

# **INITIAL REPORT TO THE LEGISLATURE**

## **Department of the Treasury Board of Trustees of the Louisiana State Employees' Retirement System Part I. Louisiana State Employees' Retirement System Purchase of Service Credit for Military Service (LAC 58:I.701, 703, 905, 907, 913 and 915)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes amendment in part and repeal in part of provisions contained in Chapters 7 and 9 of Part I of LAC Title 58. Amendments are recommended to reflect the federal maximum purchase of five years of military service credit allowed, to reflect the federal time period allowed to pay for military service credit, removal of provisions which are in conflict with federal and state law, the amendment of the chapter titles of to better reflect the purpose of each, the removal of references to payment of interest and changes to utilize the term "member" uniform throughout both chapters. The proposed rule changes comply with and are enabled by R.S. 11:515. The intent is to put the rules into place on October 20, 2017.

Cindy Rougeou  
Executive Director

## **NOTICE OF INTENT**

### **Department of the Treasury Board of Trustees of the Louisiana State Employees' Retirement System**

#### **Part I. Louisiana State Employees' Retirement System Purchase of Service Credit for Military Service (LAC 58:I.701, 703, 905, 907, 913 and 915)**

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes amendment in part and repeal in part of provisions contained in Chapters 7 and 9 of Part I of LAC Title 58. Amendments are recommended to reflect the federal maximum purchase of five years of military service credit allowed, to reflect the federal time period allowed to pay for military service credit, removal of provisions which are in conflict with federal and state law, the amendment of the chapter titles of to better reflect the purpose of each, the removal of references to payment of interest and changes to utilize the term "member" uniform throughout both chapters. The proposed rule changes comply with and are enabled by R.S. 11:515.

#### **Family Impact Statement**

The proposed Rule repeal is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule repeal is not anticipated to have an impact on poverty as described in R.S. 49:973.

#### **Small Business Statement**

The proposed Rule repeal is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule repeal is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

Interested persons may submit written comments on the proposed changes until 4:30 pm, August 29, 2017 to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804. No rule preamble has been prepared.

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Cindy Rougeou  
Executive Director

## **Chapter 7. Purchase of Military Service under R.S. 11:153**

### **§701. Purchase of Military Service**

- A.** A maximum of four years of credit for military service may be purchased by members who rendered military service in accordance with R.S. 11:153, provided the member received a discharge other than dishonorable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:1490 (July 2000), amended LR 43:.

### **§703. Requirements for Application to Purchase Military Service**

A.—B. ...

C. Repealed

D. Repealed

- E.** The payment of the cost shall be credited to the member's account. If the member later separates from state employment and requests a refund of contributions, the amount paid shall be refunded along with other employee contributions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 32:265 (February 2006), amended LR 43:

## **Chapter 9. Purchase of Retirement Credit under R. S. 29:411 *et seq.* and the Uniformed Services Employment and Reemployment Rights Act**

### **§905. Limitations**

- A. Members may receive no more than a total of five years of military service credit in the retirement system for military service rendered in accordance with R.S. 29:411 *et seq.* and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 43:.

### **§907. Credit for Eligibility or Benefit Purposes**

- A. In accordance with provisions of USERRA, a member shall receive credit for purposes of determining eligibility for retirement at no cost to the individual or agency. In order to receive credit for purposes of calculating the retirement benefit, contributions shall be paid to the retirement system in accordance with Section 414(u) of the Internal Revenue Code. If the employee was on paid leave during the period of active military service, the employee has received retirement credit for that service and no additional information need be furnished to the retirement system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 43:.

### **§913. Payment of Contributions after Military Service is Completed.**

- A. The employer shall pay the employer contribution.
- B. ...
- C. The employer shall determine the amount of earnings that would have been earned and compute the employee and employer's contributions that are due.
- D. The employee shall pay the employee contributions to the agency. The agency shall remit the employee and employer contributions to LASERS within 30 days after the employee has paid his or her portion. The agency shall provide a monthly breakdown of the earnings and contributions for each member and the certification documents to LASERS
- E. Payment for military service shall be made in accordance with Section 414(u) of the Internal Revenue Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:414 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 43:.

### **§915. Death and Survivor Benefits**

A.—B....

C. If a member dies before completing payment for military service under this chapter, a beneficiary or survivor has the right to pay the required contributions as set forth in R.S. 29:415, except that the applicable time limit within which payment must be made is that set forth in Section 414(u) of the Internal Revenue Code. If the beneficiary or survivor chooses not to pay the member's contribution, the computation of death and survivor benefits shall be based on the actual service credit of the member, excluding his or her military service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:414, R.S. 29:415 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 43:.

for trustee. Those retired members signing the petition shall also supply the final four digits of their Social Security number. When returning the nominating petition, the candidate should include his qualifications, platform and photograph for inclusion in the election brochure circulated by LASERS.

B. The printed name of those persons signing the nominating petition must be legible for purposes of verification. Unverifiable signatories shall not count toward the required total of 25 and may disqualify the petition.

C. In years where a special election is held, a candidate shall clearly state in his petition whether he is running for a four-year term or for the unexpired portion of the term that is the subject of the special election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 37:1617 (June 2011).

### **§505. Vacancies; Special Elections [Formerly §507]**

A. The Executive Board of the Retired State Employees Association shall appoint a member to fill any retired member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the retired member position.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneously with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 23:998 (August 1997), amended LR 37:1617 (June 2011).

## **Chapter 7. Purchase of Military Service**

### **§701. Purchase of Military Service**

A. A maximum of four years of credit for military service may be purchased by active members who rendered military service in accordance with R.S. 29:411, 412, and 415.1, provided the active member received a discharge other than dishonorable. This provision shall not be applicable to DROP participants (R.S. 29:415.1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:1490 (July 2000).

### **§703. Requirements for Application to Purchase Military Service**

A. In order to apply for purchase of the service, an active member shall:

1. make application to LASERS;
2. provide a copy of military form DD 214;

3. certify that he is not drawing a regular retirement benefit based on the military service calculated on the basis of age and service (This restriction does not apply to disability benefits based on 25 percent or less disability received as a result of military service); and

4. certify that he has not received credit for the service in any other public retirement system;

5. pay for the calculation of the actuarial calculation to determine the cost to purchase the service.

B. The active member shall pay the actuarial cost to receive the service credit. Upon receipt of the items listed above, LASERS shall issue an invoice to the active member. The invoice is void if not paid within 90 days after the date issued. Payment shall be made in a lump sum.

C. Military service not purchased within four years of the active members reemployment under the provisions of Chapter 7 cannot be used to establish eligibility for regular retirement.

D. If an active member dies before the four-year period of eligibility to repurchase his or her military time, a beneficiary or survivor has the right to pay the required contributions in order to have the member's military service computed in the computation of any death of survivor benefits payable under the system. If the beneficiary or survivor chooses not to pay the member's contribution, the computation of death and survivor benefits shall be based on the actual service credit of the active member, excluding his or her military service.

E. The payment of the cost shall be credited to the active member's account. If the active member later separates from state employment and requests a refund of contributions, the amount paid shall be refunded along with other employee contributions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 32:265 (February 2006).

## Chapter 9. Retirement Credit for Active Members of the Military Reserves

### §901. Requirements

A. In order to qualify for retirement credit for military service, at the time the individual was called to active military service, he or she shall have been:

1. a state employee in a position that is other than temporary including, but not limited to, probational and permanent Civil Service positions;
2. an active member of the Louisiana State Employees' Retirement System;
3. a member of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, Air Force Reserve, or the Coast Guard Reserve (hereinafter called reservist) called to active duty; and
4. shall have been released from active duty after satisfactory completion of military duty, in accordance with the provisions of 50 U.S.C. §459. Release shall have been other than dishonorable.

B. The member, at his option, shall pay the required employee contributions to the retirement system during his period of service in the uniformed service, or if he chooses not to make such payment during his military duty, he is entitled to purchase such credit in accordance with §901 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

### §903. Exclusions

A. Employees who were in temporary positions such as, but not limited to, restricted appointments, job appointments, provisional appointments, and student workers are not eligible for retirement credit. Elected officials and appointed officials in positions established by the constitution or laws of the state are eligible for retirement credit. Reservists who were participating in the Deferred Retirement Option Plan at the time of military service are not eligible to receive service credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411, R.S. 29:415.1 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

### §905. Limitations

A. Reservists may not receive more than a total of four years of military service credit in the retirement system for military service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

### §907. Credit for Eligibility or Benefit Purposes

A. Under the provisions of the Act, a reservist shall receive credit for purposes of determining eligibility for retirement at no cost to the individual or agency. In order to receive credit for purposes of calculating the retirement benefit, contributions shall be paid to the retirement system within four years of release from active military duty. If the employee was on paid leave during the period of active military service, the employee has received retirement credit for that service and no additional information need be furnished to the retirement system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

### §909. Certification of Military Service

A. In order to receive retirement credit for eligibility or benefits purposes, the employee shall provide:

1. discharge or release notice (Form DD214) and any other pertinent documentation from the appropriate military entity which provides the inclusive dates of active service or discharge from hospitalization incidental to the military service;
2. documentation from the agency certifying that the reservist was employed in a position other than temporary on the date the active duty began; and
3. certification from the agency that the reservist applied for reemployment within 90 days of release from military service or discharge from hospitalization incidental to the military service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

### §911. Differential Payments Made by the Agencies

A. Many reservists active duty base pay may be less than their state base pay. The reservist may elect to pay contributions on the entire amount of state earnings that would have been received in order to receive retirement credit for benefit purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

### §913. Payment of Contributions after Military Service Is Completed

A. The employer shall pay the employer contribution plus interest.

B. The amount of contributions is based upon the amount of earnings the employee would have received if still employed. This includes any increases in compensation the employee would have received if he or she had remained in employment during the period of military service. If the employee's compensation varies, such as for legislators, the average monthly earnings for the 12 months preceding the active military service shall be used to determine the amount of contributions.

C. The employer shall determine the amount of earnings that would have been earned and compute the employee and employer's contributions that are due plus interest. The interest should be calculated from the date the contributions would have been made to the date the payment is made to LASERS. LASERS shall provide interest tables to the agencies for the calculation of interest.

D. The employee shall pay the employee contributions, plus interest, to the agency. The agency shall remit the employee and employer contributions, plus interest, to LASERS within 30 days after the employee has paid his or her portion. The agency shall provide a monthly breakdown of the earnings and contributions for each reservist and the certification documents to LASERS.

E. All payments shall be made in a lump sum within four years after the reservist returns to employment in order for the reservist to receive credit for benefit purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:414 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

### **§915. Death and Survivor Benefits**

A. The period of military service received under the provisions of Chapter 9 shall be counted as creditable service for determining eligibility for death and survivor benefits. The amount of survivor benefits payable shall be calculated as provided for in R.S. 11:471 et seq.

B. The final average compensation used for the calculation shall be based on the actual earnings of the member. In order for the estimated earnings during the period of military service to be used in the determination of the final average compensation, the employee and employer's contributions shall be paid for the period of military service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:414, R.S. 29:415 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

## **Chapter 11. Voluntary Deductions from Retiree Benefits Payroll**

### **§1101. Application Process for Voluntary Payroll Deduction**

A. Application shall be made by the company, corporation, or organization which is the provider of

coverage, product, service, or recipient of monies and shall be signed by two officers of the applicant company, corporation, or organization. The completed application shall be submitted to LASERS.

B. The following type providers of services shall be considered for approval:

1. the State Group Benefits program;
2. the group insurance plan administered by the Department of Employment and Training;
3. the Retired State Employees' Association;
4. general insurance companies and other providers that are included on the annual listing maintained by the Office of State Uniform Payroll;
5. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the members' agencies;
6. other member or retiree associations approved by the board of trustees;
7. vendors receiving payment through voluntary deductions on the effective date of these rules; and
8. other insurance companies approved by the executive director.

C. Applicant shall designate a coordinator to act as primary contact with LASERS for resolution of invoicing, refund, and reconciliation problems and resolving claims problems for retirees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:676 (April 2007), LR 34:1639 (August 2008).

### **§1103. Vendor Requirements**

A. Authority for payroll deductions shall be governed by this Chapter. General insurance deduction vendors shall meet the following requirements.

1. Foreign companies shall:
  - a. have a current rating in A.M. Best of B+ or better, unless:
    - i. notwithstanding any other law, rule, or regulation to the contrary, and if they are in good standing with the Department of Insurance, and subject to the other applicable provisions of this Section, a foreign company which has participated in the Office of State Uniform Payroll deduction system for a period of at least ten years and has a rating in A.M. Best of B, may continue to market and sell insurance policies through payroll deduction until the beginning of the next open enrollment period following the four-year anniversary date from the date of the issuance of the B rating by A.M. Best, provided they have maintained a rating of B or better for the entire four-year period. Thereafter, in the event that the foreign insurer has maintained a rating of B by A.M. Best and that rating is increased from B to a B+ or better and they meet the other