

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 385 of the Regular Session

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

As Engrossed: S2/15/05

A Bill

SENATE BILL 131

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

For An Act To Be Entitled

10 AN ACT TO CLARIFY STATUTES APPLICABLE TO THE
11 ARKANSAS TEACHER RETIREMENT SYSTEM; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14 AN ACT TO CLARIFY STATUTES APPLICABLE TO
15 THE ARKANSAS TEACHER RETIREMENT SYSTEM.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 24-7-305(d), concerning duties and
22 responsibilities of the Arkansas Teacher Retirement System, is amended to
23 read as follows:

24 (d)(1) The board shall annually, not later than April 1 of each year,
25 render a report to each employer showing the financial condition of the
26 system as of the preceding June 30.

27 (2) The report shall contain, but shall not be limited to:

28 (A) A financial balance sheet;

29 (B) A statement of income and disbursements;

30 (C) A detailed statement of investments acquired and
31 disposed of during the year, together with a detailed statement of the annual
32 rates of investment income from all assets and from each type of investment;

33 (D) An actuarial balance sheet prepared by means of the
34 last valuation of the system; and

35 (E) Such other data as the board shall deem necessary to



1 comply with § ~~24-3-104~~ 24-2-702.

2 (3) In addition to the distribution of the report provided by
3 this subsection, it shall also be distributed to the Legislative Council and
4 the Governor as provided by § ~~24-3-104~~ 24-2-702.

5

6 SECTION 2. Arkansas Code § 24-7-406 is amended to read as follows:

7 24-7-406. Retirement fund assets accounts - Members' deposit account -
8 Contributions.

9 (a)(1) The members' deposit account shall be the account in which
10 shall be accumulated at regular interest the members' contributions to the
11 Arkansas Teacher Retirement System and from which shall be paid refunds of
12 accumulated contributions and transfers as provided in this act. However,
13 employer contributions which are paid by an employee instead of an employer
14 shall be credited to the members' deposit account. Those contributions shall
15 be subject to refund under the same conditions that regular member
16 contributions are refundable.

17 (2) Upon a member's retirement, his or her accumulated
18 contributions standing to his or her credit in the members' deposit account
19 shall be transferred to the retirement reserve account.

20 (3) In the event survivor benefits become payable on account of
21 the death of a member, his or her accumulated contributions standing to his
22 or her credit in the members' deposit account shall be transferred to the
23 survivor benefit account.

24 (b)(1) Except as provided otherwise in this section, the contributions
25 of a member to the system shall be the amounts set forth in this subsection.

26 (2) Each member who first became a member July 1, 1971, or later
27 shall contribute to the system six percent (6%) of his or her salary.

28 (3) Member contributions before July 1, 1969, shall be in
29 accordance with provisions in force before July 1, 1969.

30 (4)(A) For each member who first became a member before July 1,
31 1971, member contributions for the period after June 30, 1969, shall be six
32 percent (6%) of the first seven thousand eight hundred dollars (\$7,800) of
33 his or her annual salary, unless he or she shall have elected, in accordance
34 with rules and regulations established by the Board of Trustees of the
35 Arkansas Teacher Retirement System, to contribute six percent (6%) of his or
36 her full salary for the period after June 30, 1969.

1 (B) If the election is made before July 1, 1984, the
2 member must contribute to the system the difference between full salary
3 member contributions and member contributions based on seven thousand eight
4 hundred dollars (\$7,800) annual covered salary retroactive to July 1, 1969,
5 or to the actual date of employment, whichever is later, plus ~~regular~~
6 interest from the dates the added contributions would normally have been
7 received by the system to the date of the actual added contributions.

8 (C) If the election is made July 1, 1984, or later, the
9 member must contribute to the system both the added member contributions and
10 the added employer contributions which would have been paid to the system had
11 the member's full salary always been covered, plus ~~regular~~ interest from the
12 dates the added contributions would normally have been received by the system
13 to the date of the actual added contributions.

14 (D) The ~~regular~~ interest and added employer contributions
15 shall be considered member contributions for purposes of the system. However,
16 any former active member who returns to covered employment on or after July
17 1, 1995, and who elects to make contributions to the system, shall contribute
18 on his or her full salary.

19 (5) Members who left covered employment before July 1, 1985, and
20 who had annual compensation of seven thousand eight hundred dollars (\$7,800)
21 or less shall have, upon their return to covered employment, full salary
22 considered for purposes of the system.

23 (6) Contributions shall be required on all salary earned in
24 covered employment during the fiscal year in which membership begins.

25 (c)(1)(A)(i) Each employer shall deduct the member contributions
26 provided for in this section from the salary of each member on each and every
27 payroll, for each and every payroll period, from the date of his or her
28 entrance into the system until he or she retires, and the employer shall
29 remit the contributions to the system.

30 (ii) Compensation in excess of the limitations set
31 forth in section 401(a)(17) of the Internal Revenue Code shall be
32 disregarded. The limitation on compensation for eligible employees shall not
33 be less than the amount which was allowed to be taken into account under the
34 system as in effect on July 1, 1993. For this purpose, an "eligible employee"
35 is an individual who was a member of the system before the first plan year
36 beginning after December 31, 1995.

1 (B) A member who is receiving remuneration under both a
2 regular contract and a purchased contract, or under both a regular contract
3 and a contract won through litigation, shall have only the greater of the two
4 (2) amounts considered as salary for the purposes of the system.

5 (C)(i) Should the employer fail at any time to report the
6 salary of a member and remit the contributions to the system, the system
7 shall have the right to collect from the employee and the employer the
8 contributions due, if any, from each, together with ~~regular~~ interest
9 beginning with the subsequent fiscal year.

10 (ii) In no case shall a member be given credit for
11 service rendered until any contributions and interest due from each are paid
12 in full.

13 (2) The member's contributions provided for in this section
14 shall be made notwithstanding that the minimum salary provided by law for any
15 member shall be thereby changed.

16 (3)(A) Each member shall be deemed to consent and agree to the
17 deductions made and provided for in this section.

18 (B) Payment of his or her salary less the deductions shall
19 be a full and complete discharge and acquittance of all claims and demands
20 whatsoever for the services rendered by the member during the period covered
21 by the payment, except as to benefits provided by the system.

22 (4) The members' contributions, so deducted from their salaries,
23 shall be remitted to the system in such manner and form and in such frequency
24 and shall be accompanied by such supporting data as the board shall prescribe
25 from time to time.

26 (d)(1) In addition to the contributions deducted from the salaries of
27 a member, as provided in this section, a member may deposit in the system, by
28 a single contribution or by an increased rate of contributions as approved by
29 the board, the amounts he or she may have received therefrom and not repaid
30 thereto, together with ~~regular~~ interest from the date of withdrawal to the
31 date of repayment.

32 (2) In no case shall a member be given credit for service
33 rendered prior to the date he or she received payments until he or she
34 returns to the system all amounts due from him or her.

35 (e)(1) A retirant may elect to make additional contributions to the
36 system in order to provide himself or herself with additional benefits if he

1 or she retired after June 30, 1970, and is still receiving a system annuity
2 and he or she had not contributed on his or her full salary for the period
3 after June 30, 1969.

4 (2) By written election made after June 1, 1981, the retirant
5 may contribute on his or her full salary in the same manner as provided in
6 subsection (b) of this section for members, but ~~regular~~ interest must be
7 added to the additional contributions for the period from the date the
8 relevant salary was paid to the date the contributions are received by the
9 system.

10 (3) When the contributions and interest are received, the
11 monthly annuity of the retirant shall be recalculated to be the annuity
12 amount which would be payable if the contributions had all been paid by the
13 effective date of retirement.

14 (4) The resulting increase in the monthly annuity shall be
15 effective for the calendar month after the date the payment of contributions
16 and interest is completed.

17 (f)(1)(A) Active members as of July 1, 1999, shall elect by written
18 election filed with the system in accordance with rules and regulations
19 adopted by the board to eliminate future member contributions or to make
20 member contributions, otherwise provided for in this section.

21 (B)(i) The election shall be irrevocable and shall be made
22 on or before July 1, 2000.

23 (ii) If no election is made, then the member's
24 status on June 30, 2000, shall be in effect and shall be irrevocable.

25 ~~(2)(A) Effective July 1, 2005, and each July 1 thereafter,~~
26 ~~active members who have previously elected to eliminate member contributions~~
27 ~~may make an irrevocable election to make future contributions to the~~
28 ~~retirement system.~~

29 ~~(B) If the election is made:~~

30 ~~(i) Prior to the preparation of the first salary~~
31 ~~payment to the member in the fiscal year, then the election will become~~
32 ~~effective immediately; or~~

33 ~~(ii) After the preparation of the first payroll~~
34 ~~containing the first salary payment to the member in the fiscal year, then~~
35 ~~the election shall be effective July 1 of the next fiscal year.~~

36 ~~(3)(2)(A) For a former an inactive member who enters the system~~

1 after June 30, 1999, the election shall be made within one (1) year of the
2 effective date the member is considered an active member.

3 (B)(i) The election shall be effective the earlier of:

4 (a) The preparation of the payroll containing
5 the first salary payment upon reentry; or

6 (b) The July 1 next following the date the
7 election is filed with the system.

8 (ii) If no election is made within one (1) year,
9 then the member's status prior to reentry will remain in effect.

10 ~~(4)~~(3)(A)(i) If the election is to eliminate member
11 contributions, then the election shall apply only to future member salaries
12 and shall not change the status of any member contributions made before the
13 election.

14 (ii) Beginning July 1, 1999, an active member who
15 has previously elected to eliminate member contributions may change credited
16 service on which no member contributions have been paid to member
17 contributions credited service by paying the additional member contributions
18 due plus interest from the dates the contributions would have been received
19 by the system to the date of the payment in full.

20 (B)(i) If the effect of the election is to require member
21 contributions, then the election shall apply only to future member salaries
22 and shall not change any member contribution requirements existing before the
23 election.

24 (ii) If a member has previously contributed on only
25 the first seven thousand eight hundred dollars (\$7,800) of his or her annual
26 salary, then he or she cannot contribute on full future salaries until he or
27 she has made added contributions on past full salaries as provided in
28 subsection (b) of this section.

29 ~~(5)~~(4)(A)(i) After July 1, 1999, all new members shall make the
30 member contributions otherwise provided for in this section. However, new
31 members who are under contract with a covered employer for one hundred eighty
32 (180) days or less shall have one (1) year to make an irrevocable election to
33 make member contributions.

34 (ii) Effective July 1, 2005, any active member whose
35 status later changes from nonteacher status to teacher status under contract
36 for one hundred eighty-one (181) days or more shall make the member

1 contributions otherwise provided for in this section regardless of an earlier
2 election to be noncontributory.

3 (B) New members who are not under contract with a covered
4 employer shall not make member contributions.

5 (5)(A) Effective July 1, 2005, and each July 1 thereafter,
6 active members who have previously elected to eliminate member contributions
7 may make an irrevocable election to make future contributions to the
8 retirement system.

9 (B)(i) If the election is made before the preparation of
10 the first salary payment to the member in the fiscal year, the election will
11 become effective immediately.

12 (ii) If the election is made after the preparation
13 of the first payroll containing the first salary payment to the member in the
14 fiscal year, the election shall become effective July 1 of the next fiscal
15 year.

16 (C) If the board determines that a member's contributions
17 may not be treated as employer contributions under the Internal Revenue Code
18 or the Income Tax Act of 1929, § 26-51-101 et seq., the board may exclude
19 such member's participation under subdivision (f)(5) of this section.

20 (g)(1) Employees who are eligible for membership in the system under §
21 24-7-202, who are or have been erroneously enrolled in the Arkansas Public
22 Employees' Retirement System, whose membership in that system is cancelled
23 and whose employee or employer contributions are refunded by that system
24 under §§ 24-2-301 - 24-2-305, shall make member contributions to the system
25 as provided in subdivision (b)(2) of this section.

26 (2) If such an employee becomes an active member of the
27 contributory plan of this system, he or she may establish contributory credit
28 for all or part of his or her service that is cancelled by the system by
29 paying both the employee and employer contributions required by this system
30 plus ~~regular~~ interest.

31 (h)(1)(A) Each employer shall pay the member contributions ~~required by~~
32 under this section from the salary earned by a member after June 30, 1997,
33 and those contributions shall then be treated as employer contributions in
34 determining tax treatment under the provisions of the Internal Revenue Code
35 and the Income Tax Act of 1929, § 26-51-101 et seq.

36 (B) If a member elects to purchase past service credits

1 under § 24-7-501(b), § 24-7-502(b)(5), § 24-7-610, § 24-7-611, or §§ 24-7-602
2 - 24-7-607 through payroll deductions, the employer shall pay the amount
3 required to purchase such past service credits from the employee's salary
4 earned after the employee signs an irrevocable payroll authorization
5 prescribed by the board, and those purchases shall then be treated as
6 employer contributions in determining tax treatment under the provisions of
7 the Internal Revenue Code and the Income Tax Act of 1929, § 26-51-101 et seq.

8 (2) Each employer shall continue to withhold federal and state
9 income taxes based upon those contributions as income of the member until the
10 federal Internal Revenue Service or the federal courts rule that, pursuant to
11 section 414(h) of the Internal Revenue Code, the contributions shall not be
12 included as gross income of the member until they are distributed or made
13 available to the member.

14 (3) The employer shall pay these member contributions from the
15 same source of funds used in paying the salary to the member. The employer
16 may pay these contributions by a reduction in the cash salary of the member,
17 by a setoff against future salary increases, or by a combination of a
18 reduction in salary and a setoff against future salary increases.

19 (4) If member contributions are paid by the employer as provided
20 under this subsection, they shall be treated for all purposes of the system
21 in the same manner and to the same extent possible as member contributions
22 made prior to the date the employer began payment of the member's
23 contributions hereunder.

24 (5) Whenever member contributions are required to be paid by the
25 employer under this subsection, the employee shall not have the option of
26 choosing to receive the contributed amounts directly instead of having them
27 paid by the employer.

28
29 SECTION 3. Arkansas Code § 24-7-603 is amended to read as follows:
30 24-7-603. Out-of-state service.

31 (a) As used in this section, "out-of-state service" means service
32 rendered in any state except Arkansas in a position which would have been
33 covered by the Arkansas Teacher Retirement System had the service been
34 rendered in the State of Arkansas.

35 (b) Out-of-state service ~~contracted for~~ purchased before July 1, 1987,
36 shall be credited as service under this section in accordance with provisions

1 in force before July 1, 1987.

2 (c) From and after July 1, 1987, an active member shall be eligible,
3 upon application, to purchase out-of-state service to be credited as service
4 under this subchapter in accordance with the following conditions:

5 (1) The out-of-state service credit to be granted shall be
6 limited to service for which no benefit could be paid by another system
7 similar in purpose to this system, except social security, if the member had
8 left on deposit his or her contributions to the other system. The credit
9 shall be limited to fifteen (15) years;

10 (2)(A)(i) The member shall pay to the system for each year of
11 service credit being granted:

12 (a) The product of the sum of the employee and
13 employer contribution rates in effect at the time of purchase multiplied by
14 the greater of:

15 (1) The annual salary received by the member for his or her
16 first full year of credited service that precedes the fiscal year in which
17 the service is purchased; or

18 (2) The average of the three (3) highest salaries earned at the
19 time of purchase; plus

20 (b) Interest from the end of that year of
21 credited service to the date of payment in full.

22 (ii) If the payment is not made in a single sum at
23 the time ~~the contract is made~~ of purchase, interest shall be added from the
24 date of the ~~contract~~ initial payment to the date of payment in full.

25 (B) The payment shall be credited to the member's account
26 in the members' deposit account and shall be in addition to regular member
27 contributions thereto;

28 (3) The out-of-state service shall not become credited service
29 under this system until:

30 (A) The member payments specified in subdivision (c)(2) of
31 this section have been paid in full; and

32 (B)(i) The member has established five (5) or more years
33 of actual service.

34 (ii) Should a member cease to be an active member
35 before the out-of-state service has been established as system-credited
36 service, the member payments contributed as specified in subdivision (c)(2)

1 of this section shall be refundable, together with regular interest thereon;

2 (4) The benefit program to be applied to each year of service
3 credit being granted shall be the benefit program in effect at the time of
4 retirement; and

5 (5) Such other rules and regulations consistent with this
6 subchapter as the Board of Trustees of the Arkansas Teacher Retirement System
7 may from time to time adopt.

8 (d) An active member may purchase a fraction of a year of out-of-state
9 service to be credited as service under this subchapter in the same manner as
10 provided for out-of-state service under subsection (c) of this section if the
11 service meets the following requirements:

12 (1) The member has not less than thirty (30) days of out-of-
13 state credited service in the fiscal year; and

14 (2) The fraction of a year of out-of-state service may be
15 credited in keeping with policies of the board as provided by § 24-7-601.

16 (e) An active member shall be eligible, upon application, to purchase
17 service rendered outside the state during a period of employment with an
18 education coordinating council to be credited as out-of-state service under
19 the provisions of this section, provided the conditions of subsection (c) of
20 this section are met.

21
22 SECTION 4. Arkansas Code § 24-7-607(b), concerning the purchase of
23 private school service credit, is amended to read as follows:

24 (b) From and after January 1, 1990, an active member shall be
25 eligible, upon application, to purchase private school service to be credited
26 as service under this subchapter in accordance with the following conditions:

27 (1) The private school service credit to be granted shall be
28 limited to service for which no benefit could be paid by another system
29 similar in purpose to the Arkansas Teacher Retirement System, except social
30 security, if the member left on deposit his or her contributions to the other
31 system, and it shall be limited to fifteen (15) years;

32 (2)(A) The member shall pay to the system for each year of
33 service credit being granted:

34 (i) The product of the sum of the employee and
35 employer contribution rates in effect at the time of purchase multiplied by
36 the greater of:

1 (a) The annual salary received by the member
2 for his or her first full year of credited service that precedes the fiscal
3 year in which the service is purchased; or

4 (b) The average of the three (3) highest
5 salaries earned at the time of purchase; plus

6 (ii) Interest from the end of that year of credited
7 service to the date of payment in full.

8 (B) If the payment is not made in a single sum at the time
9 ~~the contract is made~~ of purchase, interest shall be added from the date of
10 the ~~contract~~ initial payment to the date of payment in full.

11 (C) The payment shall be credited to the member's account
12 in the members' deposit account and shall be in addition to regular member
13 contributions thereto;

14 (3) The private school service shall not become credited service
15 under this system until:

16 (A) The member payments specified in subdivision (b)(2) of
17 this section have been paid in full; and

18 (B)(i) The member has established five (5) or more years
19 of actual service exclusive of private school service.

20 (ii) Should a member cease to be an active member
21 before the private school service has been established as system-credited
22 service, the member payments contributed as specified in subdivision (b)(2)
23 of this section shall be refundable, together with regular interest thereon;

24 (4) The benefit program to be applied to each year of service
25 credit being granted shall be the benefit program in effect at the time of
26 retirement; and

27 (5) Such other rules and regulations consistent with this
28 subchapter as the Board of Trustees of the Arkansas Teacher Retirement System
29 may from time to time adopt.

30
31 SECTION 5. Arkansas Code § 24-7-702(b), concerning early retirement
32 annuities, is amended to read as follows:

33 (b)(1) Upon an active or inactive member's retirement as provided in
34 this section, the member shall receive, in lieu of any other system benefit,
35 an early annuity which shall be a certain percent of an annuity provided for
36 in § 24-7-705.

1 (2) The percent shall be ~~the greater of:~~
2 ~~(A) One~~ one hundred percent (100%) reduced by five-
3 twelfths percent (5/12%) multiplied by the number of months by which the time
4 of early retirement precedes the earlier of either completion of twenty-eight
5 (28) years of credited service or attainment of age sixty (60), ~~or,~~

6 ~~(B) One hundred percent (100%) reduced by five twelfths~~
7 ~~percent (5/12%) multiplied by the number of months by which the time of early~~
8 ~~retirement precedes the attainment of age sixty (60).~~

9 (3)(A) Effective July 1, 1997, the annuities of those members
10 who chose early retirement when the years of service required for an
11 unreduced annuity was thirty-five (35) or more years shall be adjusted to
12 reflect the amount for which they would have been entitled had the number of
13 years to retire with an unreduced annuity been thirty (30) years on the
14 effective date of their retirement.

15 (B) The annuities of those members who chose early
16 retirement from July 1, 1995, through June 30, 1999, who received an early
17 annuity as provided in § 24-7-702 which was in effect at the time of their
18 retirement, shall be adjusted effective July 1, 1999, to reflect a percent of
19 the annuity as provided in ~~subdivisions~~ subdivision (b)(2)(A) ~~and (B)~~ of this
20 section.

21 (C) Effective July 1, 2001, the annuities of those members
22 who chose early retirement when the years of service required for an
23 unreduced annuity was thirty (30) or more years shall be adjusted to reflect
24 the amount for which they would have been entitled had the number of years to
25 retire with an unreduced annuity been twenty-eight (28) years on the
26 effective date of their retirement, and the annuities of those members shall
27 be adjusted effective July 1, 2001, to reflect a percent of the annuity as
28 provided in ~~subdivisions~~ subdivision (b)(2)(A) ~~and (B)~~ of this section which
29 was in effect July 1, 1999.

30 (4) The adjustments described in subdivision (b)(3) of this
31 section shall not be retroactive to the effective date of the member's
32 retirement.

33
34 SECTION 6. Arkansas Code § 24-7-704 is amended to read as follows:
35 24-7-704. Disability retirement.

36 (a)(1)(A) Except as provided under subdivision (a)(1)(B) of this

1 section, any member in employer service with five (5) or more years of actual
2 service who becomes totally and permanently ~~or~~ physically or mentally
3 incapacitated for his or her duty ~~as a teacher~~ as the result of a personal
4 injury or disease may be retired by the Board of Trustees of the Arkansas
5 Teacher Retirement System upon written application filed with the board by or
6 on behalf of the member.

7 (B)(i) An active member who has met the age and service requirement of
8 subdivision (a)(1)(A) of this section shall terminate covered employment to
9 be eligible for retirement benefits.

10 (ii) If a member returns to work in a position
11 covered by the Arkansas Teacher Retirement System within thirty (30) days of
12 the person's effective date of retirement, then the member shall not be
13 considered terminated from employment for retirement purposes and shall
14 forfeit retirement benefits until the termination requirements are met.

15 (C) The member may be retired only if after a medical
16 examination of the member made by or under the direction of the medical
17 committee the medical committee reports to the board by majority opinion in
18 writing that the member is physically or mentally totally incapacitated for
19 the further performance of duty, that the incapacity will probably be
20 permanent, and that the member should be retired.

21 (2) The disability retirement shall be effective the first day
22 of the calendar month next following the later of:

23 (A) The member's termination of active membership; or

24 (B) Six (6) months before the date the written application
25 is filed with the board.

26 (b) Upon disability retirement as provided in subsection (a) of this
27 section, a member shall receive an annuity provided for in § 24-7-705 and
28 shall have the right to elect an option provided for in § 24-7-706. His or
29 her disability retirement shall be subject to the provisions of subsections
30 (c) and (d) of this section and to the provisions of § 24-7-708.

31 (c)(1) At least once each year during the first five (5) years
32 following a member's retirement on account of disability, and at least once
33 in each three-year period thereafter, the board may require any disability
34 retirant who has not attained age sixty (60) to undergo a medical examination
35 to be made by or under the direction of the medical committee.

36 (2) If the retirant refuses to submit to the medical examination

1 in any period, his or her disability annuity may be suspended by the board
2 until his or her withdrawal of his or her refusal.

3 (3) If his or her refusal continues for one (1) year, all his or
4 her rights in and to a disability annuity may be revoked by the board.

5 (4) If, upon the medical examination of the retirant, the
6 medical committee reports to the board that the retirant is physically and
7 mentally able and capable of resuming his or her duty ~~as a teacher~~ in the
8 position held by him or her at the time of disability retirement, then his or
9 her disability retirement shall terminate.

10 (5) Upon a disability retirant's return to full-time ~~teaching~~
11 service as defined by rules and regulations determined by the board, his or
12 her disability retirement shall terminate.

13 (6) Upon a disability retirant's return to ~~teaching~~ service, he
14 or she shall immediately again become a member of the system, and his or her
15 credited service at the time of his or her disability retirement shall be
16 restored to his or her credit in the members' deposit account.

17 (7) In no event shall he or she be given service credit for the
18 period he or she was in receipt of the disability annuity.

19 (d) Should a disability retirant who has not attained age sixty (60)
20 be a full-time employee, as defined by rules and regulations determined by
21 the board, of a public employer whose employees are covered by a retirement
22 plan supported wholly or in part by state contributions, the retirant's
23 disability retirement and his or her accumulated contributions shall be
24 treated as if he or she had returned to ~~teaching~~ service, effective on the
25 date of the full-time employment.

26
27 SECTION 7. Arkansas Code § 24-7-706(a), concerning teacher retirement
28 annuity options, is amended to read as follows:

29 (a)(1) Before the date the first payment of his annuity becomes due,
30 but not thereafter, a member may elect to receive his annuity as a straight
31 life annuity, or he may elect to receive the actuarial equivalent, at that
32 time, of his straight life annuity in a reduced annuity payable throughout
33 his life.

34 (2) The member may nominate a beneficiary, in accordance with
35 the provisions of one (1) of the following options:

36 (A) Option A - 100% Survivor Annuity.

1 (i) Under Option A, upon the death of a retirant,
2 his reduced annuity shall be continued throughout the life of and paid to
3 such person as he shall have nominated by written designation duly executed
4 and filed with the board before the date the first payment of his annuity
5 becomes due.

6 (ii)(a) The person must be either his spouse for not
7 less than one (1) year immediately preceding the first payment due date, or
8 another person aged forty (40) or older receiving more than one-half (1/2)
9 support from the retirant for not less than one (1) year immediately
10 preceding the first payment due date.

11 (b) However, the age forty (40) requirement
12 shall not exclude the designation as beneficiary of a dependent child who has
13 been ruled physically or mentally ~~incompetent~~ incapacitated either by an
14 Arkansas court of competent jurisdiction or by the Board of Trustees of the
15 Arkansas Teacher Retirement System;

16 (B) Option B - 50% Survivor Annuity.

17 (i) Under Option B, upon the death of a retirant,
18 one-half (1/2) of his reduced annuity shall be continued throughout the life
19 of and paid to such person as he shall have nominated by written designation
20 duly executed and filed with the board before the date the first payment of
21 his annuity becomes due.

22 (ii)(a) The person must be either his spouse for not
23 less than one (1) year immediately preceding the first payment due date, or
24 another person aged forty (40) or older receiving more than one-half (1/2)
25 support from the retirant for not less than one (1) year immediately
26 preceding the first payment due date.

27 (b) However, the age forty (40) requirement
28 shall not exclude the designation as beneficiary of a dependent child who has
29 been ruled physically or mentally ~~incompetent~~ incapacitated either by an
30 Arkansas court of competent jurisdiction or by the board;

31 (C) Option C - Annuity for Ten (10) Years Certain and Life
32 Thereafter.

33 (i) Under Option C, a retirant shall receive a
34 reduced annuity payable throughout his life with the provision that if he
35 dies before he has received one hundred twenty (120) monthly annuity
36 payments, the payments will be continued for the remainder of the period of

1 one hundred twenty (120) months and paid to such persons in equal shares as
2 the retirant shall have nominated by written designation duly executed and
3 filed with the board.

4 (ii) If the designated beneficiaries predecease the
5 retirant, the retirant may nominate successor beneficiaries or may elect to
6 return to his single lifetime benefit equivalent by written designation duly
7 executed and filed with the board to be effective the month following receipt
8 of his election by the Arkansas Teacher Retirement System.

9 (iii) If no designated beneficiary survives him, the
10 annuity reserve for the remainder of the annuity payments shall be paid to
11 the retirant's estate.

12 (iv) If the last designated beneficiary receiving
13 annuity payments dies before all annuity payments are made, the annuity
14 reserve for the remainder of the annuity payments shall be paid to the
15 beneficiary's estate.

16 (v) Effective the month following completion of the
17 one-hundred-twenty-month period, the retirant's annuity shall return to his
18 single lifetime benefit equivalent.

19
20 SECTION 8. Arkansas Code § 24-7-710(c)(3), concerning the
21 classification of a child as a dependant for the purposes of serving as a
22 beneficiary of an annuity, is amended to read as follows:

23 (3)(A) A child shall be a dependent child until his or her
24 death, his or her marriage, or his or her attainment of age eighteen (18),
25 whichever comes first.

26 (B)(i) However, the age eighteen (18) maximum shall be
27 extended as long as the child continues uninterruptedly being a full-time
28 student at an accredited secondary school, college, or university, but in no
29 event beyond his or her attainment of age twenty-three (23).

30 (ii) The age eighteen (18) maximum shall also be
31 extended for any child who has been deemed physically or mentally ~~incompetent~~
32 incapacitated either by an Arkansas court of competent jurisdiction or by the
33 Board of Trustees of the Arkansas Teacher Retirement System, for as long as
34 the ~~incompetency~~ incapacity exists.

35
36 SECTION 9. Arkansas Code § 24-7-734 is amended to read as follows:

1 24-7-734. Lost payees.

2 (a)(1) Notwithstanding the provisions of this subchapter, each member
3 and each beneficiary of a deceased member shall file with the Board of
4 Trustees of the Arkansas Teacher Retirement System from time to time in
5 writing the post office address and each change of post office address of the
6 member or beneficiary.

7 (2) Any communication addressed to a member or beneficiary at
8 the last address filed with the board, or if no address has been filed, then
9 at the last address as indicated on the records of the employer of the member
10 or beneficiary, shall be binding on the member or beneficiary for all
11 purposes of the Arkansas Teacher Retirement System, and neither the board nor
12 the system shall be obligated to search for or ascertain the whereabouts of
13 any member or beneficiary.

14 (b)(1) If the board is unable within five (5) years after payment of a
15 benefit is due to a member or beneficiary to make the payment because it
16 cannot ascertain the whereabouts of the member or the identity and
17 whereabouts of the beneficiary or personal representative by mailing to the
18 last known address shown on the board's records, and neither the member, the
19 beneficiary, or personal representative has made written claim therefor
20 before the expiration of the five (5) years, then, and in each case, the
21 board shall direct that the amount shall be forfeited to the trust assets of
22 the Arkansas Teacher Retirement System.

23 (2) However, the amount shall be reinstated if the member or
24 beneficiary or personal representative makes a valid claim therefor upon
25 presentation of proper identification.

26 (c) If a provision of this section conflicts with a provision of the
27 Arkansas Disclaimer of Property Interests Act, § 18-28-201 et. seq., the
28 provision of this section supersedes the conflicting provision of the
29 Arkansas Disclaimer of Property Interests Act, § 18-28-201 et seq.

30
31 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the
32 General Assembly of the State of Arkansas that the Arkansas Teacher
33 Retirement System law must be changed and refined periodically to clarify
34 existing administrative practices within the system; that clarifying
35 incorrect references and language in current law consumes a considerable
36 amount of administrative time and effort; that the law needs to be clarified

1 to reduce the cost and effort of responding to those inconsistencies; and
2 that the most effective time to make changes to the retirement system is at
3 the beginning of the state's fiscal year. Therefore, an emergency is
4 declared to exist and this act being immediately necessary for the
5 preservation of the public peace, health, and safety shall become effective
6 on July 1, 2005.

7 /s/ J. Jeffress

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10 APPROVED: 2/24/2005
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