

FIREFIGHTERS' RETIREMENT SYSTEM (FRS) STATUTORY CITATIONS

FRS is a cost sharing, multiple-employer, governmental defined benefit pension plan covering firefighters employed by any municipality, parish, or fire protection district of the State of Louisiana, under the provisions of Louisiana Revised Statutes 11:2251 through 2272, effective January 1, 1980. Membership in FRS is a condition of employment for those full time firefighters who are employed by municipal, parish or fire protection districts and who earn more than \$375 per month.

CHAPTER 9. FIREFIGHTERS' RETIREMENT SYSTEM

§2251. Name and date of establishment

A. A retirement system is hereby established and placed under the management of the board of trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Chapter for firemen employed by any municipality, parish, or fire protection district of the state of Louisiana. The retirement system so created shall be established as of January 1, 1980.

B. It shall have the power and the privileges of a corporation and shall be known as the "Firefighters' Retirement System" and by such name all of its business shall be transacted, all of its funds invested, and all of its cash, securities, and other property held.

Added by Acts 1979, No. 434, §1; Redesignated from R.S. 33:2151 by Acts 1991, No. 74, §3, eff. June 25, 1991.

RS 11:2252**§2252. Definitions**

The following words and phrases, as used in this Chapter, unless a different meaning is plainly required by context, shall have the following meaning:

- (1) "Accumulated contributions" shall mean the sum of all the amounts deducted from the earnable compensation of a member and credited to his individual account in the annuity savings fund.
- (2) "Actuarial assumptions" shall mean the calculations used by an actuary engaged annually by the board to calculate the amounts necessary to fund the members' annuities. The duties of the actuary are more specifically set forth in R.S. 11:2260(C). "Actuarial equivalent" shall mean the amount required to fund the member's annuity based upon the calculations of the actuary on the basis of mortality tables approved by the board of trustees and regular interest at a rate fixed by the board of trustees. Actuarial assumptions shall be consistently applied to all members of the system. The benefit payable to a member shall be fixed as provided in R.S. 11:2256 and shall not be increased or decreased depending on the accuracy of actuarial assumptions.
- (3) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity, or benefit in lieu of any annuity, computed upon the basis of such mortality tables as shall be adopted by the board of trustees, and regular interest.
- (4) "Average final compensation" shall mean the average annual earned compensation of an employee for any period of thirty-six successive or joined months of service as an employee during which the said earned compensation was the highest. In case of interruption of employment, the thirty-six month period shall be computed by joining employment periods immediately preceding and succeeding the interruption. The earnings to be considered for the thirteenth through the twenty-fourth months shall not exceed one hundred fifteen percent of the earnings for the first through the twelfth months. The earnings to be considered for the final twelve months shall not exceed one hundred fifteen percent of the earnings of the thirteenth through the twenty-fourth months.
- (5) "Beneficiary" shall mean any person designated to receive a pension, an annuity, a retirement allowance, or other benefit as provided by this Chapter.
- (6) "Board of trustees" shall mean the board provided for in R.S. 11:2260 to administer the retirement system.
- (7) "Creditable service" shall mean service for which credit is allowable as provided in R.S. 11:2254.
- (8) "Director" shall mean the executive director of the Firefighters' Retirement System.
- (9)(a) "Earnable compensation" shall mean the full amount of compensation earned by an employee on a regular tour of duty, including supplemental pay paid by the state of Louisiana, educational incentive pay, holiday pay, seniority incentive pay, and pay to an employee acting in a civil service classification higher than the one he holds, but shall not include overtime.
(b) Notwithstanding the provisions of R.S. 11:233(B)(2)(g), any participating employer that defers the payment of regularly scheduled holiday pay and then pays such compensation to its employees in the same calendar year as its deferral in the form of a one-time annual payment shall include such deferred compensation in the employees' earnable compensation for the purpose of calculating and paying employee contributions to this system.
- (10) "Employee" shall mean any full-time firefighter or any person in a position as defined in the municipal fire and police civil service system who is employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana, excepting Orleans and Lafayette Parishes, and who is earning at least three hundred seventy-five dollars per month excluding state supplemental pay.
- (11) "Employer" shall mean any municipality, parish, or fire protection district in the state of Louisiana, excepting Orleans and Lafayette Parishes, which employs a full-time fireman, and the Firefighters' Retirement System.
- (12) "Medical board" shall mean the State Medical Disability Board, provided for in R.S. 11:219.
- (13) "Member" shall include any employee, as defined in Paragraph (10) of this Section, included in the membership of this system as provided in R.S. 11:2253 and may, at the employee's option, include any employee of the retirement system.

(14) "Member's annuity" shall mean that monthly payment provided by the member's accumulated contributions at the time of regular retirement, or death, computed upon the basis of such mortality tables as shall be adopted by the board of trustees and regular interest.

(15) "Membership service" shall mean service as an employee or elected official while a member of this system.

(16) "Overtime" shall mean the additional hours worked above the regular tour of duty required by the local governing authority for which the member works and the compensation therefor. "Overtime" shall also mean additional compensation over the regular rate of pay as required under the federal Fair Labor Standards Act.

(17) "Retirement" shall mean withdrawal from active service with a retirement allowance granted under the provisions of this Chapter.

(18) "Retirement allowance" shall mean any benefit paid to a member under R.S. 11:2256(A) or any optional benefit payable in lieu thereof.

(19) "Retirement system" shall mean the Firefighters' Retirement System as established in R.S. 11:2251.

(20) "Service" shall mean service rendered as an employee as described in Paragraph (10) of this Section.

(21) "Survivor's benefit" shall mean any benefit paid to a survivor of a member under R.S. 11:2256(B).

(22) "Years of creditable service" and "years of service" shall mean the number of twelve-month periods a member has which are creditable toward receiving retirement benefits from the retirement system. Both terms shall include transferred credits and credits for other or related service for which credit may be allowed by the retirement system.

(23) "Years of membership service" shall mean the number of twelve-month periods a member has served while a member of the retirement system.

Added by Acts 1979, No. 434, §1. Acts 1985, No. 775, §1; Acts 1991, No. 715, §1; Redesignated from R.S. 33:2152 by Acts 1991, No. 74, §3, eff. June 25, 1991; Acts 1995, No. 719, §1; Acts 1997, No. 1220, §1; Acts 1998, 1st Ex. Sess., No. 15, §1, eff. April 24, 1998; Acts 2003, No. 719, §1, eff. June 27, 2003; Acts 2006, No. 492, §1, eff. July 1, 2006; Acts 2008, No. 261, §1, eff. June 17, 2008; Acts 2011, No. 238, §1, eff. June 30, 2011; Acts 2017, No. 17, §1.

NOTE: ACT 1991, NO. 715, §2 PROVIDES "THIS ACT SHALL BECOME EFFECTIVE ON THE EFFECTIVE DATE OF THE MERGER OF ANY FIREFIGHTERS RETIREMENT SYSTEM IN A MUNICIPALITY WHOSE POPULATION IS IN EXCESS OF 450,000 AND THE STATEWIDE FIREFIGHTERS' RETIREMENT SYSTEM BUT NOT EARLIER THAN JULY 1, 1992. THE MERGER OF ANY FIREFIGHTERS RETIREMENT SYSTEM SHALL BE WITH APPROVAL OF THE LOCAL GOVERNING AUTHORITY, A REPRESENTATIVE FROM THE LOCAL FIREFIGHTERS PENSION BOARD, AND THE STATEWIDE FIREFIGHTERS RETIREMENT SYSTEM ENTERING INTO THE MERGER IN ACCORDANCE WITH R.S. 33:2260."

§2253. Membership

A. The membership of the retirement system shall be composed as follows:

(1)(a)(i) Except as provided in R.S. 11:2252(12), and except as provided further in this Paragraph, any person who becomes an employee as defined in R.S. 11:2252 on and after January 1, 1980, shall become a member as a condition of his employment.

(ii) However, no person who has attained age fifty or over shall become a member of the system, unless the person becomes a member by reason of a merger or unless the retirement system received his application for membership before he attained the age of fifty. No person who has not attained the age of eighteen years shall become a member of the system.

(b)(i) Except as otherwise provided in Item (ii) of this Subparagraph, the mandatory membership provisions of this Paragraph shall be inapplicable with respect to any municipality, parish, or fire protection district which on or before January 1, 1980, enacts an ordinance exempting the municipality, parish, or fire protection district from the provisions of this Paragraph, which ordinance is hereby authorized.

(ii) Subject to the provisions of R.S. 11:2260(A)(11)(h), the mandatory membership provisions of this Paragraph shall apply to the municipality, parish, and fire protection districts in and for the parish of East Baton Rouge with respect to firefighter employees meeting the definition of "employee" under the provisions of this Chapter when the boards of trustees of this retirement system and of the Baton Rouge City Parish Employees' Retirement System enter into an agreement to merge any members of the latter system, who qualify as employees under the provisions of this Chapter, into this system. However, any such agreement shall only be effective upon ratification by ordinance of the Metropolitan Council of the city of Baton Rouge and the parish of East Baton Rouge, with the approval of the mayor-president, and subsequent approval by the Joint Legislative Committee on Retirement.

(2)(a) Any person who has retired from service under any retirement system or pension fund maintained basically for public officers and employees of the state, its agencies or political subdivisions, and who is receiving retirement benefits therefrom may become a member of this system, provided he meets all other requirements for membership. Service credit from the retirement system or pension plan from which the member is retired shall not be used for reciprocal recognition of service with this retirement system, or for any other purpose in order to attain eligibility or increase the amount of service credit in this retirement system.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, any person who has retired from service with a disability pension from any retirement system or pension fund maintained basically for public officers and employees of the state, its agencies or political subdivisions, and who is receiving disability retirement benefits therefrom shall not be eligible for membership in this system.

(3)(a) Any person who is an employee as the term is defined in R.S. 11:2252 on the date that the retirement system is established, except those specifically excluded under Paragraph (2) of this Subsection, may become a member at any time, provided he files with the board of trustees on a form prescribed by such board, a notice of his election to be covered in the membership of the system and completes the necessary forms which may be required by the board. The board shall not approve any credit for prior service.

(b) Any person who is an employee as the term is defined in R.S. 11:2252, who is also a member of any other retirement system in Louisiana when this Chapter takes effect, may elect to cease to be a member in such fund after the effective date of this Chapter and then become a member of the new system, and have credit in each system recognized under the provisions of R.S. 11:142.

B. Should any member, after becoming a member, be absent from service for more than eighteen months and not be entitled to a deferred annuity as provided in this Chapter, or should he withdraw his accumulated contributions, or should he become a beneficiary or die, he shall thereupon cease to be a member.

C.(1)(a) Notwithstanding the provisions of R.S. 11:2252(10) and (11), any full-time firefighter or any person in a position as defined in the municipal fire and police civil service system who is employed by one of the following fire protection districts may, with the approval of the Metropolitan Council and the City-Parish Employees' Retirement Board, become members of the Firefighters' Retirement System:

- (i) St. George Fire Protection District No. 2.
- (ii) Brownsfield Fire Protection District No. 3.
- (iii) Central Fire Protection District No. 4.
- (iv) Eastside Fire Protection District No. 5.
- (v) East Baton Rouge Fire Protection District No. 6.

- (vi) Chaneyville Fire Protection District No. 7.
- (vii) Pride Fire Protection District No. 8.
- (viii) Alsen-St. Irma Lee Fire Protection District No. 9.

(b)(i) The reassignment of membership provided in this Paragraph shall be treated as a merger subject to the provisions of R.S. 11:2260(A)(11)(b), except that the transaction shall be subject to the approval of the House and Senate committees on retirement meeting jointly.

(ii) Such merger shall be accomplished by having the transferring system transfer funds to the Firefighters' Retirement System in accordance with the provisions of R.S. 11:143(C) and the aggregate amount of funds transferred to the Firefighters' Retirement System shall not be less than sixty percent of the accrued liability assumed.

(iii) The difference between the total accrued liability assumed and the actual funds transferred shall be allocated to the Firefighters' Retirement System from the fund established in R.S. 22:1476(A) for the merger of retirement systems and funds with this system.

(iv) The benefit accrual rate applicable to all service transferred pursuant to this Subsection shall be three and one-third percent.

(2) Any person who becomes employed on or after January 31, 2002, by any fire protection district set forth in Subparagraph (1)(a) of this Subsection shall become a member of this system. The reassignment of the membership of any person who became employed on or before January 30, 2002, and whose membership is reassigned on or after January 31, 2002, pursuant to the provisions of Paragraph (1) of this Subsection shall not be treated as a merger, but shall be executed on an actuarial basis and shall be subject to the provisions of R.S. 11:143, unless such a person's written application for such reassignment was received by the system on or before January 30, 2002.

D. In any case of doubt, the board of trustees shall be the sole judge as to eligibility for membership.

Acts 1979, No. 434, §1; Acts 1980, No. 178, §1; Acts 1982, No. 169, §1; Redesignated from R.S. 33:2153 by Acts 1991, No. 74, §3, eff. June 25, 1991; Amended by Acts 1992, No. 455, §1, eff. July 1, 1992; Acts 1993, No. 757, §1; Acts 1995, No. 830, §1; Acts 1996, 1st Ex. Sess., No. 76, §1, eff. July 1, 1996; Acts 1997, No. 1218, §1, eff. July 1, 1997; Acts 1997, No. 1220, §1; Acts 1998, 1st Ex. Sess., No. 15, §1, eff. April 24, 1998; Acts 1999, No. 1320, §1, eff. July 12, 1999; Acts 2003, No. 719, §1, eff. June 27, 2003; Acts 2006, No. 492, §1, eff. July 1, 2006; Acts 2006, No. 562, §1, eff. June 23, 2006; Acts 2008, No. 415, §2, eff. Jan. 1, 2009.

§2254. Creditable service

A. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member. Additionally, any active contributing member shall be entitled to receive credit for service as an employee, as the term "employee" is defined in this Chapter, for which the member has not received credit, provided that such service credit is purchased, at the option of the member, under the provisions of R.S. 11:158. No credit shall be given unless and until this amount is paid in full.

B. Any member who has terminated membership in the system and withdrawn his contributions and who later becomes a member of this system shall, after eighteen months of additional service and membership, be eligible to obtain credit for his previous service in the system, provided that he pays back into the system the amount of contributions which was refunded to him plus interest at the system's then currently assumed actuarial valuation rate of interest, compounded annually, from date of refund until date paid.

C. Any member terminated by his employer, which termination has subsequently been declared to have been wrongful, who has withdrawn his contributions during this period of wrongful termination, may repay the refunded contributions without the payment of interest on the refunded amount within thirty days of the exhaustion of all legal remedies or legal delays for appealing decisions regarding such wrongful termination, or within thirty days after reinstatement in his position of employment, whichever is longer. If the repayment of refunded contributions does not take place within this thirty-day period, the member shall repay the amount of the refunded contributions in accordance with the provisions of R.S. 11:144.

D. The system shall permit direct rollovers from other qualified retirement plans. "Direct rollovers" for purposes of this Section shall mean trustee to trustee transfers of sums from other qualified plans which are permitted to roll over sums to other qualified plans under the provisions of the Internal Revenue Code of 1986, as amended. Amounts so rolled over may be used to purchase service credits at the accrual rate established by the system actuary using actuarial assumptions consistently applied, subject to the limitations of Section 415(n) of the Internal Revenue Code of 1986, as amended. Any such service credit may only be purchased if authorized by statutory authority, other than this Subsection, specifically identifying the type of credit authorized to be purchased. Amounts may not be rolled over which are in excess of the amounts which may be used to purchase creditable service under Section 415(n). No member shall receive a benefit for purchased creditable service if to do so would cause the member to receive a retirement benefit for the same service under more than one retirement plan. The system shall also permit members and retirees to make direct trustee to trustee rollovers of those distributions which are eligible for tax-free rollover treatment to other qualified plans as provided in Section 401(a)(31) of the Internal Revenue Code of 1986, as amended.

E. The qualified military service of a member who has been reemployed in accordance with 26 U.S.C. 414(u) shall be treated for vesting and benefit accrual purposes as service completed under Subsection A of this Section if the member timely remits to the system any employee contributions which would have been required but for the member's leave of absence to perform qualified military service in accordance with the terms of federal law.

Added by Acts 1979, No. 434, §1. Amended by Acts 1980, No. 178, §1; Redesignated from R.S. 33:2154 by Acts 1991, No. 74, §3, eff. June 25, 1991; Acts 1993, No. 324, §1; Acts 1993, No. 756, §1; Acts 2006, No. 492, §1, eff. July 1, 2006; Acts 2006, No. 507, §1, eff. June 22, 2006; Acts 2012, No. 480, §1, eff. July 1, 2012.

§2255. Transfers of firefighter service

A. Any active contributing member of this system may transfer all of his accredited service which was earned as a full-time firefighter from any other public retirement system in this state if, at the time of the employment for which he desires a transfer of credit, he was under the age of fifty and provided that he is not receiving a regular or disability benefit from any public retirement system; provided, however, service shall not be transferred to this system from any firefighter retirement system or plan, which is eligible to merge with this system pursuant to R.S. 11:2260.

B. The system from which the member transfers such credit shall transfer to this system all employee and employer contributions contributed by or for the transferring member plus interest equal to six percent compounded annually from each year of contribution to the date of transfer; provided that in any system, fund, or plan, where the employer contribution is not at least a fixed percentage of the employee's earnings, an employer's contribution equal to the employee's contributions shall be transferred by the system, fund, or plan from which the person is transferring.

C. In the event that the amount of contribution transferred is less than the amount which would have been contributed by the member and his employer, had all the credit originally been credited in this system, the member, except as provided for herein, shall pay the deficit or difference including the interest thereon at a rate of interest to be determined by the board of trustees, which shall be at a rate of interest of not less than six percent compounded annually.

D. In lieu of paying the deficit or difference plus interest, the person may at his option, but only at the time of transfer, be granted an amount of credit in this system based on the amount of funds actually transferred.

E. All applications for transfers of service as a full-time firefighter must be submitted to the system on or before January 1, 1988.

Acts 1985, No. 461, §1; Acts 1986, No. 490, §1; Redesignated from R.S. 33:2154.1 by Acts 1991, No. 74, §3, eff. June 25, 1991.

§2256. Benefits; refund of contributions, application, and payment

A.(1) Any member of this system who has completed at least twenty-five years of creditable service, who has been a member of this system for at least one year, regardless of age, or any member who has completed at least twenty years of creditable service, who has been a member of this system for at least one year, and who has attained the age of fifty years, or any member who has completed at least twelve years of service, who has been a member of this system for at least one year, and who has attained the age of fifty-five shall be entitled to retire from service.

(2) Any member who has completed twenty or more years of creditable service, and at least one year of which shall be as a member of this system, and who leaves employment covered by this system before attaining age fifty shall be entitled to a retirement benefit beginning at age fifty. Any member who has completed twelve years of creditable service, and at least one year of which shall be as a member of this system, and who leaves employment covered by this system before attaining age fifty-five shall be entitled to a retirement benefit beginning at age fifty-five.

(3) Any member who has completed twenty or more years of creditable service and who leaves employment covered by this system before attaining age fifty or any member who has completed twelve or more years of creditable service and who leaves employment covered by this system before attaining age fifty-five may select, at any time prior to thirty days before the date that benefits are scheduled to commence to the member, any optional retirement allowance as provided for in R.S. 11:2259; within the same time period allowed above, the member may change the option selected or the beneficiary of the option selected. However, in the event of the death of the member after the selection of the option but prior to the commencement of benefits, the optional benefit will become payable to the option beneficiary, at the time the member would have otherwise begun to receive benefits. In the event that the member selects neither the maximum regular retirement benefit nor an optional retirement allowance within the time period allowed above, Option 2 will be automatically assumed to have been selected and the member's designated beneficiary shall be the beneficiary of the option. However, in the event that a member has no designated beneficiary, the accumulated contributions of the member shall be refunded to his estate immediately upon receipt of proof of death.

(4) Upon such retirement, the member shall be paid an annual retirement allowance equal to three and one-third percent of his average final compensation multiplied by his total years of creditable service. However, the annual retirement allowance shall not exceed one hundred percent of his average final compensation. The member shall not be paid any amount in excess of the maximum amount permitted under Section 415 of the Internal Revenue Code of 1986, as amended. The foregoing sentence shall not prohibit payments to a member from an excess benefit plan established pursuant to Section 415(m) of the Internal Revenue Code of 1986, as amended, as provided in Section 2272 of this Chapter.

(5) Upon returning to work as a full-time employee covered by this system, retirement benefits shall cease and the employee and employer shall contribute to the system towards creditable service. The member may not change the option which was selected under the first retirement computation.

B.(1) Benefits shall be payable to the surviving eligible spouse or designated beneficiary of a deceased member as specified in the following:

(a)(i) If any active contributing member is killed in the line of duty before he is eligible to retire, and leaves a surviving eligible spouse, the spouse shall be paid, on a monthly basis, an annual benefit equal to two-thirds of the deceased member's average final compensation.

(ii) The board of trustees shall promulgate rules pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., to provide for a procedure for determining whether a member was killed in the line of duty. The board shall use its discretion in applying the procedure. The board's promulgation of the rules and application of the procedure shall be in compliance with its fiduciary obligations as set forth in this Title.

(b) If any active contributing member dies before he is eligible to retire from a cause not in the line of duty and leaves a surviving eligible spouse, the spouse shall be paid, on a monthly basis, an annual benefit equal to three percent of the deceased member's average final compensation multiplied by his total years of creditable service; however, in no event shall the annual benefit be less than forty percent nor more than sixty percent of the deceased member's average final compensation.

(c) If the surviving spouse receiving benefits under Subparagraph (a) or (b) of this Paragraph remarries, such benefits shall continue without interruption, regardless of when the remarriage occurs.

(d) If any active contributing member who is eligible for retirement dies before retiring, the member's designated beneficiary shall automatically be paid benefits as though the member had retired on the date of the death and elected Option 2 of R.S. 11:2259, naming the member's designated beneficiary as beneficiary of the option. This benefit shall be

payable even though the member may not have completed one year of membership service at the date of death. Any person entitled to benefits under this Subparagraph may decline such benefits and elect to receive benefits under Subparagraph (a) or (b) of this Paragraph, whichever is applicable.

(e) Benefits shall be payable to the surviving eligible spouse of a disability retiree who dies after retirement as specified in R.S. 11:2258(C).

(f) For purposes of this Subsection, "surviving eligible spouse" means the spouse who was married to and living with the member at the time of his death.

(2) Benefits shall be payable to the surviving child or children of a deceased member or retiree as specified in the following:

(a) If any active contributing member or a disability retiree dies and leaves in addition to a surviving spouse, one or more children under eighteen years of age, each child under age eighteen shall be paid, on a monthly basis, an annual benefit equal to ten percent of the deceased member's or retiree's average final compensation, or two hundred dollars per month, whichever is greater. However, benefits payable on account of each child, when added to the benefits payable to the surviving eligible spouse, shall not exceed an aggregate of one hundred percent of the average final compensation. Benefits for a surviving child shall cease upon the child's attaining age eighteen years or upon marriage, whichever occurs first, except that benefits shall continue for an unmarried surviving child who is handicapped or mentally retarded as provided in Paragraph (3) of this Subsection. Additionally, any unmarried surviving child, who graduates from high school and enrolls, on a full-time basis, in an institute of higher education, shall have his benefit continued as long as he remains enrolled on a full-time basis and remains unmarried; however, the benefit payments shall not extend past four additional years nor past the surviving child's twenty-second birthday. Benefits payable under the provisions of this Subparagraph may be paid in trust as provided in R.S. 11:2256.2.

(b) If a member or a disability retiree dies and does not leave a surviving spouse but leaves two or more children under the age of eighteen, each child under age eighteen shall be paid, on a monthly basis, an annual benefit equal to thirty percent of the deceased member's or retiree's average final compensation. Benefits paid on account of all children shall not exceed, on a monthly basis, an annual benefit in the aggregate of sixty percent of the average final compensation. In the event the deceased member or disability retiree is survived by only one minor child, the child shall be paid, on a monthly basis, an annual benefit of not less than forty percent of the deceased member's or retiree's average final compensation. Benefits shall continue after the minor child attains age eighteen as provided in Paragraph (3) of this Subsection. Benefits payable under the provisions of this Subparagraph may be paid in trust as provided in R.S. 11:2256.2.

(3) Benefits shall be payable to the surviving totally physically handicapped or mentally retarded child or children of a deceased member or retiree as specified in the following. The surviving totally physically handicapped or mentally retarded child or children of a deceased active contributing member, a deceased disability retiree, or a deceased regular retiree, whether under or over the age of eighteen years, shall be entitled to the same benefits, payable in the same manner as are provided in this Section for minor children, if the child was totally physically handicapped or mentally retarded at the time of death of the member or retiree and the child is dependent upon the surviving spouse or other legal guardian for subsistence. Benefits payable under the provisions of this Paragraph may be paid in trust as provided in R.S. 11:2256.2.

(4) Any benefit payable under this Subsection shall be paid on an actuarial basis.

(5) Effective January 1, 2007, if a member dies while on a leave of absence to perform qualified military service as described in 26 U.S.C. 414(u), his beneficiary is entitled to any benefit, except benefits that accrued during the period of qualified military service, that would have been provided under the plan had the member resumed and then terminated employment due to death, in accordance with 26 U.S.C. 401(a)(37); however, the member's beneficiary is entitled to benefits that accrued during the period of qualified military service if the beneficiary timely remits to the system any employee contributions which would have been required but for the member's leave of absence to perform qualified military service in accordance with the terms of federal law and R.S. 11:2254.

C. Should a member die before retirement and no one be entitled to survivors' benefits, the amount of his accumulated contributions standing to the credit of his individual account shall be paid to his estate or to such person as he shall have nominated by written designation, duly executed and filed with the board of trustees.

D. Notwithstanding any provision of Subsection A of this Section or any other provision of law to the contrary, when the retirement plan of any municipality, parish, or fire protection district merges its active members into the system, the persons merged shall not be eligible to receive a benefit from the system until one year after the effective

date of the merger. However, if a member who is merged into the system, would normally be eligible to retire based on his age and total years of service credit prior to one year after the merger, he may retire, and the benefits shall be the obligation of the municipality until one year after the date of the merger.

E.(1) Any member who ceases to be an employee, except by death or retirement under the provisions of this Subpart, may apply for and obtain a refund of the amount of the accumulated contributions on deposit in his individual account in the Annuity Savings Fund. No refund shall be payable to any applicant if the applicant becomes employed again as an employee as defined in R.S. 11:2252(9) prior to the processing of his refund request by the retirement system.

(2) In order to obtain a refund, the member must complete and submit an application form furnished by the system. The member's application form must be certified by the employer but no earlier than thirty days after termination or resignation.

(3)(a) Except as provided in Subparagraph (b) of this Paragraph, refunds of accumulated employee contributions shall not be payable until at least ninety days after termination or resignation, but not until all employee contributions for the member have been received by the retirement system. Refunds of accumulated employee contributions for members who previously assigned their contributions in consideration of a loan will be processed under the provisions of R.S. 11:2265.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, the board of trustees may authorize the refund of accumulated employee contributions after at least forty-five days have elapsed after termination or resignation, provided any such accelerated refund is based on a bona fide emergency circumstance. Every such accelerated refund must be approved by the board at a regularly scheduled or specially scheduled board meeting before the refund is paid.

(4) No interest shall be credited to any individual account and no interest shall be paid on funds withdrawn from the retirement system.

F.(1) The board of trustees may implement a court order which is not rendered against the system if all of the following are satisfied:

(a) The court order applies to another Louisiana public retirement or pension system, plan, or fund.

(b) The order applies to the benefits related to the creditable service in the other system earned or accrued by a member of this system.

(c) The court order directs the system to which it applies to pay benefits to the member or to another person or both.

(d) The assets and creditable service to which the order applies have been transferred from the other system to this system.

(2)(a) The board may apply the provisions of this Subsection to a court order regardless of the date of such order.

(b) The application of the order shall not diminish or impair the benefits which the order directs the other system to pay to the member or any other person named in the order; however, the board's implementation of the order shall not result in the sum of benefits paid to the member or any other person being in excess of the benefits the board would pay in the absence of the order, nor shall the implementation result in the board paying a benefit sooner than it would in the absence of the order.

G. Notwithstanding any other provision of law to the contrary, the board of trustees may implement a court order directing payment of any portion of a benefit to a trust pursuant to the provisions of R.S. 11:2256.2.

Acts 1979, No. 434, §1; Acts 1980, No. 178, §1; Acts 1980, No. 799, §1; Acts 1981, No. 609, §1; Acts 1982, No. 16, §1; Acts 1982, No. 684, §1; Acts 1983, No. 229, §1; Acts 1984, No. 472, §1; Redesignated from R.S. 33:2155 by Acts 1991, No. 74, §3, eff. June 25, 1991; Amended by Acts 1992, No. 253, §1, eff. July 1, 1992; Acts 1992, No. 455, §1, eff. July 1, 1992; Acts 1992, No. 1094, §1, eff. July 1, 1992; Acts 1995, No. 596, §1, eff. July 1, 1995; Acts 1995, No. 597, §1; Acts 1999, No. 1320, §1, eff. July 12, 1999; Acts 2003, No. 719, §1, eff. June 27, 2003; Acts 2006, No. 492, §1, eff. July 1, 2006; Acts 2008, No. 496, §1, eff. June 25, 2008; Acts 2012, No. 427, §1; Acts 2012, No. 480, §1, eff. July 1, 2012.

§2256.1. Removal of former spouse as beneficiary; restoration of benefits

A. Notwithstanding any other provision of law to the contrary, any active member or retiree shall be authorized to remove a former spouse as a beneficiary of any benefits paid or payable to the former spouse from this system, provided the former spouse consents to such removal and the consent is evidenced by a certified court order issued in connection with a divorce proceeding relative to the member or retiree and former spouse.

B. The benefit payable to any member or retiree who provides for removal of a former spouse as a beneficiary pursuant to Subsection A of this Section shall be restored to the maximum amount payable under R.S. 11:2256(A)(4), less any reduction required to account for the time that the former spouse was a beneficiary.

C. The phrase "benefits paid or payable" as used in this Section shall include but not be limited to benefits provided for in R.S. 11:2256, 2257, and 2258 and any death benefit accrued to the former spouse as part of the former community property regime.

Acts 2007, No. 143, §1, eff. June 25, 2007.

§2256.2. Designation of benefits to be paid in trust

A. A member may designate all or a portion of any benefit paid in accordance with R.S. 11:2256 or 2259 to be paid in trust to his surviving minor child or his physically or mentally handicapped child regardless of such child's age, if the terms of the trust so provide and if the system is provided with a certified copy of the trust document. Such benefit or designated portion of a benefit shall be paid to the trust for addition to the trust property.

B. If the trust is contested by any party or the distribution is challenged by a former spouse of the member, the system shall withhold all benefit payments or if a concursus proceeding is filed deposit them in the registry of the court until there is a final binding legal agreement or judgment regarding the proper payment of benefits.

C. If the trust terminates under the terms of the trust prior to the death of a designated beneficiary, then any benefit or portion thereof payable after the date of termination of the trust shall be paid directly to the legal guardian of each trust beneficiary.

D. The trustee of the trust shall immediately notify the system in writing of the death of a beneficiary. Upon the death of a beneficiary, benefit payments from the system to the trust on behalf of the deceased beneficiary shall cease.

E. For purposes of this Section only, the term "child" means the issue of a marriage of a member of this system, the legally adopted child of a member of this system, a child born outside of marriage of a female member of this system, or the child of a male member of this system if acknowledged or filiated pursuant to the provisions of the Civil Code.

Acts 2012, No. 427, §1.

§2257. Deferred Retirement Option Plan

A. In lieu of terminating employment and accepting a service retirement allowance under R.S. 11:2256, any member of this system who has not less than twenty years of creditable service and who is eligible to receive a service retirement allowance may elect to participate in the deferred retirement option plan and defer the receipt of benefits in accordance with the provisions of this Section.

B. For purposes of this Section, creditable service shall include service credit reciprocally recognized under R.S. 11:142, but for eligibility purposes only.

C. The duration of participation in the plan shall be specified and shall not exceed three years.

D. A member may participate in the plan only once.

E. Upon the effective date of the commencement of participation in the plan, membership in the system shall terminate and neither employee nor employer contributions shall be payable. For purposes of this Section, compensation and creditable service shall remain as they existed on the effective date of commencement of participation in the plan. The monthly retirement benefits that would have been payable, had the member elected to cease employment and receive a service retirement allowance, shall be paid into the deferred retirement option plan account. Upon termination of employment, deferred benefits shall be payable as provided by Subsection H.

F.(1) A person who participates in this program shall not be eligible to receive a cost-of-living increase from the retirement system while participating and shall not be eligible until his employment which makes him eligible to be a member of this system has been terminated for at least one full year.

(2)(a) With respect to any individual who was eligible to participate in the Deferred Retirement Option Plan before January 1, 2004, after a person who participates in the plan has terminated the employment which made him eligible to be a member of this system, his individual account balance in the plan shall earn interest at a rate equal to the percentage rate of return of the system's investment portfolio, less the cost of merger notes, as certified by the actuary in his yearly evaluation report, less the cost of administering the Deferred Retirement Option Plan to be determined annually by the board of trustees. This interest shall be credited to the retiree's individual account balance on an annual basis. However, if such an individual returns to employment which makes him eligible to be a member of this system, his individual account balance in the plan shall not earn interest while he remains so employed.

(b) With respect to any individual who becomes eligible to participate in the Deferred Retirement Option Plan on or after January 1, 2004, and except as provided in Subparagraph (d) of this Paragraph, all amounts which remain credited to the individual's subaccount after termination of participation in the plan shall be placed in liquid asset money market investments at the discretion of the board of trustees. Such account balances shall be credited with interest at the actual rate of return earned on such account balance investments less one-fourth of one percent per annum; or at the option of the system, the funds may be credited to subaccounts as herein established:

(i) The contributing period shall mean that time period when funds are being credited to the participant's subaccount which is maintained by the system.

(ii) After the contributing period ends, the balance of the subaccount may then be transferred to a self-directed subaccount. The period after the contributing period ends shall be known as the investment period. Both subaccounts shall be within the Deferred Retirement Option Plan established in this Section. Management of the funds shall be by the system during the contributing period. When the 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 shall act 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 shall be given such options as comply with federal law for self-directed plans.

(c) 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 accordance with this provision, shall expressly waive 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. There shall be no liability on the part of and no cause of action of any nature shall arise against 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.

(d)(i) Notwithstanding the provisions of Subparagraphs (b) and (c) of this Paragraph, any individual who becomes eligible to participate in the Deferred Retirement Option Plan on or after January 1, 2004, may make an irrevocable written election to waive his rights as set forth in Article X, Section 29 of the Louisiana Constitution as it relates to the interest earned by his Deferred Retirement Option Plan account. After any such person who participates in the plan has terminated the employment which made him eligible to be a member of this system, his individual account balance in the plan shall earn interest at a rate equal to the percentage rate of return of the system's investment portfolio, less the cost of merger notes as certified by the actuary in his yearly valuation report, less the cost of administering the Deferred Retirement Option Plan to be determined annually by the board of trustees. However, by making such an election, the person shall expressly acknowledge that his account shall be debited in the event the system's investment portfolio experiences a negative earnings rate. The member shall further expressly acknowledge his consent to having the value of his account balance permanently reduced as a result of the devaluation of system assets caused by such a negative earnings rate. As a precondition of making this election, the member shall expressly acknowledge his understanding of the possibility of such account reductions.

(ii) The provisions of this Subparagraph shall apply prospectively only, beginning effective July 1, 2006. Waivers executed during the 2006 calendar year shall be applicable to interest that is posted effective on or after January 1, 2007.

(iii) Any individual who becomes eligible to participate in the Deferred Retirement Option Plan on or after January 1, 2004, and who does not elect to waive his rights pursuant to Item (i) of this Subparagraph, shall continue to be governed by the provisions of Subparagraphs (b) and (c) of this Paragraph.

(iv) Should any participant's waiver executed pursuant to the provisions of Item (i) of this Subparagraph be declared null, void, inapplicable, or unenforceable, the participant's individual account shall be treated as though he had not executed such waiver, and the balance therein shall be adjusted to reflect such treatment.

G. Repealed by Acts 2003, No. 962, §2, eff. Jan. 1, 2004.

H. Upon termination of employment at the end of the specified period of participation, a participant in the plan shall receive, at his option, a lump sum payment from the account equal to the payments to the account, or a true annuity based upon his account, or he may elect any other method of payment if approved by the board of trustees. The monthly benefits that were being paid into the fund during the period of participation shall begin being paid to the retiree.

I.(1) If a participant dies during the period of participation in the program, a lump sum payment equal to his account balance shall be paid to his named beneficiary or, if none, to his estate; in addition, normal survivor benefits payable to survivors of retirees shall be payable.

(2) If a participant terminates employment prior to the end of the specified period of participation he shall receive, at his option, a lump sum payment from the account equal to the payments to the account, or a true annuity based upon his account balance, or he may elect any other method of payment if approved by the board of trustees.

(3) The monthly benefits that were paid into the fund during the period of participation shall begin being paid to the retiree.

J.(1) If employment is not terminated at the end of the period specified for participation, payments into the account shall cease.

(2) Payment from the account shall not be made until employment is terminated, nor shall the monthly benefits being paid into the fund during the period of participation be payable to the individual until he terminates employment.

(3) Upon termination of employment a member shall receive, at his option, a lump sum payment from the account equal to the payments to the account, or a true annuity based upon his account balance, or he may elect any other method of payment if approved by the board of trustees.

K.(1) If employment is not terminated at the end of the period specified for participation, he shall resume active contributing membership in the system.

(2) Upon termination of employment, the monthly benefits which were being paid to the fund shall begin to be paid to him. He may not change the option which was originally selected.

(3) Upon termination of employment, he shall receive an additional retirement benefit based on his additional service rendered since termination of participation in the fund, using the normal method of computation of benefit, subject to the following:

(a) If his period of additional service is less than thirty-six months, the average compensation figure used to calculate the additional benefit shall be that used to calculate his original benefit.

(b) If his period of additional service is thirty-six or more months, the average compensation figure used to calculate the additional benefit shall be based on his compensation during the period of additional service.

(c) The option used shall be that applicable to the original benefit.

(d) In no event shall the additional benefit exceed an amount which, when combined with the original benefit, equals one hundred percent of the average compensation figure used to compute the additional benefit.

(4) If he dies or becomes disabled during the period of additional service, he shall be considered as having retired on the date of death or commencement of disability.

Acts 1984, No. 450, §1; Acts 1985, No. 153, §1; Acts 1985, No. 458, §1; Redesignated from R.S. 33:2155.1 by Acts 1991, No. 74, §3, eff. June 25, 1991; Amended by Acts 1991, No. 57, §1, eff. June 25, 1991; Acts 1992, No. 496, §1, eff. July 1, 1992; Acts 2001, No. 1028, §1 ; Acts 2003, No. 962, §§1, 2, eff. Jan. 1, 2004; Acts 2004, No. 532, §1, eff. June 25, 2004; Acts 2006, No. 566, §1, eff. June 23, 2006.

NOTE: See Acts 2004, No. 532, §2, relative to persons electing to have retirement benefits deposited in his DROP account before effective date of the Act.

RS 11:2258**§2258. Disability retirement**

A.(1) Except as provided in Paragraph (2) of this Subsection, eligibility for disability benefits, procedures for application for disability benefits, procedures for the certification of continuing eligibility for disability benefits, the authority of the board of trustees to modify disability benefits, and procedures governing the restoration to active service of an employee who formerly had a disability shall be governed by the provisions of R.S. 11:215 through 224.

(2)(a) No member is eligible for a disability benefit if his disability is a direct or indirect result of a condition that existed prior to membership in this system. For example but not as a limitation, if a member's disability develops because his service exacerbates an injury sustained prior to membership in this system, he is not eligible for benefits stemming from that disability.

(b) In determining whether a member's disability is a result of a condition that existed prior to membership in this system, the board of trustees shall consider medical and other factual information; however, the board shall not consider the fact that the member was determined by medical examination to be fit for employment as a firefighter as indicative of the absence of preexisting conditions.

B. The board of trustees shall award disability benefits to eligible members who have been officially certified as having a disability by the State Medical Disability Board unless the board of trustees determines that the disability is a direct or indirect result of a condition that existed prior to employment in this system. The disability benefit shall be determined as follows:

(1)(a) Upon retirement for disability, any member under the age of fifty years shall receive a retirement allowance as provided in Subparagraph (c) or (d) of this Paragraph, whichever is applicable.

(b) Upon retirement for disability, any member who has attained the age of fifty years shall receive the greater of: either a retirement allowance based on his creditable years of service as provided in R.S. 11:2256 or the benefit provided by Subparagraph (c) or (d) of this Paragraph, whichever is applicable.

(c) Any member who acquires a total disability from an injury received in the line of duty, even though the member may have less than five years of creditable service, shall be paid, on a monthly basis, an annual pension of sixty percent of the average final compensation being received at the time of disability.

(d) Any member of the system who has acquired a disability or incapacitating condition because of continued illness or as a result of any injury received, even though not in the line of duty, and who has five years of creditable service, but is not eligible for retirement under the provisions of R.S. 11:2256 may apply for retirement under the provisions of this Section and shall be retired on seventy-five percent of the retirement salary to which he would be entitled under R.S. 11:2256 if he were eligible thereunder or twenty-five percent of the member's average salary, whichever is greater.

(2)(a) Notwithstanding any other provision of law to the contrary, a retired member or a Deferred Retirement Option Plan participant who acquires a disability for any reason provided for by law shall be permitted to apply for conversion of a service retirement to a service connected disability retirement.

(b) To convert to a service connected disability retirement, pursuant to this Subparagraph, the applicant must demonstrate by clear and convincing evidence that the conditions causing the disability occurred during active employment as a firefighter, even though the actual physical disability may not have become manifest until after the effective date of either commencement of participation in the Deferred Retirement Option Plan or commencement of a service retirement.

(c) The actuarial cost of any service connected disability benefit granted to a person pursuant to this Section shall not exceed the actuarial cost of the same person's service retirement. In applying for this benefit, the member consents to any recalculation of the retirement benefit to provide actuarial equivalence with the service retirement benefit. Any option selected by the person with regard to the receipt of his service retirement benefit shall be preserved.

(d) Repealed by Acts 2017, No. 22, §1, eff. June 3, 2017.

C. Should a member who is on disability retirement die and leave a surviving spouse, the surviving spouse shall receive a benefit of two hundred dollars per month. When the member takes disability retirement he may in addition take an actuarially reduced benefit in which case the member's surviving spouse shall receive fifty percent of the disability benefit being paid immediately prior to the death of the retiree with a

disability. If the surviving spouse receiving benefits pursuant to this Subsection remarries, such benefits shall continue without interruption, regardless of when the remarriage occurs.

D.(1) Notwithstanding the provisions of R.S. 23:1225, when any member acquires a disability and is entitled to a disability benefit from the retirement system, the disability benefit payable for any month that the member is also receiving workers' compensation benefits shall be reduced, if necessary, so that the total of both benefits shall not exceed the member's average final compensation. The benefit to be paid shall be computed such that the disability benefit from the retirement system and the workers' compensation benefit shall each be paid in respect to the ratio that each individual benefit bears to the total of both benefits, to which the member would be entitled prior to reduction, multiplied by the average final compensation of the member.

(2) On or before May thirty-first of each calendar year, the system shall submit to the workers' compensation payor the name, social security number, and amount of reduction to the member's benefit payable by the retirement system for the forthcoming fiscal year. The reported reduction shall be presumed correct unless the workers' compensation payor objects to the reduction amount by written notice to the system on or before June thirtieth of the same calendar year.

E. Should any member who is on disability retirement cease to have a disability as determined by the State Medical Disability Board, the disability benefit being paid by the retirement system shall cease, and the former employing agency shall reemploy the member in the same rank and position that he held at the time of the occurrence of his disability, and at the same rate of pay. In the event that no such rank and position is available in the fire service of the former employing agency, the member shall be reemployed in a comparable position in the municipality or parish of the former employing agency if such a position is available.

Added by Acts 1979, No. 434, §1. Amended by Acts 1980, No. 799, §2, eff. Aug. 1, 1980; Acts 1985, No. 297, §1; Redesignated from R.S. 33:2156 by Acts 1991, No. 74, §3, eff. June 25, 1991; Acts 1993, No. 447, §1; Acts 1995, No. 1047, §1; Acts 2001, No. 733, §1; Acts 2006, No. 588, §1, eff. July 1, 2006; Acts 2008, No. 75, §1, eff. June 5, 2008; Acts 2011, No. 277, §1, eff. July 1, 2011; Acts 2014, No. 811, §4, eff. June 23, 2014; Acts 2016, No. 209, §1, eff. May 26, 2016; Acts 2017, No. 22, §1, eff. June 3, 2017; Acts 2017, No. 24, §1.

NOTE: SEE ACTS 1985, NO. 297, §2.

NOTE: Acts 2014, No. 811 changed terminology referring to persons with disabilities throughout the La. Revised Statutes and codes of law, and included a listing of terms that were deleted and their respective successor terms (See Acts 2014, No. 811, §36). The Act provides that it is not the intent of the legislature that changes in terminology effected therein alter or affect in any way the substance, interpretation, or application of any law or administrative rule; further provides that nothing in the Act shall be construed to expand or diminish any right of or benefit for any person provided by any law or administrative rule (See Acts 2014, No. 811, §35(C) and (D)).

RS 11:2259

§2259. Optional allowances

A.(1) With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any benefit becomes due, any member may elect to receive his benefit in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent at the time of his retirement allowance in a reduced allowance payable throughout life, with the provision that:

Option 1. If he dies before he has received in member's annuity payments the present value of his member's annuity as it was at the time of his retirement, the balance shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of trustees; or

Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of trustees at the time of his retirement; or

Option 3. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of trustees at the time of his retirement; or

Option 4. Some other benefit or benefits shall be payable to any or all of the following persons: the member, the member's spouse, the member's child or children with a permanent mental or physical disability, or the member's dependent minor child or children as he shall nominate, provided such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent value to his retirement allowance and approved by the board of trustees.

(2) The nomination made pursuant to Option 2, Option 3, or Option 4 as provided in this Subsection is irrevocable on and after the date that the first of any benefit payments becomes due.

(3) For the purposes of this Subsection, the term "person" includes a trust as provided in R.S. 11:2256.2.

B. However, should the member be single at the time of retirement and after retirement become married, the retiree may select an option for his new spouse, provided the member and the spouse have been married for a period of twelve months prior to selection of the option. The benefit paid to the member who selects a different option under this Subsection shall be actuarially equivalent to the benefit payable immediately prior to the election.

C. Initial benefit option. (1) The initial benefit option provided in this Subsection is available to a member who has not participated in the Deferred Retirement Option Plan provided in this Chapter and who selects the maximum benefit provided in Subsection A (introductory paragraph) of this Section, or Option 2, 3, or 4 thereof and, if this initial benefit option is selected, the person shall thereafter be ineligible to participate in the Deferred Retirement Option Plan under this Chapter.

(2) If a member selects the initial benefit option provided in this Subsection, the member may receive an initial benefit plus a reduced monthly retirement allowance, provided the initial benefit together with the reduced monthly retirement allowance shall equal the actuarially equivalent amount of his maximum retirement allowance.

(3) The initial benefit, as determined by the member, shall not exceed an amount equal to thirty-six payments of the member's maximum retirement allowance.

(4) At the option of the member, the initial benefit shall be paid as a lump-sum payment or shall be placed in an account called an "initial benefit account", established in accordance with the same procedures set forth in R.S. 11:2257, with interest credited thereto and monthly payments made from the account in accordance therewith.

(5) The monthly retirement benefit received by the retiree and the beneficiary or survivor shall be based on the amount otherwise payable under the retirement option selected by the member, which shall be actuarially reduced by a prorated amount calculated to offset the cost of the initial benefit payment.

(6) If a change in option selection is allowed under the provisions of Subsection B of this Section, the monthly benefit payable under those provisions shall be actuarially reduced by a prorated amount calculated to offset the cost of the initial benefit payment.

(7) A person who retires under the provisions of disability retirement may not select the initial benefit option.

(8) Cost-of-living adjustments granted by the board of trustees to retirees who select the initial benefit option shall be computed on the basis of each retiree's regular monthly retirement benefit or on the basis of each beneficiary or survivor's benefit based on the option selected as reduced and shall not be computed on the initial benefit received either as a lump sum or paid pursuant to R.S. 11:2257.

Added by Acts 1979, No. 434, §1; Redesignated from R.S. 33:2157 by Acts 1991, No. 74, §3, eff. June 25, 1991; Acts 1997, No. 356, §1, eff. July 1, 1997; Acts 1999, No. 354, §1, eff. June 16, 1999; Acts 2006, No. 682, §1, eff. June 29, 2006; Acts 2012, No. 427, §1; Acts 2014, No. 811, §4, eff. June 23, 2014; Acts 2017, No. 21, §1, eff. June 3, 2017.

NOTE: Acts 2014, No. 811 changed terminology referring to persons with disabilities throughout the La. Revised Statutes and codes of law, and included a listing of terms that were deleted and their respective successor terms (See Acts 2014, No. 811, §36). The Act provides that it is not the intent of the legislature that changes in terminology effected therein alter or affect in any way the substance, interpretation, or application of any law or administrative rule; further provides that nothing in the Act shall be construed to expand or diminish any right of or benefit for any person provided by any law or administrative rule (See Acts 2014, No. 811, §35(C) and (D)).

§2260. Administration

A. Board of trustees:

(1) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this Chapter are hereby vested in a board of trustees which shall be organized immediately after a majority of the trustees provided for in this Section shall have qualified and taken the oath of office. The administration of this system shall be domiciled in East Baton Rouge Parish except in such case as there is provision for joint administration of this system with another state or statewide retirement system.

(2) The board shall consist of ten trustees as follows:

(a) Two members of the Professional Fire Fighters Association who shall be members of the system and who shall be elected by a majority of the officers of the association as follows:

(i) One member shall be elected in December, 1988, to take office January 1, 1989, to serve until January 1, 1992, and his successor shall be elected for a term of five years, commencing on January 1, 1992.

(ii) One member shall be elected in December, 1988, to take office January 1, 1989, to serve until January 1, 1993, and his successor shall be elected for a term of five years, commencing on January 1, 1993.

(b) A fire chief who is chief of a fire department participating in the system and who is a member of the system, shall be elected in December, 1988 by a majority of the fire chiefs of fire departments participating in the system, to take office January 1, 1989, to serve until January 1, 1991, and his successor shall be elected for a term of five years, commencing on January 1, 1991.

(c) Two mayors appointed by the Louisiana Municipal Association from municipalities having fire departments participating in the system, to serve at the pleasure of the Louisiana Municipal Association.

(d) The chairman of the House of Representatives Committee on Retirement and the chairman of the Senate Committee on Retirement, or their designees.

(e) A retiree of the system, who shall be elected by a majority vote of the members of the board from at least three nominees submitted by the retired members of the system, for a term of five years, commencing on January 1, 1989.

(f) The state treasurer or his designee.

(g) The commissioner of administration or his designee.

(3) If an active member dies while serving on the board, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. If an active member's status changes such that he would no longer qualify for the position he holds on the board of trustees, or if an active member retires or a member terminates employment after participating in the Deferred Retirement Option Plan and retires, while serving on the board, he shall continue to serve until his term expires. If any other vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as was previously filled. Should the term of a board member expire during the period of participation in the Deferred Retirement Option Plan, he shall be eligible to seek reelection to his position while participating in the Deferred Retirement Option Plan.

(4) The trustees shall receive for attendance at meetings of the board, not to exceed fifteen meetings per annum, a per diem as provided in R.S. 11:182(A) and they shall be reimbursed from the expense fund for all necessary expenses that they may incur through service on the board.

(5) Each trustee shall, after his appointment or election, take an oath of office that, so far as it devolves upon him, he shall diligently and honestly administer the affairs of the said board, and that he shall not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, and certified by the officer before whom it is taken, and immediately filed in the office of the secretary of state.

(6) Each trustee shall be entitled to one vote on the board. An affirmative vote by at least five members of the board of trustees shall be necessary for a decision by the trustees at any meeting of the board. The phrase "affirmative vote" shall mean that the vote shall be cast in favor of approving any motion.

(7) The board of trustees is authorized to use interest earnings on investments of the system in excess of normal requirements, as determined by the actuary, to provide annual supplemental monthly cost-of-living adjustments. The supplemental monthly cost-of-living adjustments shall be computed on the current retirement or survivor's benefit. The annual supplemental monthly cost-of-living adjustment shall not be more than three percent in any year. Such benefits shall be paid only when funds are available from this source and payments shall be made in such manner and in such amounts as may be determined by the board of trustees, based on the funds available.

(8) A majority of the board of trustees shall elect from its membership a chairman. A majority of the board shall also appoint a secretary to the board, define his duties, and set his compensation. The board of trustees shall engage such actuarial and other services as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the board of trustees, and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board of trustees shall approve.

(9)(a) The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the system.

(b)(i) In order to assure the continued accuracy of the data required to be kept by the provisions of Subparagraph (a) of this Paragraph, the board of trustees may conduct an audit of any participating employer, including but not limited to any such municipality or fire protection district. The information that is made the subject of the audit shall include such information as is necessary to accomplish any of the following audit objectives:

(aa) To authenticate the eligibility of a member or members to participate in the system.

(bb) To verify compensation being earned by a member or members and the manner and amount in which such compensation is reported to the retirement system.

(cc) To verify the years of covered employment and service credit accrued by a member or members.

(dd) To determine the accuracy of benefits scheduled to be paid or already being paid to any member or members.

(ii) The participating employer that is the subject of the audit shall provide, and the auditor shall have, complete access to any books, records, documents, and accounts needed to accomplish the audit, including but not limited to copies of any member's birth certificate, death certificate, driver's license, marriage license, time sheets, leave forms, payroll records, and contribution records. Original documents shall be provided if available.

(iii) The retirement system may request the legislative auditor to conduct the full audit or any portion of an audit authorized by this Subparagraph.

(iv) Failure of any participating employer to comply with the provisions of this Subparagraph shall subject the governing authority of such employer and the custodian of records of such employer to the enforcement provisions of the public record laws set forth in R.S. 44:35.

(10) The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

(11)(a) The board of trustees may enter into an agreement with any municipality, parish, or fire protection district for merging any existing retirement plan for firefighters, or with the Metropolitan Council of the city of Baton Rouge and the parish of East Baton Rouge for merging the firefighter members of the Baton Rouge City Parish Employees' Retirement System with the Firefighters' Retirement System, subject to approval by three-fourths of the members of such system who have not retired and subject to approval by three-fourths of the retirees, beneficiaries, and survivors.

(b) Such merger agreement shall require payment of at least sixty percent of the accrued liability for active members being transferred and of one hundred percent of the accrued liability of the retirees, beneficiaries, and survivors being transferred, and such merger shall not cause the contributions and other funding of the system to be less than the amount needed to actuarially provide for the normal cost and the amortization of the unfunded accrued liability of the system over a thirty-year period. However, the city of Alexandria shall be authorized to merge its firefighters' retirement plan into the Firefighters' Retirement System by paying sixty percent of the accrued liability for active members being transferred and one hundred percent of the accrued liability of the retirees, beneficiaries, and survivors being transferred. All payments by the city of Alexandria shall be based on those liabilities as they existed on June 30, 1988, with the difference between the amount paid by the city of Alexandria and the total actuarial accrued liability being assumed by the Firefighters' Retirement System of Louisiana as of the date of the merger, being paid by the state of Louisiana over the length of time and in the amounts as determined by the Public Retirement Systems' Actuarial Committee, provided that such merger is completed by June 30, 1993.

(c)(i) The approval of a merger by three-fourths of the individuals being transferred is not required if the municipality, parish, or fire protection district shall guarantee to each of the individuals that he and his beneficiaries together shall retain after the merger all retirement and other eligibility rights, all benefit rights, and all other rights that they would have had in the former plan had he continued under such plan.

(ii) This determination shall be made for each individual at least annually by the municipality, parish, or fire protection district and shall be based on total benefits paid to date to the individual and his beneficiaries by the Firefighters' Retirement System and this guarantee in the period beginning with his transfer to the Firefighters' Retirement System and ending on the date of determination.

(iii) This guarantee shall have no more or less force and effect than the benefit guarantee of the former retirement plan and shall be accomplished by ordinance of the municipality, parish, or fire protection district.

(d) Such merger shall be preceded by an actuarial investigation of the actuarial assumptions conducted jointly by the actuaries for the municipality, parish, or fire protection district, the Firefighters' Retirement System, and the legislative auditor, and must have the prior approval of the Joint Legislative Retirement Committee together with the recommendation of the actuary for the legislative auditor and any agreement entered into between the Firefighters' Retirement System and the municipality, parish, or fire protection district shall be binding on both parties.

(e) Should the municipality, parish, or fire protection district fail to make any payments provided under such agreement, the board of trustees may proceed to collect such amounts as provided in R.S. 11:2262(D)(2).

(f) Repealed by Acts 2003, No. 719, §2.

(g)(i) Notwithstanding any other provision of law to the contrary, the board of trustees for this system is hereby authorized to enter into an agreement with the governing authorities of the Firemen's Pension and Relief Fund for the city of Lafayette to merge that system into the statewide Firefighters' Retirement System set forth in this Chapter, in accordance with the provisions of Subparagraphs (a), (b), (c), (d), and (e) of this Paragraph, except as provided in this Subparagraph.

(ii) The accumulated cost-of-living adjustments granted to any individual who has merged with this system pursuant to this Subparagraph, which cost-of-living adjustments have been granted by the Lafayette City-Parish Consolidated Government by virtue of the individual's previous membership in the Firemen's Pension and Relief Fund for the city of Lafayette, shall not be diminished, reduced, or otherwise impaired by the Lafayette City-Parish Consolidated Government should any cost-of-living adjustment be payable by this system. However, if the Lafayette City-Parish Consolidated Government has granted a cost-of-living adjustment to any such individual in any year in which this system has also granted a cost-of-living adjustment, then nothing in this Item shall prevent the Lafayette City-Parish Consolidated Government from reducing the amount of its cost-of-living adjustment for that same year by an amount not to exceed two percent, provided the amount of this system's cost-of-living adjustment is greater than two percent, and further provided that the amount of the previous years' accumulated cost-of-living adjustments shall not be diminished, reduced, or otherwise impaired.

(iii) Any unlawful diminution, reduction, or impairment of accumulated cost-of-living adjustments by the Lafayette City-Parish Consolidated Government shall give rise to a cause of action in a court of competent jurisdiction by the individual adversely affected or his beneficiary or other appropriate successor in interest.

(h) Notwithstanding any other provision of law to the contrary, the board of trustees for this system is hereby authorized to enter into an agreement with the consolidated government of the city of Baton Rouge and parish of East Baton Rouge to merge less than all of the firefighter members of the Baton Rouge City Parish Employees' Retirement System meeting the definition of "employee" under the provisions of this Chapter. Such a partial merger shall be undertaken subsequent to a one time, thirty day election period, to be conducted by the consolidated government of the City of Baton Rouge and Parish of East Baton Rouge. During this election each active firefighter member may elect either to: maintain his individual membership in the Baton Rouge City Parish Employee's Retirement System; or transfer his membership to this retirement system. Such election shall be irrevocable. Any partial merger of these active firefighter employees into this system shall be preceded by an actuarial investigation of the assets and liabilities in the system to the credit of the employees being merged. To each employee electing to avail himself of the provisions of this Subparagraph, the consolidated government shall guarantee by individual guarantee of benefits contracts with each individual employee electing to merge additional benefits not payable under the Firefighters' Retirement System. The municipality shall pay to this system in one cash payment an amount equal to sixty percent of the accrued liability, as determined or approved by the actuary for this system, for all members and service credit merged, or at the option of the municipality, such payment may be made in annual payments plus seven percent interest compounded annually over a period not exceeding thirty years. Subsequent to such partial merger, all newly hired firefighter employees meeting the definition of "employee" as contained in this Chapter shall be enrolled in this system as a condition of employment. This Subparagraph shall be subject to the provisions of Subparagraphs (a), (b), (c), (d), and (e) of this Paragraph.

B. Repealed by Acts 1988, No. 83, §2.

C. Actuary:

(1) The board of trustees shall designate an actuary who shall be the technical advisor of the board of trustees on matters regarding the operation of the fund created by the provisions of this Chapter, and shall perform such other duties as are required in connection therewith.

(2) Immediately after the establishment of the retirement system, the actuary shall make such investigation of the mortality, service, and compensation experience of the members of the system as he shall recommend and the board of trustees shall authorize, and on the basis of such investigation he shall recommend for adoption by the board of trustees such tables and such rates as are required in R.S. 11:2260(C)(3)(a) and (b). The board of trustees shall adopt tables and certify rates, and as soon as practicable thereafter the actuary shall make a valuation based on such tables and rates of the assets and liabilities of the funds created by this Chapter.

(3) In 1980, and at least once in each five-year period thereafter, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the funds of the system, and taking into account the result of such investigation and valuation, the board of trustees shall:

(a) Adopt for the retirement system such mortality, service, and other tables as shall be deemed necessary; and

(b) Certify the rates of contribution payable by the employer on account of the new entrants.

(4) On the basis of such tables as the board of trustees shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system created by this Chapter.

D. The Firefighters' Retirement System and its board of trustees shall be domiciled in the Parish of East Baton Rouge.

E. Repealed by Acts 1988, No. 974, §2, eff. July 27, 1988.

Added by Acts 1979, No. 434, §1. Amended by Acts 1980, No. 178, §1; Acts 1982, No. 193, §1; Acts 1983, No. 261, §1; Acts 1984, No. 472, §1; Acts 1985, No. 776, §1, eff. Jan. 1, 1985; Acts 1987, No. 147, §1; Acts 1987, No. 911, §2; Acts 1988, No. 83, §2; Acts 1988, No. 974, §§1, 2; eff. July 27, 1988; Acts 1991, No. 67, §1; Redesignated from R.S. 33:2158 by Acts 1991, No. 74, §3, eff. June 25, 1991; Acts 1992, No. 952, §1, eff. July 1, 1992; Acts 1993, No. 755, §1; Acts 1994, 3rd Ex. Sess., No. 89, §1, eff. July 7, 1994; Acts 1995, No. 783, §1; Acts 1997, No. 14, §1; Acts 1997, No. 1219, §1, eff. July 1, 1997; Acts 1999, No. 35, §1; Acts 1999, No. 1320, §1, eff. July 12, 1999; Acts 1999, No. 1379, §1; Acts 2003, No. 305, §§1, 2, eff. June 13, 2003; Acts 2003, No. 621, §1, eff. June 27, 2003; Acts 2003, No. 719, §§1, 2, eff. June 27, 2003; Acts 2007, No. 51, §1, eff. June 18, 2007; Acts 2008, No. 220, §4, eff. June 14, 2008; Acts 2008, No. 258, §1, eff. June 16, 2008; Acts 2008, No. 817, §1, eff. July 8, 2008.

NOTE: SEE ACTS 1984, NO. 472, §§2, 3.

NOTE: SEE ACTS 1988, NO. 974, §3.

NOTE: See Acts 2003, No. 719, §2, relative to retroactive application to Jan. 31, 2002, payment of liabilities and benefits, and pending applications for merger of individual service credit pursuant to R.S. 11:2260(A)(11)(f).

NOTE: See Acts 2003, No. 719, §3, relative to R.S. 11:2260(A)(6) as amended by Act No. 719 superceding conflicting Acts.

§2260.1. Correction of administrative error

Except where otherwise prohibited in this Chapter, the director may correct any administrative error and make all adjustments relative to such correction. The director shall correct such error based solely on sufficient documentation, which shall be submitted to the board of trustees at the next board meeting, whether such administrative error was committed by the system or otherwise.

Acts 2003, No. 719, §1, eff. June 27, 2003.

§2261. Management of funds

A. The board of trustees shall be the trustees of the several funds created by this Chapter as provided in R.S. 11:2262 and shall have full power to invest and reinvest such funds in accordance with the provisions of R.S. 11:261 et seq. The trustees shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created herein have been invested as well as the proceeds of the investments and monies belonging to the funds. The expenses associated with the investment and administration of fund assets shall be charged against investment income and shall not be charged to the expense account.

B. All expense vouchers and pension payrolls shall be certified by the secretary. The secretary shall furnish the board of trustees a surety bond with a company authorized to do business in Louisiana and in such an amount as shall be required by the board, the premium to be paid from the expense fund.

C. For the purpose of meeting disbursements for pensions, annuities, and other payments there may be kept available cash, not exceeding ten percentum of the total amount in the several funds of the retirement system, 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, provided, that the sum on deposit in any one bank or trust company shall not exceed twenty-five percentum of the paid up capital and surplus of such bank or trust company.

D. The board of trustees shall approve the fiscal agency bank or banks selected for the deposit of funds and securities of the retirement system, provided that no bank shall be selected unless the bank is a fiscal agent of the state. The funds and properties of the system held in any bank of the state shall be safeguarded by bonds or other securities acceptable for the protection of state deposits, the amount to be determined by the board of trustees.

E. Except as otherwise herein provided, 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. No trustee or employee of the board shall, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or employee of the board of trustees become an endorser or surety or in any manner as obligor for moneys loaned or borrowed from the board of trustees.

Added by Acts 1979, No. 434, §1. Amended by Acts 1980, No. 178, §1. Acts 1984, No. 867, §2; Redesignated from R.S. 33:2159 by Acts 1991, No. 74, §3, eff. June 25, 1991; Acts 2003, No. 719, §1, eff. June 27, 2003.

§2262. Method of financing

A. All of the assets of the retirement system shall be credited according to the purpose for which they are held to one of five funds, namely, the Annuity Savings Fund, the Annuity Reserved Fund, the Pension Accumulation Fund, the Expense Fund, and the deferred retirement option plan account.

B. Annuity savings fund

The annuity savings fund shall be the fund in which shall be accumulated contributions from the compensation of members to provide for their annuities. Contributions to the annuity savings fund shall be made as follows:

(1) Each municipality, parish, and fire protection district shall make deductions from any salary or wages excluding overtime, except as provided in R.S. 11:233(B), paid by them to any member of this fund equal to eight percent of the earnable compensation paid him in each and every payroll after the effective date of this Subpart.

(2) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Subpart. The employer shall certify to the board of trustees on each and every payroll or in such other manner as the board of trustees may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said annuity savings fund, and shall be credited to the individual account of the member from whose compensation said deduction was made.

(3) Each municipality, parish, and fire protection district may pay the member's contributions required by Paragraph (1) herein, for all salary or wages excluding overtime, except as provided in R.S. 11:233, paid by them, earned on or after January 1, 1989. If a municipality, parish, and fire protection district decides not to pay the member's contributions, the required contributions shall continue to be deducted from the member's salary as provided in Paragraph (1). If the contributions are paid, they shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and the employee's participation shall not be optional; however, the municipality, parish, or fire protection district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the firefighters until such time as they are distributed or made available. The municipality, parish, and fire protection district shall pay these contributions from the same source of funds which is used to pay the salaries of firefighters. The municipality may pay these contributions by a reduction in the cash salary of the firefighters or by an offset against a future salary increase or by a combination of a reduction in salary. If contributions are paid they shall be considered for all purposes of this Paragraph as the member's contributions made prior to the time that contributions were paid.

C. Annuity reserve fund

The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities, payable as provided in this Subpart. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

D. Pension accumulation fund

The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and benefits payable from contributions made by employers. Contributions to and payments from the pension accumulation fund shall be made as follows:

(1) In addition to the assessment collected above, each municipality, parish, or fire protection district which has employees on its fire protection force who become members in the Firefighters' Retirement System shall contribute a baseline amount equal to nine percent of the earnable compensation, excluding overtime but including state supplemental pay, of each firefighter eligible for membership in the Firefighters' Retirement System and shall remit this amount monthly to the Firefighters' Retirement System.

(2)(a) In compliance with the provisions of Article X, Section 29(E)(4) of the Constitution of Louisiana, delinquent payments due under Paragraph (B)(1) of this Section and Paragraph (1) of this Subsection may be recovered by action in a court of competent jurisdiction against the political subdivision or instrumentality liable therefor with interest for all pertinent periods at a rate equal to the greater of the following:

(i) The actuarial valuation rate.

(ii) An amount equal to the rate of earnings of the system's investment portfolio.

(b) Alternatively, at the request of the Firefighter's Retirement System, and upon due certification of delinquency to the state treasurer, such amounts shall be deducted from any other monies payable to such subdivision or instrumentality by any department or agency of the state.

(3) On the basis of regular interest and of such mortality and other tables as shall be adopted by the board of trustees, the actuary engaged by the board to make each valuation required by this Subpart during the period over which the accrued liability contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the compensation of the average new entrant, which if contributed on the basis of compensation of such new entrant throughout the entire period of active service would be sufficient to provide for the payment of any pension payable on his account. The rate percentum so determined shall be known as the "normal contribution" rate. After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be the rate percentum of the earned salary of all members obtained by deducting from the total liabilities of the pension accumulation fund the amount of funds on hand to credit of that fund and dividing the remainder by one percentum of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the board of trustees and regular interest. The normal rate of contribution shall be determined by the actuary after each valuation.

(4) Upon the retirement of a member, an amount equal to his pension reserve, less the amount of his annuity savings account, shall be transferred from the pension accumulation fund to the annuity reserve fund. At the same time the amount of his annuity savings account shall also be transferred to the annuity reserve fund.

(5) The board of trustees shall transfer annually from the pension accumulation fund to the expense fund an amount equal to fifteen dollars per member and beneficiary on the rolls at the end of the fiscal year, but not less than a total of one hundred thousand dollars.

(6) Taxes or assessments may be appropriated to this fund, in addition to the other sources of contributions specified herein, as necessary to fund the system on the basis of its accrued liabilities, as shown by actuarial valuation.

E. Expense fund

The expense fund shall be the fund from which the expense of the retirement system shall be paid, exclusive of amount payable as retirement allowances and other benefits provided therein. The board of trustees shall determine annually the amount required to defray such expenses for the ensuing fiscal year and shall have the right to transfer the amount required to defray the cost of expenses of administration from the amount transferred from the pension accumulation fund.

F. Collections of contributions

(1) The collection of members' contributions shall be as follows:

(a) Each municipality, parish, or fire protection district shall cause to be deducted on each and every payroll of a member for each and every payroll period subsequent to the date of establishment of the retirement system the contributions payable by such member as provided in this Subpart.

(b) The treasurer, or other officer authorized to issue warrants, shall make deductions from salaries of members as provided in this Subpart, and shall transmit monthly the amount specified to be deducted to the secretary of the board of trustees. After making a record of all such receipts, the secretary of the board of trustees shall deposit them in a bank or banks selected by the board of trustees.

(2) The collection of employers' contributions, if and when assessed or required, shall be as follows: Upon the basis of each actuarial valuation provided herein, the board of trustees shall annually prepare a statement of the total amount necessary for the ensuing fiscal year to the pension accumulation and expense funds as provided under Subsections D and E of this Section.

G. The Deferred Retirement Option Plan shall be the account in which shall be accumulated all payments made pursuant to R.S. 11:2257. Interest shall be credited to the account as provided by R.S. 11:2257(F)(2).

H. Notwithstanding the provisions of this Section or any other law to the contrary, the city of Monroe, at its discretion, is authorized to pay to the system, from its own funds, the employee contributions referenced in this Section, and to take appropriate legal and administrative action to otherwise be in compliance with local, state, and federal laws.

I. Notwithstanding the provisions of this Section or any other law to the contrary, the city of Port Allen, at its discretion, is authorized to pay to the system, from its own funds, the employee contributions referenced in this Section, and to take appropriate legal and administrative action to otherwise be in compliance with local, state, and federal laws.

The amount of any employee contributions paid by the city of Port Allen shall not be included in the earnable compensation of the members as defined in R.S. 33:2152(13).

Acts 1979, No. 434, §1; Acts 1980, No. 799, §3; Acts 1984, No. 450, §2; Acts 1984, No. 460, §1; Acts 1985, No. 177, §1; Acts 1988, No. 138, §1; Acts 1990, No. 43, §1; Redesignated from R.S. 33:2160 by Acts 1991, No. 74, §3, eff. June 25, 1991; Amended by Acts 1991, No. 57, §1, eff. June 25, 1991; Acts 2003, No. 719, §1, eff. June 27, 2003; Acts 2008, No. 114, §1, eff. June 9, 2008.

§2263. Exemption from execution

The right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Subpart, and the moneys in the various funds created by this Subpart are hereby exempt from any state or municipal tax and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, except as provided in R.S. 11:292, and shall be unassignable except as in this Subpart specifically otherwise provided.

Added by Acts 1979, No. 434, §1; Acts 1986, No. 767, §5; Redesignated from R.S. 33:2161 by Acts 1991, No. 74, §3, eff. June 25, 1991.

§2264. Deductions

The system is authorized to deduct monthly life and health insurance premiums and credit union payments from the benefits payable to retirees or other beneficiaries and transmit them to the agency to whom the premiums and payments are due. The board may adopt policies by which such premiums and payments are to be made and may charge each retiree or beneficiary a service charge to cover the administrative costs necessary to process such deductions.

Added by Acts 1983, No. 146, §1; Redesignated from R.S. 33:2161.1 by Acts 1991, No. 74, §3, eff. June 25, 1991.

§2265. Assignment of employee contributions; credit union loans

A.(1) Notwithstanding any other provisions of law, any member of this system shall be authorized to assign his accumulated employee contributions to any firefighters' credit union in consideration of a loan.

(2) The member shall authorize the system to deliver or pay the total amount of his accumulated employee contributions to the designated credit union, upon termination or resignation of employment but only if he has less than twelve years of creditable service. If a member who accumulates twelve or more years of creditable service and who, having previously executed a valid assignment of employee contribution, elects to withdraw his accumulated employee contributions, then those contributions may be delivered to the credit union as provided in this Section.

(3) No refund shall be paid to a member until his loan is paid in full and no accumulated contributions shall be paid to a credit union until the credit union certifies to the retirement system that the member has failed to make payments on his loan, for sixty days or more, after termination of employment.

B.(1) The credit union shall apply the refund of contributions to the balance owed at the time of termination, and any surplus shall be returned by the credit union to the member.

(2) Upon receipt of a duly executed assignment of accumulated contributions by a member, the system is hereby authorized to pay all accumulated contributions standing to the member's credit at the time of termination or resignation, to the designated credit union.

C.(1) After payment of all accumulated contributions to the credit union, the employee shall cease to be a member of the system and the system shall not be liable to the employee in any manner whatsoever.

(2) The credit union shall be required to submit a duly executed release of assignment in the event the loan is paid in full, and such assignment shall be null and void.

Acts 1985, No. 307, §1; Acts 1986, No. 787, §1; Redesignated from R.S. 33:2161.2 by Acts 1991, No. 74, §3, eff. June 25, 1991.

§2266. Protection against fraud

A. It shall be a misdemeanor offense punishable by a fine not to exceed one thousand dollars, or imprisonment in the parish jail for a period not to exceed twelve months, or both, for any person who knowingly commits any of the following acts:

(1) Makes any false statement or who falsifies or permits to be falsified any record or records of this retirement system in an attempt to defraud this system as a result thereof.

(2) Fails to provide full and complete medical evidence of present physical condition or of any preexisting medical conditions upon application for membership in this system or upon submission of a claim for disability benefits.

B.(1) Should any change or error in the records result in a member or beneficiary receiving benefits in an amount equal to more or less than he would have been entitled to receive from this system if the records had been correct, the board of trustees shall correct such error, and as far as practicable, shall adjust the payment of benefits in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled to receive shall be paid.

(2) In the event that a benefit is paid for which the system was not obligated by law to pay, the system may cause the benefits that are being received by the erroneously paid party or any third party that is receiving benefits, or both, to be reduced by an amount equal to the sum of the erroneously paid benefit, provided that a connection can be established between the party or parties whose benefits are reduced and the member whose membership in the system gave rise to the erroneously paid benefit.

Added by Acts 1979, No. 434, §1; Redesignated from R.S. 33:2162 by Acts 1991, No. 74, §3, eff. June 25, 1991; Acts 1999, No. 53, §1.

§2267. Limitations of membership

No other provisions of law in any other statute which provides wholly or partly at the expense of the state of Louisiana for pensions or retirement benefits for employees of the several parishes or any parish of the state of Louisiana, their widows or other dependents shall apply to members or beneficiaries of the retirement system established by this Chapter, their widows or other dependents.

Added by Acts 1979, No. 434, §1; Redesignated from R.S. 33:2163 by Acts 1991, No. 74, §3, eff. June 25, 1991.

§2268. Guaranty

The maintenance of annuity reserve and pension reserves as provided for, and regular interest creditable to the various funds as provided in R.S. 11:2262, and the payment of all pensions, annuities, retirement allowance refunds, and other benefits granted under the provisions of this Chapter, are hereby made obligations of the pension accumulation fund. All income, interest, and dividends derived from deposits and investments authorized by this Chapter shall be used for the payment of the said obligations of the said fund.

Added by Acts 1979, No. 434, §1; Redesignated from R.S. 33:2164 by Acts 1991, No. 74, §3, eff. June 25, 1991.

§2269. Repealed by Acts 2001, No. 733, §5, No. 1128, §5, and No. 1176, §6, eff. Jan. 1, 2002.

§2270. Physical examination; delinquency

A. In order for any applicant to be eligible for membership in the Firefighters' Retirement System, such applicant shall complete the enrollment process including the completion of the applicant form prescribed by the system and shall have a physical examination which shall be evidenced by a physical examination form prescribed by the system. The cost of the physical examination shall be paid by the employer. If the current physical or mental condition or medical history of an applicant, as reflected on the physical examination form, is outside the guidelines established by the board physician, said applicant shall be required to execute a waiver for any condition reflected thereon.

B. The enrollment process, including the completion of the applicant forms, the physical examination, and the completion of any waivers of preexisting conditions, shall be completed and all documents received by the fund within six months after July 1, 1995, or the date of employment, whichever is later, for the applicant to become a member eligible to begin vesting for regular and disability benefits from the date of employment. If the enrollment process is not completed within six months from July 1, 1995, or the date of employment, whichever is later, the applicant will be a member eligible to begin vesting for regular benefits from the date of employment, but not eligible to begin vesting for disability benefits until the completion of the enrollment process.

C. It shall be the responsibility of the employer to insure that the enrollment process is timely completed, or to provide the Firefighters' Retirement System with notification of noncompliance by the applicant. Should any member who has not completed the enrollment process be injured in the line of duty and apply for disability benefits, that member shall be required to prove that the disabling condition was not preexisting.

D. Should the physical examination not be completed because the employer refused to pay for the physical examination, the employer shall be liable for any disability benefit to which the member would be entitled.

Acts 1995, No. 599, §1, eff. July 1, 1995.

§2271. Tax qualification provisions

The Firefighters' Retirement System shall be a tax-qualified governmental plan as provided in the Internal Revenue Code of 1986, as amended. In accordance with the requirements of the Internal Revenue Code, the following provisions shall apply to the retirement system:

(1) The assets of the retirement system shall be held for the exclusive benefit of the members of the retirement system, the retirees thereof, and the survivors and beneficiaries of the retirees and members. No part of the funds held by the trustees of the retirement system shall be used or diverted for any reason, including any contingency or event or by any other means, to other purposes, including but not limited to reversion to any employer.

(2) The retirement benefit of a member shall be fully vested and nonforfeitable no later than the date on which he becomes eligible to retire. Benefits of members shall also become vested and nonforfeitable upon the termination of the system or the complete discontinuance of contributions to the system.

(3) Forfeitures shall not be used to increase the benefits of the remaining members of the system. This shall specifically not preclude any increase in benefits by amendment to the benefit formula made possible by a change in contribution rate, favorable investment results, or other means.

(4) A member's benefit shall begin to be distributed not later than the latest date provided for the commencement of benefits for governmental plans under Section 401(a)(9)(C) of the Internal Revenue Code of 1986, as amended. Distributions to a surviving spouse, dependent, successor and/or beneficiary of a member shall be made at least as soon as distributions are required to be made by qualified governmental plans under the Internal Revenue Code of 1986, as amended.

(5) In computing benefit accruals, there shall not be taken into account compensation in excess of the limitations specified in Section 401(a)(17) of the Internal Revenue Code, as amended. Such compensation limit was two hundred thousand dollars for tax years beginning after December 31, 2001.

(6) The retirement system, its trustees, consultants, and advisors shall not engage in any prohibited transactions as that term is defined in Section 503 of the Internal Revenue Code of 1986, as amended.

(7) Amendments to the retirement system required for the purpose of maintaining continued compliance with the Internal Revenue Code and the regulations thereunder that do not require legislative action shall be promulgated as rules in accordance with the Administrative Procedure Act.

Acts 2006, No. 492, §1, eff. July 1, 2006; Acts 2012, No. 480, §1, eff. July 1, 2012.

*2272. Excess benefit plan

A. There is hereby established a separate unfunded, nonqualified excess benefit plan pursuant to Section 415(m) of the Internal Revenue Code, as amended.

B.(1) The purpose of this excess benefit plan is to enable employers to pay to members benefits which would exceed the limitations of Section 415(b) but for the existence of the excess benefit plan.

(2) The excess benefit plan shall be operated as a trust, separate and apart from the retirement system, the trustees of which shall be the trustees of the retirement system.

(3) The funds of the excess benefit plan shall not be a part of the funds of the retirement system nor shall they be commingled therewith. The retirement system may not transfer funds to the excess benefit plan.

(4) Contributions to the excess benefit plan shall consist of those employer contributions which, if made to the retirement system, would exceed the limitations for contributions by the employer under Section 415(b) of the Internal Revenue Code of 1986, as amended.

C. The board, acting as settlors and trustees of the trust authorized in Paragraph (B)(2) of this Section is authorized to adopt by rule a specific trust instrument providing operative provisions for the excess benefit plan, to provide provisions qualifying the excess benefit plan under the provisions of Section 415(m) of the Internal Revenue Code of 1986, and to amend the trust from time to time in the discretion of the board.

Acts 2006, No. 492, §1, eff. July 1, 2006.