

Regular Session, 2004

ACT No. 194

HOUSE BILL NO. 58

BY REPRESENTATIVE TRICHE

1 AN ACT

2 To provide with respect to the Early Retirement and Payroll Reduction Act; to provide for
3 a reduction in state employment and for early retirement of members of the Louisiana
4 State Employees' Retirement System, including but not limited to provisions for
5 eligibility, retirement benefits, restrictions on hiring of new employees, abolition of
6 vacated positions, reductions in appropriated funds, and funding; and to provide for
7 related matters.

8 Notice of intention to introduce this Act has been published
9 as required by Article X, Section 29(C) of the Constitution of
10 Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Purpose. This Act shall be known as the Early Retirement and Payroll
13 Reduction Act of 2004. Its purpose is to permanently reduce the number of state employees,
14 thereby reducing payroll costs, in a manner which furthers the fiscal needs of the state and
15 which is fair and equitable to the employees of the state. The Act is intended to accomplish
16 this purpose by encouraging voluntary early retirement by the temporary lessening of
17 retirement eligibility requirements and by restricting the hiring of new employees.

18 Section 2. Eligibility Requirements for Early Retirement. Any member of the
19 Louisiana State Employees' Retirement System may retire pursuant to the provisions of this
20 Act, and he shall receive the benefits set forth in Section 3 of this Act if he submits an
21 application for retirement during the period beginning on the effective date of this Act and
22 extending through December 31, 2006, with the effective date of his retirement occurring
23 during that same period and further provided that on or before December 31, 2006, he has
24 attained at least age fifty and has at least ten years of service credited to his retirement
25 account, exclusive of any military service credit.

1 Section 3. Retirement Benefits. Any person who retires pursuant to the provisions
2 of this Act shall receive an annual retirement allowance consisting of an actuarially reduced
3 benefit. The annual benefit shall be calculated in accordance with the provisions of R.S.
4 11:444(A). However, the benefit of any such person shall be actuarially reduced to account
5 for early retirement. In no event shall the annual retirement allowance exceed one hundred
6 percent of average compensation as specified by R.S. 11:231. Any person who retires
7 pursuant to the provisions of this Act shall not be eligible to participate in the Deferred
8 Retirement Option Plan or the Initial Benefit Option as set forth in R.S. 11:446(A)(5).

9 Section 4. Application of Other Early Retirement Provisions. If any person is
10 eligible for early retirement under the provisions of this Act or under the early retirement
11 provisions of R.S. 11:441(A)(4), such person may retire under the applicable provision;
12 however, the restrictions on refilling employee positions as set forth in Section 5 of this Act
13 shall also apply to positions vacated by early retirement under R.S. 11:441(A)(4) for the
14 period beginning on the effective date of this Act and extending through December 31, 2006.
15 Any such person who retires pursuant to the provisions of this Act or pursuant to the
16 provisions of R.S. 11:441(A)(4) shall not be eligible for reemployment by the state of
17 Louisiana or any agency thereof for a period of two years from the date of such retirement.

18 Section 5. Restrictions on Employee Positions and Payroll.

19 (A) It is the intention of this Act to effect a permanent and substantial reduction in
20 the number of state employees and in the state payroll.

21 (B)(1) Accordingly, any position which becomes vacant as a result of a person's
22 retirement pursuant to the provisions of this Act, including positions vacated by early
23 retirement under R.S. 11:441(A)(4) during the period beginning on the effective date of this
24 Act and extending through December 31, 2006, shall be abolished and shall only be
25 reestablished upon the authorization, jointly by the commissioner of administration and the
26 director of the Department of State Civil Service with respect to the executive branch, the
27 Legislative Budgetary Control Council with respect to the legislative branch, or the Judicial
28 Budgetary Control Board with respect to the judicial branch. In no event shall more than ten

1 percent of the positions in each respective branch of state government which have become
2 vacated as a result of retirements made pursuant to the provisions of this Act, including
3 positions vacated by early retirement under R.S. 11:441(A)(4), be reestablished over any
4 five-year period. In addition, no more than one-third of the positions abolished pursuant to
5 this Act in each branch of state government in any one fiscal year may be reestablished
6 during that fiscal year.

7 (2) The limitations set forth in Paragraph (1) of this Subsection shall be inapplicable
8 with respect to specific individual cases whenever, as to the executive branch of state
9 government, either the commissioner of administration or the governor act together with the
10 director of the Department of State Civil Service to certify jointly that an emergency need
11 exists; as to the legislative branch of state government, the Legislative Budgetary Control
12 Council certifies that an emergency need exists and such need is also so certified and
13 approved jointly by the president of the Senate and the speaker of the House of
14 Representatives; and as to the judicial branch of state government, the Judicial Budgetary
15 Control Board certifies that an emergency need exists and such need is also certified and
16 approved by the chief justice of the Louisiana Supreme Court.

17 (3) Positions which are reestablished shall be filled only by appointment of existing
18 employees from within the same agency whenever such agency has qualified personnel to
19 fill such positions. Positions becoming vacant by such appointment of existing employees
20 shall be abolished, subject to the same reestablishment conditions.

21 (4) Whenever a position is abolished, the appointing authority of the agency in which
22 the position is funded shall notify the state treasurer of the unspent portion of state general
23 funds appropriated to pay for that position. The state treasurer shall withhold from that
24 agency's state general fund appropriation an amount equal to the unspent state general fund
25 appropriation, including employer retirement contributions, for the position abolished. If the
26 position is reestablished, the state treasurer shall return to the agency's state general fund
27 appropriation an amount sufficient to pay for the position from the date of reestablishment
28 to the end of the fiscal year in the proportion and to the extent the position is to be funded
29 from the state general fund.

1 (C) Notwithstanding any other provision of law to the contrary, no position which
2 is vacated as a result of retirement pursuant to the provisions of this Act or of R.S.
3 11:441(A)(4) during the period beginning on the effective date of this Act and extending
4 through December 31, 2006, shall be filled by the state of Louisiana unless such position is
5 reestablished as provided in Subsection B of this Section and such hiring is authorized:

6 (1) Jointly by the commissioner of administration and the director of the Department
7 of State Civil Service with respect to the executive branch of state government. The
8 commissioner of administration shall provide the initial approval.

9 (2) By the Legislative Budgetary Control Council with respect to the legislative
10 branch of state government.

11 (3) By the Judicial Budgetary Control Board with respect to the judicial branch of
12 state government.

13 Section 6. Notwithstanding any other provision of law or of this Act to the contrary,
14 the provisions of this Act which eliminate vacated positions shall not be applicable to any
15 positions of the Department of Social Services, office of family support, support enforcement
16 services division.

17 Section 7. The provisions of the Early Retirement and Payroll Reduction Act of 2001
18 (Act No. 844 of the 2001 Regular Session of the Legislature) are not affected by this Act and
19 the provisions of that Act and particularly Section 5 thereof, remain in effect.

20 Section 8. It is the express intent of the legislature in enacting this Act that the
21 provisions of Section 5 are severable from the remaining Sections of this Act. Further, it is
22 the intent of the legislature in enacting this Act that any declaration, legal opinion, or court
23 ruling declaring Section 5 of this Act unconstitutional shall not in and of itself cause the
24 remaining Sections to be deemed void, unenforceable, or unconstitutional.

25 Section 9. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____