

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 2084 of the Regular Session

As Engrossed: S1/31/05 S3/30/05 S4/6/05

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

A Bill

SENATE BILL 69

4
5 By: Senators J. Jeffress, Faris
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8 **For An Act To Be Entitled**

9 AN ACT TO AMEND THE ARKANSAS PUBLIC EMPLOYEES'
10 RETIREMENT SYSTEM LAWS TO PROVIDE FOR
11 CONTRIBUTIONS OF MEMBERS TO THEIR DEPOSIT
12 ACCOUNTS; AND FOR OTHER PURPOSES.
13

14 **Subtitle**

15 TO AMEND THE ARKANSAS PUBLIC EMPLOYEES'
16 RETIREMENT SYSTEM LAWS TO PROVIDE FOR
17 CONTRIBUTIONS OF MEMBERS TO THEIR
18 DEPOSIT ACCOUNTS.
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20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 24-4-401(b)(1), concerning contributions of
24 members under the Arkansas Public Employees' Retirement System, is amended to
25 read as follows:

26 (b)(1)(A) Until July 1, 2005, the ~~The~~ contributions of a contributory
27 member shall be six percent (6%) of the member's annual compensation.

28 (B) Beginning July 1, 2005, the contribution rate shall be
29 five percent (5%) of the member's annual compensation for a contributory
30 member.

31 (C) The member's deposit account shall be credited
32 interest at a rate of four percent (4%) per annum beginning July 1, 2005.

33 (2) The officer responsible for making up the payroll for each
34 public employer shall cause the contributions provided for in this section to
35 be deducted from the compensation of each member in the employ of a public



1 employer.

2 (3) The contributions shall be deducted on each and every
3 payroll, for each and every payroll period, from the date of the member's
4 entrance into the Arkansas Public Employees' Retirement System to the date
5 his or her membership terminates.

6 (4) When deducted, each of the amounts shall be paid by the
7 public employer to the Arkansas Public Employees' Retirement System Fund and
8 shall be credited to the individual account in the members' deposit account
9 of the member from whose compensation the contributions were deducted.

10 (5) The contributions provided for in this section shall be made
11 notwithstanding that the minimum salary or wages for any member shall be
12 thereby changed.

13 (6) Each member shall be deemed to consent and agree to the
14 deductions made and provided for in this section.

15 (7) Payment of a member's compensation less deductions shall be
16 a full and complete discharge and acquittance of all claims and demands
17 whatsoever for services rendered to a public employer by the member, except
18 as to benefits provided by this act.

19

20 *SECTION 2. Arkansas Code § 24-4-101(12), concerning definitions under*
21 *the Arkansas Public Employees' Retirement System laws, is amended to read as*
22 *follows:*

23 (12)(A) *"Contributory member" means a person who was a member of*
24 *the Arkansas Public Employees' Retirement System prior to January 1, 1978,*
25 *and who continues to contribute six percent (6%) of his or her compensation*
26 *to the system~~+~~. However, the rate will be five percent (5%) on and after*
27 *July 1, 2005; or*

28 *(B) A member first hired on or after July 1, 2005, or a*
29 *non-contributory member who elects to become a contributory member under §§*
30 *24-4-1101 - 1109 within six (6) months from July 1, 2005.*

31

32 *SECTION 3. Arkansas Code § 24-4-101(15), concerning definitions under*
33 *the Arkansas Public Employees' Retirement System laws, is amended to read as*
34 *follows:*

35 (15)(A) *"Credited service" means the sum of the prior service*
36 *and current service to the extent credited a member by the board, in*

1 accordance with the provisions of § 24-4-521.

2 (B) Any member first hired on or after July 1, 2005, to a
3 covered position whose service is credited at a rate other than that defined
4 in § 24-4-101(2) shall accrue that credit on no more than ten (10) actual
5 years of service.

6
7 SECTION 4. Arkansas Code Title 24, Chapter 4 is amended to add an
8 additional subchapter to read as follows:

9 24-4-1101. Membership.

10 (a) All public employees, as defined in § 24-4-101(17), first hired on
11 or after July 1, 2005, are subject to the benefit provisions of this
12 subchapter.

13 (b)(1) All public employees hired prior to July 1, 2005, and who are
14 active members of the Arkansas Public Employees' Retirement System on July 1,
15 2005, shall have six (6) months from July 1, 2005, to elect coverage under
16 the benefit provisions of this subchapter.

17 (2) No conversion or purchase of noncontributory service into
18 contributory service under this subchapter is allowed.

19 (3) The election shall be made as directed by the Board of
20 Trustees of the Arkansas Public Employees' Retirement System and is
21 irrevocable.

22 (c) Noncontributory members who terminate covered service for a period
23 of more than six (6) months and subsequently return to covered service will
24 be subject to the provisions of this subchapter.

25 24-4-1102. Member contributions.

26 (a)(1) The contributions of a member shall be five percent (5%) of the
27 member's annual compensation, and shall be placed in the member's deposit
28 account as provided in § 24-4-401.

29 (2) Interest shall be paid on accumulated member contributions
30 at the rate of four percent (4%) per annum.

31 (b)(1) For purposes of deferring federal and state income tax under
32 26 U.S.C. § 414(h)(2), as adopted by § 26-51-414, the employer shall pick up
33 the member's contributions to the Arkansas Public Employees' Retirement
34 System required by this section payable on or after July 1, 2005.

35 (2)(A) Member contributions picked up by the employer shall be
36 paid from the same source of funds used for the payment of salary to a

1 member.

2 (B) A deduction shall be made from each member's salary,
3 equal to the amount of the member's contribution picked up by the employer.

4 (C) For all other purposes, member contributions picked up
5 by the employer shall be considered member contributions.

6 (c) Upon termination of covered service, a former member may request a
7 refund of the former member's accumulated contributions under § 24-4-603,
8 except that interest will be credited on all balances for service through the
9 last completed fiscal year as provided in § 24-4-209(a).

10
11 24-4-1103. Benefits generally.

12 (a) Upon retirement under this subchapter, a member shall receive a
13 straight life pension equal to two percent (2%) of the member's final average
14 compensation multiplied by the number of years and any fraction of a year of
15 the member's service.

16 (b) Any member may voluntarily retire upon filing a written
17 application with the Board of Trustees of the Arkansas Public Employees'
18 Retirement System not less than thirty (30) days nor more than ninety (90)
19 days before the date the member desires to be retired if that member has:

20 (1) Twenty-eight (28) or more years of credited service
21 regardless of age; or

22 (2) Attained or attains age sixty-five (65); and

23 (3)(A) Has five (5) or more years of actual service.

24 (B) However, a member of the General Assembly must have
25 ten (10) or more years of actual service if the member only has service as a
26 member of the General Assembly.

27 (c) No temporary annuity will be provided to members covered by this
28 subchapter.

29 (d) The maximum benefit payable upon retirement shall be one hundred
30 percent (100%) of the member's final average compensation, without regard to
31 any postretirement increases enacted by the General Assembly.

32
33 24-4-1104. Annuity options.

34 Before the date the first payment of a member's annuity is due, a
35 member may elect to receive the annuity as a straight life annuity or as one
36 of the reduced annuity options provided in § 24-4-606.

1
2 24-4-1105. Deferred and early annuities.

3 (a) Any member or former member with sufficient years of actual
4 service to qualify for a vested termination annuity who has not attained
5 normal retirement age may retire with an early annuity provided in § 24-4-
6 510(a).

7 (b) In the event a member with five (5) years or more of actual
8 service in the Arkansas Public Employees' Retirement System ceases employment
9 as a covered member before reaching sixty-five (65) years of age or attaining
10 twenty-eight (28) years of service and does not withdraw his or her
11 accumulated employee contributions to the system, the member is entitled to
12 receive an annuity upon attainment of sixty-five (65) years of age and
13 submission of a retirement application to the system.

14 (c) If a former member has applied for a refund of contributions but
15 returns to employment with a participating public employer prior to the date
16 the refunded contributions are received, the request is void and employment
17 must be terminated again to request a refund of contributions.

18
19 24-4-1106. Benefits - Death of retirant.

20 (a) In the event a retirant receiving a straight life pension dies
21 before the retirant has received an aggregate amount of straight life pension
22 payments equal to the accumulated contributions credited in the retirant's
23 deposit account at the time of retirement, the difference between the
24 accumulated contributions and the aggregate amount of straight life pension
25 payments received by the retirant is paid to the named beneficiary.

26 (b) If no designated person survives the retirant, the difference, if
27 any, shall be paid in accordance with the laws of descent and distribution of
28 the State of Arkansas.

29 (c) The payments may be made directly to a curator, guardian,
30 administrator, or executor authorized to receive the payments with or without
31 the appointment of a representative in this state.

32 (d) No benefits will be paid under this section if survivor benefits
33 are otherwise payable to a named beneficiary.

34
35 24-4-1107. Redetermination of benefits.

36 (a) Each July 1 the Arkansas Public Employees' Retirement System shall

1 redetermine the amount of each monthly benefit that has been payable by the
2 system for at least twelve (12) calendar months. The redetermined amount is
3 payable for the following twelve (12) calendar months.

4 (b) The redetermined amount is the amount of the benefit payable as of
5 the immediately preceding July 1 increased by three percent (3%).

6
7 24-4-1108. Benefit provisions – Death in service.

8 (a)(1) If an active member or former member with less than five (5)
9 years of actual service dies while employed by a covered employer, the
10 member's accumulated contributions and interest are refundable to the named
11 beneficiary.

12 (2) If no designated person survives the member, the accumulated
13 contributions will be paid in accordance with the laws of descent and
14 distribution of the State of Arkansas.

15 (3) The payments may be made directly to a curator, guardian,
16 administrator, or executor authorized to receive the payments with or without
17 the appointment of a representative in this state.

18 (b) If an active member or former member with five (5) or more years
19 of actual service dies before retirement, the benefits under this section
20 will be paid upon written application to the Board of Trustees of the
21 Arkansas Public Employees' Retirement System as provided in § 24-4-608.

22
23 24-4-1109. Maximum benefit limitation.

24 (a) Benefits paid under this chapter shall not exceed the limitations
25 of Section 415 of the Internal Revenue Code that are applicable to
26 governmental retirement plans.

27 (b)(1) The Board of Trustees of the Arkansas Public Employees'
28 Retirement System is authorized to promulgate all rules necessary to
29 implement the limitations of Section 415 of the Internal Revenue Code.

30 (2) The rules adopted by the board under this section shall be
31 amended to reflect any changes in the content or application of Section 415
32 of the Internal Revenue Code enacted by Congress or promulgated by the
33 Internal Revenue Service.

34
35 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that for the effective

1 administration of this act and to avoid undue harm to the members and benefit
2 recipients of the Arkansas Public Employees' Retirement System that this act
3 should become effective on July 1, 2005. Therefore, an emergency is declared
4 to exist and this act being necessary for the preservation of the public
5 peace, health, and safety shall become effective on July 1, 2005.

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7 */s/ J. Jeffress*

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10 *APPROVED: 4/13/2005*
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