

# Title 58 RETIREMENT

## Part IX. State Police Retirement System

### Chapter 1. Service Credit

#### §101. Military Service Credit

A. The Board of Trustees of the Louisiana State Police Retirement System will grant military service credit for active duty service spent in the United States Reserves or the National Guard. Such credit will be granted only for active duty service prior to September 9, 1977. Any active duty service in the U.S. Reserves or National Guard after September 9, 1977 may be purchased in accordance with R.S. 40:142(B)2.b and c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:142(B)2.b and c.

HISTORICAL NOTE: Promulgated by the Department of Treasury, State Police Retirement System, LR 7:122 (March 1981).

### Chapter 2. Internal Revenue Code Provisions

#### §201. Limitation on Benefits

A. The limitations of this Chapter shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.

B. The annual benefit otherwise payable to a member under the plan at any time shall not exceed the maximum permissible benefit. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

C. If the member is, or has ever been, a member in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible benefit.

D. The application of the provisions of this Chapter shall not cause the maximum permissible benefit for any member to be less than the member's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to section 415 of the *Internal Revenue Code* in effect as of the end of the last limitation year

beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the income tax regulations.

E. The limitations of this Chapter shall be determined and applied taking into account the rules in Subsection G.

F. Definitions

*Annual Benefit*—a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this article. For a member who has or will have distributions commencing at more than one annuity starting date, the *annual benefit* shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Chapter as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to section 1.401(a)-20, Q and A 10(d), and with regard to section 1.415(b)1(b)(1)(iii)(B) and (C) of the income tax regulations.

a. No actuarial adjustment to the benefit shall be made for:

i. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form;

ii. benefits that are not directly related to retirement benefits (such as a disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

iii. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to section 417(e)(3) of the *Internal Revenue Code* and would otherwise satisfy the limitations of this Chapter, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Chapter applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form. The determination of the *annual benefit* shall take into account social security supplements described in section 411(a)(9) of the *Internal Revenue Code* and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to

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section 1.411(d)-4, Q and A-3(c), of the income tax regulations, but shall disregard benefits attributable to employee contributions or rollover contributions. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with §201.F.1.b or F.1.c.

b. Benefit Forms Not Subject to Section 417(e)(3)

i. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Subparagraph b, if the form of the member's benefit is either:

(a). a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

(b). an annuity that decreases during the life of the member merely because of:

(i). the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(ii). the cessation or reduction of Social Security supplements or qualified disability payments [as defined in section 401(a)(11)].

ii. Limitation Years Beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

iii. Limitation Years Beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(a). the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

c. Benefit Forms Subject to Section 417(e)(3). The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Paragraph if the form of the member's benefit is other than a benefit form described in §201.F.1.b. In this case, the actuarially equivalent straight life annuity shall be determined as follows.

i. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

(a). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table; and

(c). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate and the applicable mortality table, divided by 1.05.

ii. Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5.5 percent interest rate assumption and the applicable mortality table. If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this §201.F.1.c. shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the plan, taking into account the limitations of this Chapter, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form;

(ii). the applicable interest rate and the applicable mortality table; and

(iii). the applicable interest rate (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the plan then adopted and in effect) and the applicable mortality table.

*Applicable Interest Rate*—the rate of interest on 30 year Treasury securities (or any subsequent rate used under section 417(e) of the *Internal Revenue Code*) as specified by the Internal Revenue Service for the lookback month. The lookback month applicable to the stability period is the second calendar month preceding the first day of the stability period. The stability period is the plan year that contains the annuity starting date for the distribution and for which the *applicable interest rate* remains constant.

*Applicable Mortality Table*—the *applicable mortality table* within the meaning of section 417(e)(3)(B) of the *Internal Revenue Code*.

#### 415 Safe-Harbor Compensation—

a. *compensation*—wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, *compensation* for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in section 1.62-2(c) of the income tax regulations), and excluding the following:

i. employer contributions [other than elective contributions described in section 402(e)(3), section 408(k)(6), section 408(p)(2)(A)(i), or section 457(b)] to a plan of deferred *compensation* (including a simplified employee pension described in section 408(k) or a simple retirement account described in section 408(p), and whether or not qualified) to the extent such contributions are not includible in the member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred *compensation* (whether or not qualified);

ii. amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the income tax regulations), or when restricted stock (or property) held by the member either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

iii. amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;

iv. other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to

the extent that the premiums are not includible in the gross income of the member and are not salary reduction amounts that are described in section 125);

v. other items of remuneration that are similar to any of the items listed in Clauses i-iv above;

b. for any self-employed individual:

i. *compensation*—earned income;

c. except as provided herein, for limitation years beginning after December 31, 1991, *compensation* for a limitation year is the *compensation* actually paid or made available during such limitation year;

d. for limitation years beginning on or after July 1, 2007, *compensation* for a limitation year shall also include *compensation* paid by the later of 2 1/2 months after an member's severance from employment with the employer maintaining the plan or the end of the limitation year that includes the date of the member's severance from employment with the employer maintaining the plan, if:

i. the payment is regular *compensation* for services during the member's regular working hours, or *compensation* for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer;

ii. the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

iii. the payment is received by the member pursuant to a nonqualified unfunded deferred *compensation* plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income;

e. any payments not described above shall not be considered *compensation* if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the limitation year that includes the date of severance from employment. Back pay, within the meaning of section 1.415(c)-2(g)(8), shall be treated as *compensation* for the limitation year to which the back pay relates to the extent the back pay represents wages and *compensation* that would otherwise be included under this definition;

f. for limitation years beginning after December 31, 1997, *compensation* paid or made available during such limitation year shall include amounts that would otherwise be included in *compensation* but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b);

g. for limitation years beginning after December 31, 2000, *compensation* shall also include any elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4).

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**Defined Benefit Compensation Limitation**—100 percent of a member's high three-year average compensation, payable in the form of a straight life annuity. In the case of a member who is rehired after a severance from employment, the *defined benefit compensation limitation* is the greater of 100 percent of the member's high three-year average compensation, as determined prior to the severance from employment or 100 percent of the member's high three-year average compensation, as determined after the severance from employment under §201.G.

**Defined Benefit Dollar Limitation**—effective for limitation years ending after December 31, 2001, the *defined benefit dollar limitation* is \$160,000, automatically adjusted under section 415(d) of the *Internal Revenue Code*, effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

**Employer** (for purposes of this Chapter)—the *employer* that adopts this plan, and all members of a controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), all commonly controlled trades or businesses [as defined in section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by section 415(h)], or affiliated service groups [as defined in section 414(m)] of which the adopting *employer* is a part, and any other entity required to be aggregated with the *employer* pursuant to section 414(o) of the *Internal Revenue Code*.

**Formerly Affiliated Plan of the Employer**—a plan that, immediately prior to the cessation of affiliation, was actually maintained by the employer and, immediately after the cessation of affiliation is not actually maintained by the employer. For this purpose:

a. *cessation of affiliation*—the event that causes an entity to no longer be considered the employer, such as the sale of a member controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), to an unrelated corporation, or that causes a plan to not actually be maintained by the employer, such as transfer of plan sponsorship outside a controlled group.

**High Three-Year Average Compensation**—the average compensation for the three consecutive years of service (or, if the member has less than three consecutive years of service, the member's longest consecutive period of service, including fractions of years, but not less than one year) with the employer that produces the highest average. In the case of a member who is rehired by the employer after a severance from employment, the member's *high three-year average compensation* shall be calculated by excluding all years for which the member performs no services for and receives no compensation from the employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A member's

compensation for a year of service shall not include compensation in excess of the limitation under section 401(a)(17) of the *Internal Revenue Code* that is in effect for the calendar year in which such year of service begins.

**Limitation Year**—a fiscal year, from July 1 to June 31. All qualified plans maintained by the employer must use the same *limitation year*. If the *limitation year* is amended to a different 12-consecutive month period, the new *limitation year* must begin on a date within the *limitation year* in which the amendment is made.

**Maximum Permissible Benefit**—the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided below).

a. Adjustment for Less than 10 Years of Participation or Service. If the member has less than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction:

i. the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the plan; and

ii. the denominator of which is 10. In the case of a member who has less than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction:

(a). the numerator of which is the number of years (or part thereof, but not less than one year) of Service with the employer; and

(b). the denominator of which is 10.

b. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62 or after Age 65. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the member's benefit is before age 62 or after age 65. If the annuity starting date is before age 62, the defined benefit dollar limitation shall be adjusted under Clause b.i of this Paragraph, as modified by Clause b.iii of this Paragraph. If the annuity starting date is after age 65, the defined benefit dollar limitation shall be adjusted under Clause b.ii of this Paragraph, as modified by Clause b.iii of this Paragraph.

i. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62

(a). Limitation Years Beginning before July 1, 2007. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under §201.F.11.a. for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning on or After July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for the annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the lesser of the limitation determined under Division b.i.(b).(i) of this Paragraph and the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this article.

ii. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement after Age 65

(a). Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial

equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning Before July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under §201.F.11.b.ii.(b).(i) and the defined benefit dollar limitation (adjusted under §201.F.11.a for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of this article. For this purpose, the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age 65 is the annual amount of such annuity that would be payable under the plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

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iii. Notwithstanding the other requirements of this Subparagraph F.10.b., no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a member's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the plan does not charge members for providing a qualified preretirement survivor annuity, as defined in section 417(c) of the *Internal Revenue Code*, upon the member's death.

c. Minimum Benefit Permitted. Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a member under this plan shall be deemed not to exceed the *maximum permissible benefit* if:

i. the retirement benefits payable for a limitation year under any form of benefit with respect to such member under this plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer do not exceed \$10,000 multiplied by a fraction:

(a). the numerator of which is the member's number of years (or part thereof, but not less than 1 year) of service (not to exceed 10) with the employer; and

(b). the denominator of which is 10; and

ii. the employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h), and accounts for postretirement medical benefits established under section 419A(d)(1) are not considered a separate defined contribution plan).

*Predecessor Employer*—if the employer maintains a plan that provides a benefit which the member accrued while performing services for a former employer, the former employer is a *predecessor employer* with respect to the member in the plan. A former entity that antedates the employer is also a *predecessor employer* with respect to a member if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.

*Severance from Employment*—an employee has a *severance from employment* when the employee ceases to be an employee of the employer maintaining the plan. An employee does not have a *severance from employment* if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

*Year of Participation*—the member shall be credited with a *year of participation* (computed to fractional parts of

a year) for each accrual computation period for which the following conditions are met:

a. the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period; and

b. the member is included as a member under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a *year of participation* credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of section 415(c)(3)(C)(i) of the *Internal Revenue Code* for an accrual computation period shall receive a *year of participation* with respect to that period. In addition, for a member to receive a *year of participation* (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event shall more than one *year of participation* be credited for any 12-month period.

*Year of Service*—for purposes of Subsection G of this Section, the member shall be credited with a *year of service* (computed to fractional parts of a year) for each accrual computation period for which the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, taking into account only service with the employer or a predecessor employer.

### G. Other Rules

1. Benefits under Terminated Plans. If a defined benefit plan maintained by the employer has terminated with sufficient assets for the payment of benefit liabilities of all plan members and a member in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the member's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all members' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the member under the terminated plan.

2. Benefits Transferred from the Plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan that is not maintained by the employer and the transfer is not a transfer

of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are treated by the employer's plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the employer that terminated immediately prior to the transfer with sufficient assets to pay all members' benefit liabilities under the plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the amount transferred is treated as a benefit paid from the transferor plan.

3. Formerly Affiliated Plans of the Employer. A formerly affiliated plan of an employer shall be treated as a plan maintained by the employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay members' benefit liabilities under the plan and had purchased annuities to provide benefits.

4. Plans of a Predecessor Employer. If the employer maintains a defined benefit plan that provides benefits accrued by a member while performing services for a predecessor employer, the member's benefits under a plan maintained by the predecessor employer shall be treated as provided under a plan maintained by the employer. However, for this purpose, the plan of the predecessor employer shall be treated as if it had terminated immediately prior to the event giving rise to the predecessor employer relationship with sufficient assets to pay members' benefit liabilities under the plan, and had purchased annuities to provide benefits; the employer and the predecessor employer shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provide under the plan of the predecessor employer.

5. Special Rules. The limitations of this Chapter shall be determined and applied taking into account the rules in section 1.415(f)-1(d), (e) and (h) of the income tax regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1286 (May 2013).

## **§202. Required Minimum Distributions**

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

- a. the member's life;
- b. if the member is married, the life of the member's designated beneficiary;
- c. the member's life expectancy;

d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary for at least a qualified joint and survivor annuity and 50 percent of his deferred retirement option plan account shall be his spouse, unless such spouse has consented to the contrary in writing before a notary public. For purposes of this Paragraph:

a. *spouse*—that person who is married to the member under a legal regime of community of acquets and gains on his effective date of retirement or effective date of participation in the deferred retirement option plan, whichever is earlier.

3. If the member was a member on or before December 31, 1983, he shall be deemed to have made the election referred to herein. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death. Payment of survivor benefits shall not be considered to violate this provision.

B.1. If the member dies before his benefit has commenced the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 of this Subsection shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 years and 6 months. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1 of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age eighteen or, if later, upon the child's completing a designated event. For purposes of the preceding sentence, a designated event shall be the later of the date the child is no longer disabled, or the date the child ceases to be a full-time student or attains age 23, if earlier.

3. Paragraph 1 of this Subsection shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection A of this Section.

4. Paragraph 1 of this Subsection shall not apply if the member has elected otherwise on or before December 31, 1983, or such later date to which such election period shall be subject under *Internal Revenue Code* section 401(a).

C. As to any benefit payable by the retirement system which is not optional as of December 31, 1983, the member shall be considered to have made the election referred to in Subsections A and B of this Section, if he was a member on or before such time.

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D. If by operation of law or by action of the board of trustees, a survivor benefit is payable to a specified person or persons, the member shall be considered to have designated such person as an alternate beneficiary hereunder. If there is more than one such person, then the youngest disabled child shall be considered to have been so designated, or, if none, then the youngest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

E. Payment in accordance with the survivor benefit provisions of R.S. 11:1316-1323.1 shall be deemed not to violate Subsections A and B of this Section.

F. This Section shall be effective for members of the system who complete any service under the system on or after July 1, 1992, with employers contributing to the system.

G. Distributions from the system shall be made in accordance with the requirements set forth in *Internal Revenue Code* section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

H.1.A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1292 (May 2013).

### §203. Direct Rollovers

A. Notwithstanding any other provision of law to the contrary 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," as specified by the distributee, paid directly to an "eligible retirement plan," as those terms are defined below.

B. The following definitions shall apply.

*Direct Rollover*—a payment by the system to the eligible retirement plan specified by the distributee.

*Distributee*—shall include:

- a. a member or former member;
- b. the member's or former member's surviving spouse, or the member's or former member's former spouse with whom a benefit or a return of employee contributions is

to be divided pursuant to R.S. 11:291(B), with reference to an interest of the member or former spouse;

c. the member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs a and b of the definition of *eligible retirement plan* in this Section.

*Eligible Retirement Plan*—any of the following:

a. an individual retirement account described in section 408(a) of the *Internal Revenue Code*;

b. an individual retirement annuity described in section 408(b) of the *Internal Revenue Code*;

c. an annuity plan described in section 403(a) of the *Internal Revenue Code*;

d. a qualified trust as described in section 401(a) of the *Internal Revenue Code*, provided that such trust accepts the member's eligible rollover distribution;

e. an eligible deferred compensation plan described in section 457(b) of the *Internal Revenue Code* that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan; and

f. an annuity contract described in section 403(b) of the *Internal Revenue Code*.

*Eligible Rollover Distribution*—any distribution of all or any portion of the balance to the credit of the distributee, except that an *eligible rollover distribution* does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the member, or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more;

b. any distribution to the extent that such distribution is required under section 401(a)(9) of the United States *Internal Revenue Code*; and

c. any distribution which is made upon hardship of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1292 (May 2013).

### §204. Annual Compensation Limitation

A. Unless otherwise provided in this Chapter, the accrued benefit of each section 401(a)(17) employee as that term is defined below shall be the greater of the following:

1. the employee's accrued benefit determined with respect to the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's total years of service taken into account for purposes of benefit accruals;

2. the sum of:

a. the employee's accrued benefit as of the last day of the last plan year beginning before January 1, 1996, frozen in accordance with the provisions of section 1.401(a)(4)-1 through 1.401(a)(4)-13 of the *Code of Federal Regulations*;

b. the employee's accrued benefit determined under the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's years of service credited to the employee for plan years beginning on or after January 1, 1996, for purposes of benefit accruals.

B. A *section 401(a)(17) employee* shall mean any employee whose current accrued benefit, as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded \$150,000.

C. If an employee is not a section 401(a)(17) employee, his accrued benefit in this system shall not be based upon compensation in excess of the annual limit of section 401(a)(17) of the United States *Internal Revenue Code* as amended and revised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1293 (May 2013).

### **§205. General**

A. The assets of this system's pension plan shall be held for the exclusive benefit of the employees who are or become participating members of the system and their survivors and beneficiaries, and of retirees and their survivors and beneficiaries. No part of the corpus, the system's pension plan assets held in trust, or income of the system's pension plan shall 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 system's pension plan, by power of revocation or amendment, by the happening of a contingency, by collateral assignment, or by any other means.

B. 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 and nonforfeitable to the extent funded, upon the termination or partial termination of the system's pension plan or the complete discontinuance of contributions thereto.

C. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1294 (May 2013).

## **Chapter 3. Procedures for Election of Louisiana State Police Retirement System Trustees**

### **§301. General Election Procedures**

A. The director shall issue to the Louisiana State Police Retirement System membership a notice of each trustee office to be filled in the following timeframe:

1. between the first Monday in August and the third Monday in August, for a position with term ending December 31, via mail, with qualifying form attached and placed on the website, such form to require applicant's name, date started in system, and for which seat the applicant is qualifying;

2. between the first Monday in February and the third Monday in February, for a position with term ending June 30, via mail, with qualifying form attached and placed on the website, such form to require applicant's name, date started in system, and for which seat the applicant is qualifying.

B. Candidates shall submit in writing to the director their intention to run for a specified office between in the following timeframe:

1. the fourth Monday in August and the second Monday in September, for a position with term ending December 31; and

2. the fourth Monday in February and the second Monday in March, for a position with term ending June 30.

C. The board of trustees shall designate a qualifying form. The designated qualifying form shall be posted on the website and/or mailed to the member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees for the State Police Retirement Fund, LR 42:1961 (November 2016).

### **§303. Ballots, Count, Tabulation, Posing, Oath of Office**

A. The director shall compile a ballot for each office to be filled. Ballots shall be mailed to the membership at their home address in the following timeframe:

1. beginning the fourth Monday of September through the second Monday of October, for a position with term ending December 31;

2. beginning the fourth Monday of March through the second Monday of April for a position with term ending June 30:

a. the ballots shall be issued to members who are eligible to vote for this particular candidate pursuant to R.S. 11:1302 ("qualified member") as of September 1 of that year; and

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b. the member must be a qualified member as of the date the system counts the ballot in order for that member's ballot to be counted;

c. in addition to the ballot the director shall mail an envelope in which to enclose the ballot, on which the qualified member must sign his or her name, and a return envelope for the sealed ballot to be returned to 9224 Jefferson Hwy, Baton Rouge, LA 70809 and instructions;

d. the director shall inform each member in this mailing that results of the vote shall be promulgated on the system's website in late November or early December (for a position with term ending December 31) or late May or early June (for a position with term ending June 30);

e. voted ballots shall be accepted through the fourth Monday in October at 4:30 p.m. (for a position with term ending December 31) or through the fourth Monday in April at 4:30 p.m. (for a position with term ending June 30);

f. a date and time shall be placed on each ballot envelope received by the director across the envelope flap.

B. Ballots shall be held inviolate by the director.

1. The director shall call a special meeting of the retirement staff, and notify the public by placing notice on the LSPRS website that anyone may attend, at which time the retirement staff shall count and tabulate ballots between November 1 and December 10 (for a position with term ending December 31) and between May 1 and June 10 (for a position with term ending June 30).

2. The director shall ensure that the board and the candidates are informed of the results of the vote thereafter. At next board meeting, the board of trustees shall announce the results.

C. The director shall issue to the elected trustee an oath of office.

1. The trustee shall take the oath at the first board meeting of the year in which the trustee takes office.

a. The oath shall contain a term of office effective January 1 of this year for a position ending December 31 and effective July 1 for a position ending June 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees for the State Police Retirement Fund, LR 42:1961 (November 2016).

### §305. Vacancy

A. Should a vacancy occur, the board shall hold a special election as soon as reasonably possible to fill this unexpired seat.

1. If the unexpired term of office for this seat is less than two years from the date the election results are expected, the election shall be for the unexpired term of office and for the next five-year term.

2. If the unexpired term of office for this seat is two years or greater from the date the election results are expected, then the election shall be for the unexpired term of office only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees for the State Police Retirement Fund, LR 42:1961 (November 2016).