

### §3698. Unusual benefit adjustments

A. Should it be discovered through an audit or review for statutory compliance and benefit payment calculations to be concluded in 2011, that unusual errors in benefit determinations and calculations were made, such errors shall be adjusted pursuant to the requirements of R.S. 11:3683 and 3685 and the following provisions:

(1) For members who were hired on July 9, 1957, January 3, 1959, June 28, 1961, June 21, 1969, and September 23, 1970, and whose retirement eligibility determination erroneously included unused annual leave and unused sick leave as creditable service in determining eligibility for retirement, the use of such leave shall be allowed. This adjustment shall be effective for the designated members only and only in determining the amount of the correct benefit payments going forward.

(2) For members hired on August 29, 1990, and April 4, 1994, who were over the age of eligibility for membership and erroneously allowed to become a member and for whom all normal member and employer contributions have been made, whether the member is still employed or retired from the system, the member shall be considered as a fully qualified member of the system. This adjustment shall be effective for the designated members only and only in determining the amount of the correct benefit payments going forward.

(3) For members hired on July 1, 1947, November 8, 1956, July 9, 1957, January 3, 1959, June 28, 1961, February 20, 1967, July 3, 1968, December 2, 1968, January 1, 1969, March 25, 1969, April 21, 1969, June 21, 1969, October 4, 1969, November 15, 1969, and September 23, 1970, who were granted military credit eligibility in accordance with R.S. 11:3684 but who did not purchase such eligible military credit in accordance with R.S. 29:251.2(B) and such unpurchased credit was erroneously used in determining their eligibility for retirement and/or erroneously used in their retirement benefit calculation, the use of such military credit shall be allowed. When a member hired on September 22, 1948, who had been granted military credit eligibility by another retirement system in accordance with R.S. 11:143 but who did not purchase such eligible credit in the Harbor Police Retirement System as required by R.S. 11:143 and such unpaid credit was erroneously used in determining his eligibility for retirement and/or was erroneously used in his benefit calculation, the use of such military credit shall be allowed. When a member who was hired on September 23, 1970, and who resigned on July 31, 1971, and was rehired on September 23, 1971, and who therefore was not a member on August 1, 1971, and therefore not eligible for military service credit in accordance with R.S. 11:3684, but who was erroneously granted eligibility for such military credit and who did not purchase such eligible military credit in accordance with R.S. 29:251.2(B) and such unpurchased credit was erroneously used in determining eligibility for retirement and/or erroneously used in the retirement benefit calculation, the use of such military credit shall be allowed. This adjustment shall be effective for the designated members only and only in determining the amount of the correct benefit payments going forward.

(4) Act 474 of the 1985 Regular Session of the Legislature increased the service benefit of three percent per year of service to three and one-third percent per year of service and stipulated that "This Act shall become effective upon approval of the Board of Commissioners of the Port of New Orleans." Although no formal approval was given by the Board of Commissioners of the Port of New Orleans, the increase was implemented by the Harbor Police Retirement System upon the Act's signature by the governor. The benefits shall be calculated as if the required Board of Commissioners of the Port of New Orleans approval had been given on the effective date of the Act. This Act applies to all members who retired after the date of the act and the increased rate applies to all years of service credit. This adjustment shall be effective only for members currently employed on July 1, 2011, and retired as of July 1, 2011, and only in determining the amount of the correct benefit payments already paid to retirees and the correct benefit payments going forward.

(5) The increase in service benefit in Act 474 of the 1985 Regular Session of the Legislature

from three percent to three and one-third percent, as well as the increase from two and one-half percent to three percent in 1975, were implemented without containing language that stipulated for what years the increase was to apply, such as for all past years of service for active members, or for all future years of service for all active members, or for all past and future years of service for all active members. Instead of a "blended rate" wherein the rates in effect when the service credit was earned are used in the retirement benefit calculation, the increases were implemented as if each increase applied to all past and future years of service for all active members and such implementation shall apply for these adjustments. This adjustment shall be effective only for members currently employed on July 1, 2011, and retired members and only in determining the amount of the correct benefit payments already paid to retirees and the correct benefit payments going forward relative to the herein specified percentage changes.

(6) Any member hired on November 8, 1976, who completed a period of DROP participation prior to July 1, 2008, and who is still employed on July 1, 2008, shall be subject to R.S. 11:3684(E)(2). This adjustment shall be effective for the designated member only and only in determining the amount of the correct benefit payment going forward.

(7) Any cumulative net overpayment error will be forgiven in its entirety and any cumulative net underpayment error will be paid in its entirety in a lump sum.

(8) For members hired on November 8, 1956, March 25, 1960, June 28, 1961, September 29, 1966, April 5, 1967, March 27, 1968, July 3, 1968, December 2, 1968, December 3, 1968, June 21, 1969, July 28, 1969, October 4, 1969, September 23, 1970, March 30, 1971, and July 8, 1971, who transferred into the Harbor Police Retirement System when the system was started on August 1, 1971, thereby transferring service credit from the Louisiana State Employees' Retirement System which was earned at a benefit factor of two and one-half percent per year and for a member hired on May 3, 1983, who transferred prior service credit from the Louisiana State Employees' Retirement System which was earned at a benefit factor of two and one-half percent per year, all of whom retired from the Harbor Police Retirement System and were paid benefits at the higher benefit factor of three percent per year or three and one-third percent per year for all years of service, including the transferred years, instead of the benefit factor from the transferring system of two and one half percent as specified in R.S. 11:1423, the higher percentage factor shall be allowed. This adjustment shall be effective for the designated members only and only in determining the amount of the correct benefit payments going forward.

B. The adjustments authorized by this Section are not to be considered a waiver of any statute provision governing this system. The provisions of this Section shall be null and void and removed from the statute on July 1, 2012.

Acts 2011, No. 399, §1, eff. July 1, 2011.