

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S2/8/99 S2/9/99 S3/1/99

A Bill

Act 670 of 1999
SENATE BILL 290

5 By: Senator Hopkins
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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 24-11-203 TO ALLOW
10 THE FIRE AND POLICE PENSION REVIEW BOARD TO ASSURE THE
11 TAX QUALIFICATION OF LOCAL PENSION PLANS; TO AMEND
12 ARKANSAS CODE TITLE 24, CHAPTER 11, SUBCHAPTER 2 TO
13 ADD A SECTION TO MEET REQUIREMENTS FOR QUALIFIED PLANS
14 UNDER THE INTERNAL REVENUE CODE; TO AMEND ARKANSAS
15 CODE § 24-11-434 TO CLARIFY A DROP BENEFIT PROVISION
16 FOR POLICE PENSION AND RELIEF FUNDS; AND FOR OTHER
17 PURPOSES. "

Subtitle

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20 "TO ALLOW THE PENSION REVIEW BOARD TO
21 ASSURE THE TAX QUALIFICATION OF LOCAL
22 PENSION PLANS AND TO ADD A SECTION TO
23 MEET IRS REQUIREMENTS FOR QUALIFIED
24 PLANS. "

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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 24-11-203(j), regarding authority of the
30 Fire and Police Pension Review Board to make rules and regulations, is amended
31 to read as follows:

32 "(j)(1) The review board shall have the power to make all rules and
33 regulations necessary to enforce the laws governing funding standards and
34 benefit levels for fire and police pension and relief funds. Further, the
35 review board shall have the authority to make all rules and regulations
36 necessary to assure continued tax qualification of each firemen's and

1 policemen's pension and relief fund that is subject to this subchapter.

2 (2) All rules and regulations must be promulgated in accordance
3 with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201
4 et seq. In addition, all rules and regulations relating to continued tax
5 qualification of such plans shall be specifically presented to the Joint
6 Committee on Public Retirement and Social Security Programs, or the
7 Legislative Council when the General Assembly is not in session, for review
8 prior to final adoption."

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10 SECTION 2. Arkansas Code Title 24, Chapter 11, Subchapter 2 is amended
11 to add the following section to be appropriately numbered by the Arkansas Code
12 Revision Commission:

13 "Tax Qualification of Firemen's and Policemen's Pension and Relief
14 Funds.

15 (a) This section shall be considered a part of the plan of each pension
16 and relief fund that is subject to this subchapter. Each plan is intended to
17 qualify under Section 401(a) of the Internal Revenue Code and is for the
18 exclusive benefit of its members, retired members, and their survivors.

19 (b) A member, retired member, or survivor of a member or retired member
20 of a firemen's or policemen's pension and relief fund may not accrue a
21 retirement pension, disability retirement allowance, death benefit allowance,
22 DROP benefit, or any other benefit under the fund in excess of the benefit
23 limits applicable to the fund under Section 415 of the Internal Revenue Code.
24 The board shall reduce the amount of any benefit that exceeds those limits by
25 the amount of the excess. If total benefits under this fund and the benefits
26 and contributions to which any member is entitled under any other qualified
27 plans maintained by the employer that employs the member would otherwise
28 exceed the applicable limits under Section 415 of the Internal Revenue Code,
29 the benefits the member would otherwise receive from the fund shall be reduced
30 to the extent necessary to enable the benefits to comply with Section 415 of
31 the Internal Revenue Code, unless the employer has provided other rules that
32 satisfy those requirements.

33 (c) Any member or survivor who receives any distribution that is an
34 eligible rollover distribution as defined by Section 402(c)(4) of the Internal
35 Revenue Code is entitled to have that distribution transferred directly to

1 another eligible retirement plan of the member's or survivor's choice on
2 providing direction to the pension and relief fund regarding that transfer in
3 accordance with procedures established by the board of trustees of the pension
4 and relief fund.

5 (d) The total salary taken into account for any purpose for any member
6 or retired member who is an ineligible participant under any firemen's or
7 policemen's pension and relief fund may not exceed one hundred fifty thousand
8 dollars (\$150,000) a year. This dollar limit shall be adjusted from time-to-
9 time in accordance with guidelines provided by the United States Secretary of
10 the Treasury. For purposes of this subsection, an eligible participant is a
11 person who first became a member before 1996, and an ineligible participant is
12 a member who is not an eligible participant.

13 (e) In the event that a firemen's or policemen's pension and relief
14 fund is terminated or partially terminated, or employer contributions to the
15 fund are discontinued completely, the rights of the members to their accrued
16 benefits, to the extent funded, shall be nonforfeitable.

17 (f) Distributions of benefits must begin not later than April 1 of the
18 year following the calendar year during which the member becomes seventy and
19 one-half (70 ½) years of age or terminates employment with the employer,
20 whichever is later, and must otherwise conform to Section 401(a)(9) of the
21 Internal Revenue Code.

22 (g) If the amount of any benefit is to be determined on the basis of
23 actuarial assumptions that are not otherwise specifically set forth for that
24 purpose in this subchapter, the actuarial assumptions to be used are those
25 earnings and mortality assumptions being used on the date of the determination
26 by the fund's actuary and approved by the Arkansas Fire and Police Pension
27 Review Board. The actuarial assumptions being used at any particular time
28 shall be treated for all purposes as a part of the rules and regulations of
29 the pension and relief fund. The actuarial assumptions may be changed by the
30 actuary if approved by the Pension Review Board, but a change in actuarial
31 assumptions may not result in any decrease in benefits accrued as of the
32 effective date of the change.

33 (h) Notwithstanding any other provision in this subchapter to the
34 contrary, contributions, benefits, and service credit with respect to
35 qualified military service will be provided in accordance with Section 414(u)

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1 of the Internal Revenue Code. The preceding sentence shall not preclude any
2 person from receiving more generous treatment for military service pursuant to
3 state law or the provisions of any firemen's or policemen's pension and relief
4 fund if such treatment is not inconsistent with the tax qualification
5 requirements."

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7 SECTION 3. Arkansas Code § 24-11-434(b)(2)(D), regarding the interest
8 earned on a deferred retirement option plan account under the policemen's
9 pension and relief fund, is amended to read as follows:

10 " (D) The interest credited after the first five (5) years
11 on the deferred retirement option plan shall be two (2) percentage points
12 below the rate of return of the investment portfolio of the fund and shall not
13 be determined under subdivision (e)(2) of this section, but in no event shall
14 the interest rate credited be less than zero percent; and"

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16 SECTION 4. All provisions of this act of a general and permanent nature
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
18 Revision Commission shall incorporate the same in the Code.

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20 SECTION 5. If any provision of this act or the application thereof to
21 any person or circumstance is held invalid, such invalidity shall not affect
22 other provisions or applications of the act which can be given effect without
23 the invalid provision or application, and to this end the provisions of this
24 act are declared to be severable.

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26 SECTION 6. All laws and parts of laws in conflict with this act are
27 hereby repealed.

28 /s/ Hopkins

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31 APPROVED: 3/17/1999

