

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1026 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/1/05

A Bill

SENATE BILL 124

5 By: Senators J. Jeffress, Faris
6 By: Representative Sullivan
7
8

9 **For An Act To Be Entitled**

10 AN ACT TO ALLOW THE ARKANSAS TEACHER RETIREMENT
11 SYSTEM TO WITHHOLD BENEFITS IN CERTAIN
12 CIRCUMSTANCES TO ASSIST IN COLLECTING ACCOUNTS
13 RECEIVABLE; AND FOR OTHER PURPOSES.
14

15 **Subtitle**

16 AN ACT TO ALLOW THE ARKANSAS TEACHER
17 RETIREMENT SYSTEM TO WITHHOLD BENEFITS
18 IN CERTAIN CIRCUMSTANCES TO ASSIST IN
19 COLLECTING ACCOUNTS RECEIVABLE.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 24-7-205 is amended to read as follows:

25 24-7-205. Adjustment of payment to correct error or recoup overpayment.

26 (a) Should any change or error in the records result in any person's
27 receiving from the Arkansas Teacher Retirement System more or less than he or
28 she would have been entitled to receive had the records been correct, the
29 Board of Trustees of the Arkansas Teacher Retirement System, or its designee,
30 shall correct the error and, as far as practicable, shall adjust the ~~payment~~
31 benefit, annuity, or refund payable to the person, his or her beneficiary, or
32 his or her estate, in such manner that the actuarial equivalent of the
33 benefit to which the person was correctly entitled shall be paid.

34 (b)(1) If a person who is a member, former member, contributor, former
35 contributor, retirant, beneficiary, or alternate payee under a qualified



1 domestic relations order pursuant to §§ 9-18-101 – 9-18-103, is paid any
2 benefit or payment by the Arkansas Teacher Retirement System to which the
3 person is not entitled, the Board of Trustees of the Arkansas Teacher
4 Retirement System, or its designee, pursuant to rules adopted by the board,
5 may:

6 (A) Withhold the amount due from any benefit or payment
7 due the person, the person's beneficiary, or estate; or

8 (B) Collect the amount in any other manner provided by
9 law.

10 (2) Withheld amounts shall be used to effect repayment until the
11 total amount withheld equals all amounts payable by the person to the system.

12 (3)(A) Prior to making an adjustment of benefits or pursuing any
13 other collection action under this section, the board or its designee shall
14 provide notice to the person who will receive the adjustment.

15 (B) The notice shall describe the process for disputing an
16 adjustment of benefits.

17 (4) The board or its designee may waive adjustment or repayment
18 if:

19 (A) The overpayment was not the result of the retiree's or
20 the beneficiary's nondisclosure, fraud, misrepresentation, or other fault;
21 and

22 (B) The board's designee finds in his or her sole
23 discretion that recovery of the overpayment could be a manifest injustice.

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25 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
26 General Assembly of the State of Arkansas that the Arkansas Teacher
27 Retirement System has no mechanism to recoup overpayment in certain
28 circumstances; that the absence of the ability leads to the potential loss of
29 funds from the system; and that the most effective time to make changes to
30 the retirement system is at the beginning of the state's fiscal year.
31 Therefore, an emergency is declared to exist and this act being immediately
32 necessary for the preservation of the public peace, health, and safety shall
33 become effective on July 1, 2005.

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35 /s/ J. Jeffress, et al
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APPROVED: 3/18/2005