

## **NOTICE OF INTENT**

### **Department of Treasury**

### **Board of Trustee for the State**

### **Police Retirement System**

#### **“Compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA)” and “Participation in Group Trusts” (LAC 58:IX.103,206)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees for the Louisiana State Police Retirement System has approved for advertisement these rules necessary for compliance with the federal law pertaining to the purchase of service credit for military service and LSPRS participation in group trusts. The proposed Rules are being adopted pursuant to R.S.11:152.1 and 11:1302.1, which provides that the board of trustees shall promulgate rules in accordance with federal law. This intended action by the Louisiana State Police Retirement System complies with statutory law administered by the agency. A preamble to this proposed action has not been prepared.

#### **Title 58**

#### **Retirement**

#### **Part IX. State Police Retirement System**

#### **Chapter 1. Service Credit**

#### **§103. Compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA)**

A. A sworn, commissioned law enforcement officer of the office of state police in any office, section, agency, commission, or branch of the Department of Public Safety and Corrections as defined in Title 36 of the Louisiana Revised Statutes of 1950 and member of this System (an “Employee”), who was granted a leave of absence in order to join the Uniformed Services (as defined in 20 C.F.R. § 1002.5(o)) shall be given service credit for the full time he or she was on such leave of absence, provided that he or she returns to the employment of his or her pre-service employer (the “Employer”) within five (5) years (unless a different time period would apply under the federal laws governing veteran’s reemployment rights), and provided such Employee returns to the service as an Employee within the applicable periods of time as specified in the following Paragraphs (1) through (4) of this Subsection after a separation from the military service in the Uniformed Services (unless federal law provides for a shorter or longer time period):

1. If the individual was in the Uniformed Services less than 31 days, he or she must report to the Employer:

a. Not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the individual from the place of that service to the individual’s residence; or

b. As soon as possible after the expiration of the eight-hour period referred to in Subparagraph (a), above, if reporting within the period referred to in such subsection is impossible or unreasonable through no fault of the individual.

2. In the case of an individual who is absent from the pre-service employer for a period of any length for the purpose of an examination to determine the person’s fitness to perform service in the Uniformed Services, by reporting in the manner and time referred to in Paragraph (1), above.

3. In the case of an individual whose period of service in the Uniformed Services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the Employer not later than 14 days after the completion of the period of service, or, if submitting such application within such period is impossible or unreasonable through no fault of the individual, the next first full calendar day when submission of such application becomes possible.

4. In the case of an individual whose period of service in the Uniformed Services was for more than 180 days, by submitting an application for reemployment with the Employer not later than 90 days after completion of the period of service in the Uniformed Services.

B. In order to obtain service credit under this Section, an Employee shall be required to make a contribution to the System of the amount he or she would have paid as an active Employee. The Employee shall be required to contribute that portion of his or her Average Salary attributable to the period of time for which the Employee will receive credit under this Section, multiplied by the applicable rate set forth in La. R.S. § 11:62(10) in effect at the time of leave. "Average Salary," for this purpose, shall be the average salary, as defined in La. R.S. § 11:1310, that the Employee was receiving from the Employer prior to commencing the leave of absence in order to join the Uniformed Services. The Employee shall not be required to pay any interest on the Employee's contribution made pursuant to this Section.

C. The Employee contribution required in Subsection (B) must be made within the time period starting with the Employee's date of re-employment and continuing for up to three (3) times the length of the Employee's immediate past period of service in the Uniformed Services, with the repayment period not to exceed five (5) years. If the contribution is not made within the applicable time period specified in this Subsection, no service credit shall be given under this Section, but an Employee may be able to purchase service credit pursuant to La. R.S. § 11:153 after the applicable time period has expired.

D. If the Employee has met all the terms and conditions of this Section, the Employee's service while in the Uniformed Services shall for all purposes be considered as continuous and uninterrupted service credit with the Employer.

E. To the extent not set forth herein, the System shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. §§ 4301, *et seq.*) as well as rules and regulations issued by the United States Department of Labor relating to USERRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:152.1 and 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR \_\_:\_\_( ).

## **Chapter 2. Participation in Group Trusts**

### **§ 206. Participation in Group Trusts.**

A. To the extent it does not affect the tax qualified status of the retirement system, and is permitted by United States Internal Revenue Service Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance), the board of trustees is authorized to:

1. For investment purposes, transfer assets of the retirement system to, and pool such assets in, one or more group trust(s); and

2. Adopt one or more group trust(s), and/or the terms of such group trust(s), as part of the retirement system to the extent necessary to meet the requirements of applicable law, by executing appropriate participation and/or adoption agreements with the trustee(s) of the group trust(s).

B. For purposes of transferring assets of the retirement system to a trustee(s) of any current or future group trust(s), by the execution of such group trust's participation agreement(s), the board of trustees specifically adopts the trustee's declaration of the group trust as part the retirement system to the extent of its interest in the group trust, or as is required by applicable law, for the purposes of such investment and compliance with Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance).

C. For purposes of valuation, the value of the interest maintained by the retirement system in a group trust shall be determined in accordance with the governing instrument of the group trust to determine the fair market value of the portion of the group trust held for the retirement system, determined in accordance with generally recognized valuation procedures.

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR \_\_:\_\_( ).

### **Family Impact Statement**

The proposed rules for the purchase of military service credit and participation in group trusts within the Louisiana State Police Retirement System should not have any known or foreseeable impact on any family as defined by R.S. 49:972 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget (other than providing to the member the opportunity to utilize some of his family earnings from the Department of Public Safety towards purchase of additional retirement service credit);
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rules.

### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of the proposed rules has been considered. It is anticipated that the proposed rules will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. household income, assets, and financial security (other than the recognition of the right under USERRA to convert assets to future monthly income by purchase of military service credit).
2. early childhood development and preschool through postsecondary education development.
3. employment and workforce development.
4. taxes and tax credits.
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of the proposed rules has been considered. It is anticipated that the proposed rules will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

### **Public Comments**

Any interested person may submit written data, views, arguments or comments regarding these proposed rules to Kim Gann, Assistant Director of the Louisiana State Police Retirement System by mail to Louisiana State Police Retirement System, 9224 Jefferson Hwy., Baton Rouge, LA 70809. All comments must be received no later than June 18, 2020.

Kevin P. Reed  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Compliance with the Uniformed Services and Employment and Reemployment Rights Act (USERRA) and Participation in Group Trusts**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no implementation costs to state or local governmental units as a result of the proposed rule change. The proposed rule regarding the purchase of military service credit codifies the current policies mandated by federal law. The proposed rule regarding LSPRS participation in Group Trusts is reasonable and customary in providing options for moving BackDROP funds. Statutorily, members of LSPRS are allowed to move their BackDROP funds to a group trust, and are allowed to contract with a third party provider to direct such investment. Tax Counsel for LSPRS advises that the promulgated Group Trust terms are necessary for compliance with qualified trust provisions under federal law. Thus, the two proposed rules will simply reflect policy and compliance

in accordance with federal law. There is no additional cost anticipated to be incurred by LSPRS in allowing its members to make this transfer or to purchase the military service.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These proposed rules will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

As these Rules seek only to place in administrative rule form the procedures already implemented and put in place to provide these benefits as provided or allowed by federal law, no additional costs or benefits are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment as a result of these rules.