens of these various governments require that the public retirement or pension systems, funds, and plans maintained primarily for officers and employees of the governments be maintained on a sound actuarial basis. It is further recognized that the fiduciary responsibilities and the investment practices of these systems, funds, and plans are an integral part of such maintenance. It is also recognized that the legislative branch of state government bears a responsibility with respect to this maintenance. Accordingly, the purpose of this Subpart is to provide for the governing of fiduciary responsibilities and investments by public retirement or pension systems, funds, and plans.

**Fiduciary and Investment Responsibilities – (See 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). The asset allocation study and implementation plan must include the examination of market value risk, credit risk, interest rate risk, inflation risk, counterparty risk, and concentration risk. The investment policy of the system must preserve and enhance principal over the long term and provide adequate liquidity and cash flow for the payment of benefits. In addition, investments must be diversified to minimize the risk of significant losses unless it is clearly prudent not to do so.

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.

When contemplating any investment, action, or asset allocation the Board must consider factors such as the availability of public pricing to value each investment, the ability to liquidate the investment at a fair market price within a reasonable time frame for the size of the investment being considered, the degree of transparency accompanying the investment, the risk of fluctuations in currency that may accompany the investment, the experience of the managers of the investment, the financial soundness of the entity employing the investment managers, the degree of diversification offered by an investment, whether leverage is involved in the investment, the potential for unrelated business taxable income, the jurisdiction of the laws that govern the investment, and the net expected return related to the risk of the investment.

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.

The system must provide reports on investments including an array of rates of return, investment fees, administrative expenses, asset allocation targets, and the actual allocation of assets.

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 will 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 enforcement proceedings 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.

#### **Investments in Prohibited Nations; Purpose – (See R. S. 11:311)**

The purpose of this Subpart is to assure the members and retirees of the state and

statewide retirement systems, the state and her political subdivisions as employers, and the taxpayers of Louisiana that the monies held in trust for the benefit of public employees are not used directly or indirectly to support terrorist activities.

**Investments in Prohibited Nations; Application and Definitions – (See R. S. 11:312)**

As used in this Subpart, the following terms shall have the following meanings, unless a different meaning is clearly required by context:

- (1) "Company" means any foreign domiciled or based entity, real or juridical, which is not a subsidiary of nor owned in whole or in part by any domestic company, and which is engaged in an enterprise for financial gain.
- (2) "Prohibited nation" means Iran, North Korea, Sudan, or Syria.

The fund shall provide semiannual written reports to the House of Representatives and Senate committees on retirement regarding any investments in any company having facilities or employees or both located in a prohibited nation. The report must include the name of each such company, the asset allocation class and sector to which it belongs pursuant to the board's asset allocation policy, and the amount invested in such company.

Reports are due by the fifteenth day of February, containing information for the six-month period ending December thirty-first, and by the fifteenth of August, containing information for the six-month period ending June thirtieth in each calendar year.

Each system's money managers shall be responsible for supplying to the system all information necessary to complete the reports in a timely manner as required by this Subsection.

Each system shall adopt rules necessary to implement the provisions of this Subpart.

**Investments in Prohibited Nations; Prudent-Man Rule – (See R. S. 11:313)**

Notwithstanding the prudent-man rule, 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 a prohibited nation as that term is defined in R.S. 11:312(B)(2).

**Investments in Prohibited Nations; Constructive Engagement; Direct Ownership of Securities – (See R. S. 11:314)**

The fund must adopt and implement a corporate governance strategy of constructive engagement of each company, in which the system has a direct ownership of securities, having facilities or employees or both located in a prohibited nation. Such corporate governance strategy of constructive engagement shall contain a plan of system action to cause any such company to remove facilities, employees, or both from any prohibited nation.

The fund was required to implement a plan of action by not later than one hundred twenty days after August 15, 2007. In addition, the fund must continue to implement such plan of action with respect to a particular company for the period of time that the system continues to possess an ownership interest in the company. As part of each system's corporate governance strategy of constructive engagement, the system is required to make its best efforts to identify all such companies. Such efforts must include all of the following:

- (1) Reviewing and analyzing publicly available information regarding companies having facilities or employees or both located in a prohibited nation, including information provided by but not limited to nonprofit organizations, research firms, international organizations, and government entities.
- (2) Contacting and obtaining information from asset managers who invest on behalf of the system in companies having facilities or employees or both located in a prohibited nation.
- (3) Contacting and obtaining information from other institutional investors, including other public pension systems, that have divested themselves of investments in companies having facilities or employees or both located in a prohibited nation.

Such corporate governance strategy requires the fund to form strategic shareholder alliances, whether formal or informal, with other public pension systems that have a common ownership interest with the system in any company having facilities or employees or both in a prohibited nation for the purpose of effecting change in the company's policy so as to cause the company to remove its facilities, employees, or both from any prohibited nation. In pursuing such shareholder alliances, the following provisions apply:

- (1) The fund must share with other systems covered a semiannual list of companies in which the system invests that have facilities or employees or both located in a prohibited nation. Each system with common ownership interests in such companies must then form a strategic shareholder alliance, whether formal or informal, for the purpose of influencing such companies to cease having facilities or employees or both located in a prohibited nation.
- (2) Each covered system must, separately or jointly with another system that is a member of a strategic shareholder alliance under this Section, submit

semiannually, to each such company having facilities or employees or both located in a prohibited nation, a notice that provides for all of the following:

- (a) Informs such company of the requirements of this Subpart and of the company's status as having facilities or employees or both located in a prohibited nation.
- (b) Requests that such company refrain from continuing to have facilities or employees or both located in a prohibited nation.
- (c) Details the nature of any strategic shareholder alliance of which the system is a member pursuant to this Section, which notice is to include a list of systems, whether this Subpart applies to those systems or not, making up such alliance.
- (d) Details the percentage of shares that each member of the strategic shareholder alliance possesses.
- (e) Informs such company that it may become subject to divestment by the systems in the shareholder alliance if such company continues having facilities or employees or both located in a prohibited nation.

The fund is required to adopt rules necessary to implement the provisions of this Section and must report compliance with this Section to the House of Representatives and Senate committees on retirement as part of the report submitted pursuant to R.S. 11:312(C).

**Investments in Prohibited Nations; Constructive Engagement; Securities Held in a Collective Fund – (See R. S. 11:315)**

The fund must adopt and implement a corporate governance strategy of constructive engagement of any collective fund investment manager or advisor, requesting such manager or advisor to constructively engage each company having facilities or employees or both located in a prohibited nation in which the system possesses an indirect ownership interest through investment in any such collective fund, excluding private equities and hedge funds. Such corporate governance strategy of constructive engagement is to contain a plan of system action to cause any such collective fund to in turn cause any such company to remove facilities, employees, or both from any prohibited nation. The fund had until one hundred twenty days after August 15, 2007 to create such plan of action and must continue to implement such plan of system action with respect to a particular collective fund for the period of time that the system continues to possess an indirect ownership interest in the company through the collective fund investment. As part of each system's corporate governance strategy of constructive engagement, the system must make its best efforts to identify all such companies. Such efforts shall include:

- (1) Reviewing and analyzing publicly available information regarding companies

having facilities or employees or both located in a prohibited nation, including information provided by but not limited to nonprofit organizations, research firms, international organizations, and government entities.

- (2) Contacting and obtaining information from asset managers who invest on behalf of the system in companies having facilities or employees or both located in a prohibited nation.
- (3) Contacting and obtaining information from other institutional investors, including other public pension systems, that have divested themselves of investments in companies having facilities or employees or both located in a prohibited nation.

The corporate governance strategy of the fund requires the fund to form strategic alliances, whether formal or informal, with other public pension systems that have a common ownership interest with the system in any company having facilities or employees or both in a prohibited nation through participation in the same collective fund, excluding private equities or hedge funds, for the purpose of effecting change in the company's policy so as to cause the company to remove its facilities, employees, or both from any prohibited nation. In pursuing such alliances, the following provisions apply:

- (1) The fund must share with other systems covered a semiannual list of companies in which the system invests that have facilities or employees or both located in a prohibited nation. Each system with common ownership interests in such companies must then form a strategic shareholder alliance, whether formal or informal, for the purpose of influencing such companies to cease having facilities or employees or both located in a prohibited nation.
- (2) Each covered system must, separately or jointly with another system that is a member of a strategic alliance under this Section, submit semiannually to the investment manager or advisor of any collective fund, requesting any such collective fund manager or advisor to submit to each such company having facilities or employees or both located in a prohibited nation, a notice that provides for all of the following:
  - (a) Informs such company of the requirements of this Subpart and of the company's status as having facilities or employees or both located in a prohibited nation.
  - (b) Requests that such company refrain from continuing to have facilities or employees or both located in a prohibited nation.
  - (c) Details the nature of any strategic alliance of which the system is a member pursuant to this Section, which notice shall include a list of systems, whether this Subpart applies to those systems or not, making up



such alliance.

- (d) Details the percentage of shares that each member of the strategic alliance possesses.
- (e) Informs such company that it may become subject to divestment by the systems in the strategic alliance if such company continues having facilities or employees or both located in a prohibited nation.

The fund is required to adopt rules necessary to implement the provisions of this Section and must report compliance with this Section to the House of Representatives and Senate committees on retirement as part of the report submitted pursuant to R.S. 11:312(C).

**Investments in Prohibited Nations; Terror-Free Index Fund – (See R. S. 11:316)**

As used in this Section, the following terms have the following meaning unless a different meaning is clearly required by the context:

- (1) "Screened equities" means stocks or other ownership interest in a company identified as having facilities or employees or both located in a prohibited nation, which equities are excluded from the terror-free index fund.
- (2) "Terror-free equities" means equities in companies not identified as having facilities or employees or both located in a prohibited nation.
- (3) "Terror-free index fund" means an international index fund which identifies equities in companies having facilities or employees or both located in a prohibited nation and excludes them from the fund.

The fund was required within sixty days after August 15, 2007 to communicate with investment managers with international investment experience for the establishment of an international terror-free index fund which identifies and excludes from the fund companies having facilities or employees or both in a prohibited nation. The communication shall stipulate that, as part of managing such fund, the manager will replace the screened equities with comparable equities or will adjust the weighting of remaining equities held in a system's portfolio. The fund, if it includes an allocation to international markets, is required to allocate a portion of its international investments to such terror-free index.

If the fund has an investment strategy which includes allocation to international markets but does not possess sufficient assets to meet the minimum investment required by the manager to create a terror-free index fund on its behalf alone, the fund must join an existing terror-free index fund established pursuant to this Section, or join with another system to meet such minimum investment

requirements for the purpose of establishing a terror-free index fund common to those systems.

The fund must adopt rules necessary to implement the provisions of this Section, and must report compliance with this Section to the House of Representatives and Senate committees on retirement as part of the report submitted pursuant to R. S. 11:312(C).

Nothing in this Section requires a system to invest in international markets or to utilize collective funds or index funds for such purpose unless otherwise part of the investment strategy adopted by the system. If a system invests in international markets and utilizes collective funds or index funds for such purpose, this Section does apply.

**Liabilities; Discretionary Control – (See R. S. 11:264.1)**

Legislators, state officials, system attorneys, accountants, and actuaries are not considered fiduciaries unless they exercise discretionary control over the management or administration of the system or some authority or control over system assets.

**Fiduciary Restriction; Felony Conviction – (See R. S. 11:264.2)**

Any person who has been convicted of a felony offense is 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.

**Basic Fiduciary Duty – (See R. S. 11:264.3)**

The basic duty of a fiduciary is to discharge his duties with respect to the system in the exclusive interest of the members and beneficiaries.

**Exclusive Interest Rule – (See R. S. 11:264.4)**

A fiduciary must discharge his duties within the law 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.

**Breach of Fiduciary Duty – (See R. S. 11:264.5)**

Any person who is a fiduciary with respect to this plan who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Subpart is personally liable to make good to the plan any losses to the plan resulting from each

such breach, and to restore to the plan any profits of such fiduciary which have been made through use of assets of the plan by the fiduciary. In addition, the fiduciary is subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

No fiduciary is liable with respect to a breach of fiduciary duty under this Subpart if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

It is not a breach of fiduciary duty for a board of trustees or any member of such a board to take action to divest the system of any holding in a company having facilities or employees or both located in a prohibited nation as that term is defined in R.S. 11:312(B)(2); however, nothing in this Subsection requires a board to divest itself of any such holding.

#### **Cofiduciary Liability – (See R. S. 11:264.6)**

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

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

#### **Venue for any Legal Action Against the System – (See 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.

#### **System Policy Regarding Breach of Fiduciary Duty – (See R. S. 11:264.8)**

No retirement system may submit a proposed regulation, or approve any internal policy to relieve a fiduciary from responsibility for breach of fiduciary duty. However, a system may purchase insurance to cover liability or losses due to acts or omissions of fiduciaries. Any such insurance must maintain the insurance company's right of subrogation. A fiduciary may purchase insurance to cover his own liability, without condition.

#### **Compensation of Investment Advisors – (See R. S. 11:265)**

Each board of trustees of the various public retirement systems, plans, or funds is hereby authorized, in requesting proposals for investment advisory services, to require that fees shall be quoted as a fixed fee, a fee based on market value of assets, or a performance fee.

#### **Investment Performance Standards – (See R. S. 11:266)**

The provisions of this Section are applicable to all Louisiana public retirement or pension systems, funds, and plans, and do not apply to any investment manager or investment advisor who does not have an office for investment managers or investment advisors domiciled in the United States.

Investment performance reports submitted by any investment manager or investment advisor of any covered entity of this Section must be in compliance with the current Performance Presentation Standards as amended and published by the Association for Investment Management and Research or any successor entity.

Investment performance composite data submitted in response to a request for proposal or any other solicitation or selection process used by this fund for hiring an investment manager or investment advisor must be in compliance with the current Performance Presentation Standards as amended and published by the Association for Investment Management and Research or any successor entity.

The fund must require, at least annually, that investment managers or investment advisors that they employ or retain must submit investment performance composite data, which contains the portfolio that is subject to a Level I verification as defined in the Performance Presentation Standards as amended and published by the Association for Investment Management and Research or any successor entity.

The Investment Performance Standards required in this section are not required for investments in limited partnerships, limited liability partnerships, private placements, and natural resource portfolios.

#### **Disclosure; Consultants; Money Managers – (See R. S. 11:269)**

Consultants and money managers must provide full disclosure to the Board related to conflicts of interest, including non-pension sponsor sources of revenue. Consultants also must provide full disclosure of any payments they receive from money managers, in hard or soft dollars, for any services they provide, including but not limited to performance measurement, business consulting, and education.

Each consultant and money manager must submit a written disclosure report semiannually. The report must be submitted regardless of whether the consultant or money manager has any conflict or payment to report. Should a reportable agreement be confected during any reporting period, the consultant or money manager must notify the system of the agreement within seven business days.

Any consultant or money manager found to be in violation of this section must pay

to the fund an amount of money equal to the value of the revenue or payments he failed to disclose together with any damages caused by the failure to disclose. Additionally, if the failure to disclose is intentional, the consultant or money manager must pay to the system an amount equal to three times the value of the revenue or payment he failed to disclose as a penalty, in addition to any damages actually caused by the failure to disclose.

**Actuarial Soundness – (See the 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

**Methods of Actuarial Valuation Established – (See R. S. 11:22)**

The Clerks of Court Retirement and Relief Fund uses the frozen attained age normal funding method.

**Unfunded Accrued Liabilities; Amortization – (See R. S. 11:42)**

The unfunded accrued liability as of June 30, 1989 was amortized over a period of forty years. The payments set at that time were structured as an annuity increasing at four and three-quarters percent annually.

**Employee Contribution Rate Established – (See R. S. 11:62)**

The employee contribution is set at 8.25% of compensation.

**Ad Valorem Tax Contributions Established – (See R. S. 11:82)**

The system is due ad valorem taxes in the amount of .25% (.5% for Orleans Parish) of aggregate taxes shown to be collectible by the rolls of each parish.

**Determination of Employer Contributions – (See R. S. 11:103)**

This statute provides a description of the method used to calculate the actuarially required employer contribution for each fiscal year. It states that the employer contribution rate will be equal to the actuarially required employer contribution divided by total projected payroll of all active members for the fiscal year. The contribution shortfall will be the difference between the actuarially required employer contribution for the fiscal year and the amount of employer contributions actually received, after adjustments for irregular contributions.

The actuarially required employer contribution is equal to the sum of:

- (1) The employer's normal cost for that fiscal year, computed as of the first of the fiscal year using the system's actuarial funding method as specified in R.S. 11:22 and taking into account the value of employee contributions, including interest thereon, such employer's normal cost projected to the middle of the fiscal year at the assumed actuarial interest rate.
- (2) The projected non-investment related administrative expenses for the fiscal year.

- (3) That fiscal year's payment, computed at the first of that fiscal year and projected to the middle of that fiscal year, at the actuarially assumed interest rate necessary to amortize previous years' shortfall amounts over the future working lifetime of current participants.
- (4) That fiscal year's payment, computed as of the first of that fiscal year using that system's amortization method specified in R.S. 11:42, necessary to amortize the unfunded accrued liability as of the end of the fiscal year ending 1989, such unfunded accrued liability computed using the system's actuarial funding method as specified in R.S. 11:22, such payment projected to the middle of that fiscal year at the actuarially assumed interest rate.

The net direct actuarially required employer contribution for each fiscal year, is to be that dollar amount equal to the sum of the above items, reduced by the dedicated ad valorem taxes and revenue sharing funds and rounded to the nearest one-quarter percent.

**Employer Contributions; Determination Date; Notification – (See R. S. 11:104)**

The employer contribution rate is to be determined by the Public Retirement Systems' Actuarial Committee by the fifteenth day of January of each year. Within ten business days thereafter, the chairman of the Public Retirement Systems' Actuarial Committee should notify each employer or the retirement system that the referenced rate will be recommended to the legislature for approval, or that the given rate should be used by the retirement system.

**Employer Contributions; Maintaining Rates – (See R. S. 11:105)**

In any fiscal year during which the net direct employer contribution rate would otherwise be decreased, the board of trustees of the fund is authorized to maintain the net direct employer contribution rate in effect at the time that the decrease would otherwise occur according to R. S. 11:103.

Any excess funds collected under this statute resulting from maintaining the contribution rate are combined with any contribution surplus, or offset by any contribution shortfall, and the resulting balance, if greater than zero, is applied, until exhausted, exclusively for and in the order of the following purposes:

- (1) To reduce the frozen unfunded accrued liability, if any; however, the future payments on the frozen unfunded accrued liability shall continue to be made according to the original amortization schedule established to initiate compliance with the requirements of Article X, Section 29(E)(2)(c) and (3) of the Constitution of Louisiana until the outstanding balance is fully liquidated.

- (2) To reduce the outstanding amortization charge base or bases with the greatest number of outstanding payments; however, the future payments on the base or bases shall continue to be made according to the original amortization schedule until the outstanding balance is fully liquidated.
- (3) To establish a contribution surplus amortization base or add to the otherwise established contribution surplus base for the fiscal year if an immediate gain funding method is used, or to reduce the present value of future employer normal costs if a spread gain funding method is used.

**Additional Employer Contributions; Increasing Rates – (See R. S. 11:106)**

The Board is authorized to increase the net direct employer contribution rate detailed in the section titled “**Employer Contributions**” by up to three percent more than the approved rate.

If the board elects to increase the net direct employer contribution rate, any excess funds resulting from increasing the contribution rate will be combined with any contribution surplus, or offset by any contribution shortfall, and the resulting balance, if greater than zero, will be applied exclusively for and in the order of the following purposes:

- (1) To reduce the frozen unfunded accrued liability, if any. However, the future payments on the frozen unfunded accrued liability must continue to be made according to the original amortization schedule established to initiate compliance with the requirements of Article X, Section 29(E)(2)(c) and (3) of the Constitution of Louisiana until the outstanding balance is fully liquidated.
- (2) To reduce the outstanding amortization charge base or bases with the greatest number of outstanding payments. However, the future payments on the base or bases shall continue to be made according to the original amortization schedule until the outstanding balance is fully liquidated.
- (3) To establish a contribution surplus amortization base or add to the otherwise established contribution surplus base for the fiscal year, if an immediate gain funding method is used, or to reduce the present value of future employer normal costs, if a spread gain funding method is used.

**Additional Employer Contributions; Reducing Rate Decreases – (See R. S. 11:107)**

Notwithstanding the provisions of law detailed above, in any fiscal year during which the net direct employer contribution rates would otherwise be decreased, the board is authorized to set the employer contribution rate at any point between the previous year’s employer contribution rate and the decreased rate that would

otherwise occur. Any excess funds resulting from the additional contributions will be applied as provided in R. S. 11:105(C).

**Funding Deposit Account – (See R. S. 11:107.1)**

This section establishes a funding deposit account which will be credited and charged solely as provided in this Section.

Under the law, a funding deposit account was established. This section details the items that credit and charge the balance in the account. The account was set equal to zero as of December 31, 2008. For fiscal years ending on or after June 30, 2009 in which the board of trustees elects or previously elected to set the net direct employer contribution rate higher than the minimum recommended rate, all surplus funds collected by the system will be credited to the system's funding deposit account.

The funds in the account will earn interest annually at the board-approved actuarial valuation interest rate.

Beginning with the June 30, 2009 valuation, the board of trustees may in any fiscal year direct funds, if any, in the account be charged for the following purposes:

- (1) To reduce the unfunded accrued liability as prescribed in this Subpart.
- (2) To reduce the present value of future normal costs for systems using an aggregate funding method.
- (3) To pay all or a portion of any future net direct employer contributions.

In no event can the funds charged from the account exceed the outstanding account balance. If the board of trustees elects to charge funds from the funding deposit account under item (3) above, the percent reduction in the minimum recommended employer contribution rate otherwise applicable will be determined by dividing the interest-adjusted value of the charges from the funding deposit account by the projected payroll for the fiscal year for which the contribution rate is to be reduced.

For funding purposes, any asset value utilized in the calculation of the actuarial value of assets of a system excludes the funding deposit account balance as of the asset determination date for such calculation. For all purposes other than funding, the funds in the account will be considered assets of the system.

**Tax Sheltering of Employee Contributions – (See 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.

Such an employee would contribute \$82.50 (8.25% 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 \$917.50 per month. This represents the employee's gross monthly salary of \$1,000 minus the employee's sheltered retirement contribution of \$82.50. 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 \$11,010 ( $\$917.50 \times 12$ ), not \$12,000 ( $\$1,000 \times 12$ ) as would be the case without tax sheltering.

**Purpose; Elimination of Unfunded Accrued Liability – (See R. S. 11:271)**

This statute provides for the furnishing of accurate actuarial data in order to facilitate the imperative that the system be maintained on a sound actuarial basis, and that such maintenance requires that the unfunded accrued liability of the system be eliminated.

In addition, the statute requires the system to provide certain reports to the legislative auditor on a fiscal year basis, at least ninety days prior to the convening of the legislature in regular session. These reports are to be provided using calculation methods and forms prescribed by the legislative auditor. The reports are to include the amount of funding, stated as a percentage of payroll, which is necessary to meet the system's normal cost and to amortize, at the valuation rate of interest, the system's unfunded accrued liability.

**Failure to Timely Remit Contributions – (See R. S. 11:281)**

Payments of employer and employee contributions which are paid after becoming delinquent will include interest to be paid to the retirement system at the rate of legal interest computed from the date the payments became delinquent.

**Dedication and Payment of Certain Tax Revenue – (See R. S. 11:1561)**

Each sheriff, ex officio tax collector, or other person responsible for the collection

of taxes shown to be collectible on the tax rolls of each parish other than Orleans must deduct one-fourth of one percent of those taxes, and remit the deducted amount to the Clerks' of Court Retirement and Relief Fund. The tax collector or other person responsible for the collection of taxes shown to be collectible by the tax rolls in Orleans Parish must deduct one-half of one percent of those taxes, and remit the deducted amount to the Clerks' of Court Retirement and Relief Fund. The monies must be remitted periodically and at the same time that each such official disburses funds to the tax recipient bodies of his respective parish.

If the official responsible for the collection of the taxes fails to remit the monies due to the Clerks' of Court Retirement and Relief Fund as stated above, the board of trustees is empowered to submit a resolution to the state treasurer making demand for the monies due to the fund. The resolution must certify which parish is delinquent in payment and the amount owed. Before distribution of any revenue sharing dollars otherwise to be distributed to each delinquent parish, the treasurer must deduct from them and pay to the fund the amount due from the respective parish.

#### **Employee and employer contributions – (See R. S. 11:1562)**

Each employer shall deduct eight and one-quarter percent of the salary of each person who is required to be a member of the fund (see the section titled "Membership" above). Such deduction will be made during each regular payroll period and shall be paid to the fund monthly by each clerk within ten days after the close of the month for which was collected. In addition, each employer shall pay to the fund an amount equal to nine percent of all salaries paid by each clerk to members of the fund. These employer contributions will be paid from each clerk's salary fund or, if there is no salary fund, out of any fund from which the clerk pays the salaries of his employees and himself.

The failure of any clerk to make the required deductions, or to remit to the fund all required contributions within thirty days of becoming due, will render him liable to suspension of his membership and participation in the fund at the discretion of the board. If the board suspends any clerk it must notify the clerk of his suspension by registered mail sent to him at his address as it appears upon the records of the system, and it must prescribe the conditions and terms pursuant to which he may be reinstated. If any clerk continues to be delinquent in the payment of the required contributions for a period exceeding ninety days, he will be personally liable to the fund in his individual capacity for the delinquent contributions and for a penalty equal to twenty-five percent of all delinquent contributions. If and when the delinquent contributions and penalty are collected, both will be paid into and constitute a part of the fund.

Notwithstanding any other provision of law to the contrary, in lieu of deducting the employee contribution from the salary of each clerk, deputy, and employee who is required to be a member of the fund, upon giving written notice to the board of

trustees fifteen days prior to the beginning of a fiscal year, each employer may elect to pay out of the clerk's or board's operating funds all or any portion of the employee contributions which would otherwise be deducted from the salary of each employee who is a member of the fund. If a clerk or a board elects to pay a portion of the contributions required as stated above, then the portion will be in the same proportion of the salary of each employee in the office of the clerk or board, and no employee will be able to choose the amount of such payment. Such payments will specifically not be included as salary or monthly average final compensation for purposes of benefit computation. If such election is made, the election will remain in effect for a fiscal year and may be rescinded only upon providing written notice to the board of trustees fifteen days prior to the beginning of a fiscal year.

Eight and one-quarter percent of all per-page transcription payments must be deducted monthly from each such payment and that amount, plus the appropriate employer contribution applied to such payments, as otherwise established by law, must be remitted to the fund on a monthly basis within ten days after the close of each month by the judicial administrator or other appropriate officer of the court for which the transcriptions were made. Such reports must be distinct and separate from the reports of regular salary otherwise required by law.

#### **Deficiencies – (See R. S. 11:1563)**

If at any time the monies of the fund are insufficient to pay each retiree and beneficiary the full amount to which he is entitled, equal percentages of the full amount will be paid to each retiree and beneficiary until the fund is replenished so as to warrant resumption of the payment of the full amount to each retiree and beneficiary.