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ATRS Rule 6

MEMBERSHIP RULES

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LEGISLATIVE RESEARCH

A.C.A. §§ 24-2-202, 24-2-401 — 24-2-408, 24-7-202, 24-7-406,
24-7-501, 24-7-502, 24-7-1601 — 24-7-1607

I. Definitions

A. "Administrator" shall mean a public school superintendent, assistant superintendent, principal, or vice-principal; a higher education president, chancellor or director; or a community college, vocational/technical or educational cooperative director, president, or vice president, who is employed by a participating employer; OR any employee of an education related agency participating in ATRS that is ~~an active member~~ employed in a position grade GS13 or above or its equivalent.

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B. "Alternate Retirement Plans" refers to the retirement plan(s) of a public college or university, or the ~~Division~~ of Higher Education provided for under A.C.A. § 24-7-801 et seq., or for a vocational-technical school or the Department of ~~Career~~ Education (formerly the Division of Vocational and Technical Education) provided for under A.C.A. § 24-7-901 et seq.

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C. "Contributory service" is service on which a member makes or made member contributions to ATRS.

D. A "contributory election" is a written election by a member to make member contributions to ATRS. To be valid, an election must be on an election form provided by ATRS and signed by both the member and the employer.

E. "Noncontributory service" is service on which a member does not make member contributions to the ATRS and accepts a reduced retirement annuity for the years of service for which the member does not contribute.

F. "Nonteacher" means any member that is not a teacher or administrator.

G. "Organization" means (i) any private entity providing services for a public school district and whose employees were formerly employed by the school district and had been members of ATRS, and (ii) any educational nonprofit corporation licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services.

H. "Preceding System" is a previous reciprocal retirement system of record as defined ~~below~~.

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I. "Reciprocal System" means ATRS operations as of June 30, 1957, and

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continued by statutes; the Arkansas State Highway Employees' Retirement System, established by A.C.A. § 24-5-103; the Arkansas Public Employees' Retirement System established by A.C.A. § 24-4-103; the Arkansas State Police Retirement System established by A.C.A. § 24-6-203; the Arkansas Judicial Retirement System established by A.C.A. § 24-8-201; the Arkansas District Judge Retirement System established by A.C.A. §§ 24-8-801--824; the Arkansas Local Police and Fire Retirement System provided for under A.C.A. § 24-10-101; or an alternate retirement plan for a public college or university, or the Arkansas ~~Division~~ of Higher Education provided for under A.C.A. § 24-7-801 *et seq.*, or for a vocational-technical school or the Department of ~~Career~~ Education (formerly the Division of Vocational and Technical Education) provided for under A.C.A. § 24-7-901 *et seq.* and agencies that may be assigned the duties under the agencies listed above through a state reorganization or transformation plan.

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J. "State Employer" means the public employer whose employees are covered under ATRS, the Arkansas State Highway Employees' Retirement System (A.C.A. § 24-5-103), the Arkansas Public Employees' Retirement System (A.C.A. § 24-4-103), the Arkansas State Police Retirement System (A.C.A. § 24-6-203), the Arkansas Judicial Retirement System (A.C.A. § 24-8-201), or the Arkansas District Judge Retirement System (A.C.A. §§ 24-8-801—824). "State employer" also includes a public employer that is a college, university, or the Arkansas ~~Division~~ of Higher Education (A.C.A. § 24-7-801 *et seq.*), or a vocational-technical school or the Department of ~~Career~~ Education (formerly the Division of Vocational and Technical Education (A.C.A. § 24-7-901 *et seq.*) and agencies that may be assigned the duties under the agencies listed above through a state reorganization or transformation plan.

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K. "Succeeding System" is the current reciprocal retirement system of record, following membership in a retirement system covered above.

L. "Teacher" means any person employed by a school for the purpose of giving instructions and whose employment requires state licensure.

II. Membership Rules

A. Effective July 1, 2001, those employees whose nonteaching service began before July 1, 1989, and whose nonteaching service is covered or coverable by the Arkansas Public Employees Retirement System may elect to be covered by the ATRS. The elections shall be made prior to May 31 on a form provided by ATRS and shall be effective the following July 1 as provided by A.C.A. § 24-7-501(a)(2)(C).

B. Employees who are eligible for membership in ATRS are ineligible for

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membership in another state retirement system while employed in a position covered by ATRS, excluding service in the Arkansas General Assembly.

- C. The ATRS Executive Director shall monitor, from time to time, employers that participate in ATRS to ensure that only employers that meet both the federal and state requirements for participation and continued participation remain employers in ATRS. If the Executive Director determines that an employer no longer meets the requirements for continued participation in ATRS, the Executive Director shall notify the Board of Trustees to allow appropriate review and action by the Board.

III. Contributory/Noncontributory Service Rules

- A. *A contributory member may not elect to become a non-contributory member.*
- B. *Whether or not a member is considered contributory or non-contributory depends upon the year the member entered the system.*
- C. All service rendered before July 1, 1986, is contributory service.
- D. All new members under contract for 181 or more days will make member contributions to ATRS.
- E. New members under contract for 180 days or less:
1. Until June 30, 2007, all new members under contract for 180 days or less will have one (1) year from their hire date to make an irrevocable election to make member contributions.
 2. Effective July 1, 2007, all new members under contract for 180 days or less may elect to become contributory members.
- F. Change from nonteacher to teacher under contract for 181 days or more:
1. Effective July 1, 2005, any active member whose status later changes from nonteacher status to teacher status under contract for 181 days or more shall make the member contributions regardless of an earlier election to be noncontributory.
 2. If the change of status from nonteacher to teacher occurs during a year in which service has already been reported as noncontributory, and the member is under contract for 181 days or more, the change to contributory will occur beginning with the next fiscal year.
- G. New members not under contract:
1. Until June 30, 2007, new members who are not under contract will not make member contributions.

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2. Effective July 1, 2007, all new members who are not under contract may elect to become contributory members.

H. Contributory member election:

1. Until June 30, 2007, active members who have previously elected to be noncontributory may make an irrevocable election to become contributory members.
2. Effective July 1, 2007, any noncontributory member may elect to become a contributory member.
 - a. If the election is made before the preparation of the first salary payment to the member in the fiscal year, the election will become effective immediately. If the election is after the preparation of the first payroll containing the first salary payment to the member in the fiscal year, the election shall become effective July 1 of the next fiscal year.
 - b. Any member's election to become contributory is irrevocable. All service rendered after the election is filed with ATRS shall be contributory.
 - c. All active members, as of July 1, 1999, were required to make an irrevocable election to be contributory or noncontributory on or before June 30, 2000. An election to become contributory remains in effect for the remainder of the member's career. If no election was made by June 30, 2000, the member remained in the plan he/she was in as of that date.

I. Noncontributory inactive members or noncontributory rescinding retirees who reenter ATRS after June 30, 2007, may elect to become contributory members. If no election is made, the member will be enrolled in the plan that he/she was in prior to reentry.

J. Employees of state agencies:

1. Full-time employees of state agencies covered by ATRS shall be contributory.
2. Part-time employees of state agencies covered by ATRS shall be noncontributory. Effective July 1, 2007, part-time employees of state agencies covered by ATRS may elect to become contributory.

K. Inactive members who had been contributory on a maximum salary of \$7,800.00, return to work on or after July 1, 1995, and elect to become contributory will make contributions on their full salary.

L. If a member enters ATRS and is reported incorrectly by the employer for

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the first year as a noncontributory member, ATRS will accept the member the first year as a noncontributory member. ATRS shall notify the employer of the member's contributory status. Effective the next July 1, the member shall make member contributions to ATRS.

M. If an inactive member returns to covered employment as an active member after July 1, 1999, and is reported incorrectly by the employer as a noncontributory member for the first year, ATRS will accept the member the first year as a noncontributory member. ATRS shall notify the employer of the member's contributory status. Effective the next July 1, the member shall make member contributions to ATRS.

IV. Erroneous Membership Rules

A. Employees erroneously enrolled in a state retirement system on or after January 1, 1979, may elect to remain a member of the system of record or may become a member of the eligible retirement system.

B. After July 1, 1979, ATRS will make no further effort to correct the retirement system membership of persons who were erroneously enrolled in another state retirement system before January 1, 1979. ATRS will not accept as members persons who were erroneously enrolled in another state retirement system before January 1, 1979, unless that person's contributions were refunded prior to July 1, 1979.

C. If an employee was erroneously enrolled in the ATRS before January 1, 1979, and if his/her contributions were not refunded prior to July 1, 1979, the employee shall continue to be a member of ATRS. The member shall receive service credit for all paid membership service in ATRS and any free service creditable under Act 427 of 1973 as amended. He shall also be entitled to reciprocal service credit as provided by § 24-7-401 through 408.

D. If ATRS discovers that an employee became erroneously enrolled in a state retirement system on or after January 1, 1979, ATRS will notify both the employer and employee that the membership is erroneous and that it may be corrected as prescribed by Act 13 of 1991.

E. If a person who is employed before July 1, 1989, as a school janitor, bus driver, or cafeteria worker is enrolled in the Arkansas Public Employees Retirement System under the provision of Act 63 of 1965, and later is promoted to a position of school maintenance worker or supervisor, bus mechanic or transportation supervisor, or cafeteria manager, respectively, the employee shall continue to be a member of the Arkansas Public Employees Retirement System as long as they are employed in one of these respective capacities.

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F. If ATRS discovers that an employee became erroneously enrolled in a state retirement system on and after January 1, 1979, ATRS will notify both the employer and employee that the membership is erroneous and that it should be corrected as prescribed by A.C.A. § 24-2-302 et seq.

V. Summary of Reciprocal Service

If a member leaves state employment and their position is covered by any of the retirement systems listed above and enters the employ of another state employer whose position is covered by any of these retirement systems, the member shall be entitled to a deferred annuity according to A.C.A. § 24-2-401 et seq.

A. Age and Service Retirement with Reciprocal Service Credit

1. If ATRS is the preceding system, the member's annuity begins the first day of the month following the month the application was filed or after attainment of age 60 years, whichever is later. However, should the member have combined service of at least 25 years, the age limitation shall not apply. The deferred annuity shall not begin prior to the date of leaving the employ of the last state employer unless the member reaches age 65.
2. If ATRS is the preceding system, the member is eligible to apply for benefits without leaving the employ of the last state employer upon reaching age 65. The member's annuity will begin the first day of the month following the month the application was filed or after attainment of age 65, whichever is later. Only service credited and salaries earned prior to the ATRS effective date of benefits will be used in the ATRS benefit calculation.

B. Disability Retirement with Reciprocal Service Credit

1. A member is eligible to apply for disability benefits under A.C.A. § 24-2-405 from each reciprocal system in which the member has credited service according to rules for eligibility promulgated by that system.
2. The member's annuity for disability retirement payable by the preceding reciprocal system shall begin the first day of the month following the month the application was filed with the preceding system, but not prior to the date of leaving the employ of the last state employer.

VI. Reciprocal Service Rules

A. A member who leaves a position covered by the Teacher Retirement System, becomes employed by a reciprocal system, and files a reciprocal service agreement becomes an inactive member and may become eligible

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for the benefit formula in effect at the time of retirement.

B.

1. Benefits will not be paid under reciprocity from ATRS as the preceding system until the member has ceased to be in the employ of a state employer unless the member reaches age 65.
2. If ATRS is the preceding system, the member is eligible to apply for benefits without leaving the employ of the last state employer upon reaching age 65. The member's annuity will begin the first day of the month following the month the application was filed or after attainment of age 65, whichever is later. Only service credited and salaries earned prior to the ATRS effective date of benefits will be used in the ATRS benefit calculation.

C. Benefits will not be paid to a member under reciprocity from ATRS as the preceding system earlier than age 60 unless the member has 25 or more years of combined service.

D. No minimum benefits apply under Act 488 of 1965 [A.C.A. § 24-2-402(5)(E)], as amended, for reciprocal service unless the member has five (5) or more years of credited service in ATRS.

E. If survivor benefits are payable by more than one reciprocal system to eligible survivors of a deceased member, the survivors shall not receive more, as a percentage of the deceased member's final pay or as a minimum dollar amount than the largest amount payable by a single reciprocal system. ATRS will prorate minimum benefits payable with other reciprocal systems that have a minimum benefit provision in their plans. Each reciprocal system shall pay a proportionate share of the minimum amount based on the ratio of service in that system to the total service in all reciprocal systems. If the reciprocal system is an alternate retirement plan, survivor benefits shall be contingent upon provisions of that benefit having been provided by the alternate retirement plan and having been selected by the member as a benefit. [A.C.A § 24-2-402 (5)]

F. If an employee of the Department of Human Services who becomes a member of the Public Employees Retirement System under the provisions of Act 793 of 1977, as amended, leaves employment with the Department of Human Services and becomes employed in another position covered by ATRS, the benefits for service, both before and after any service under Act 793, shall be subject to the benefit provisions of the Teacher Retirement law. Such member shall be eligible to establish reciprocity under the provisions of Act 488 of 1965 as amended.

G. If an ATRS member has service credited during the same fiscal year with

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another reciprocal system and the combined service is greater than one year of service credit, ATRS will credit service as follows:

1. If credit by the reciprocal system is less than three (3) months, ATRS will credit service for one (1.00) year.
2. If credit by the reciprocal system is three (3) or more months but less than six (6) months, ATRS will credit service for three-fourths (3/4) year.
3. If credit by the reciprocal system is six (6) or more months but less than nine (9) months, ATRS will credit service for one-half (1/2) year.
4. If credit by the reciprocal system is for nine (9) months but less than twelve (12) months, ATRS will credit service for one-fourth (1/4) year.

H. While participating in a reciprocal system, back contributions, additional contributions, and repayment of refund payments made to ATRS shall be made according to payment methods contained in Rule 8 - Purchase Payment Rules, except employer pick-up is prohibited while working for a noncovered ATRS employer.¹

I. A member may elect to waive all or part of concurrent service credited to the member in ATRS and have the waived concurrent service credited under a reciprocal system by submitting their intention to ATRS on an ATRS approved form (A.C.A. § 24-7-601 (g)).

VII. Privatized Employers and Nonprofit Corporations Rules

A.C.A. § 24-2-202()(18)(E)-(F) allows the employees of certain privatized employers performing services for public school districts and certain educational nonprofit corporations to become members of ATRS.

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A. Effective July 1, 1997, under certain conditions, membership in ATRS shall include employment in an enterprise privatized by a public school district. If a public school district should privatize any of its services, any individual who is or was employed by the school district in one of those services and who is or has been a member of ATRS may elect to remain a member, provided the Board of Trustees determines by adopting rules that participation of these employees in ATRS will not in any way impair any legal status of ATRS, including, but not limited to, its status as a governmental plan, pursuant to the federal Internal Revenue Code and ERISA, or its tax-qualified status under the Internal Revenue Code; will not subject the plan to additional federal requirements and will not have a substantial adverse impact on the actuarial soundness of ATRS. In addition, the private provider must assume all responsibility for the required employer contributions and any fees for obtaining IRS rulings or

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ERISA opinions.

B. Effective July 1, 1997, under certain conditions, membership in ATRS shall include employment in positions with educational nonprofit corporations licensed and regulated by the *Division of Developmental Disabilities Services of the Department of Human Services*, provided the nonprofit corporation has elected to participate in ATRS, and the Board of Trustees determines by adopting rules that participation of these employees in ATRS will not in any way impair any legal status of ATRS, including, but not limited to, its status as a governmental plan, pursuant to the Internal Revenue Code and the Employee Retirement Income Security Act of 1974, or its tax-qualified status under the Internal Revenue Code; will not subject the plan to additional federal requirements; and will not have a substantial adverse impact on the actuarial soundness of ATRS. Such employment shall be related to the training of public school employees or school board members, teaching public school students, or in adult education programs. The employment shall not be related in any manner to private schools. Each educational nonprofit corporation shall be approved according to rules established by the Board of Trustees to be considered an employer, and such nonprofit corporation assumes all responsibility for the required employer contributions and any fees for obtaining IRS rulings or ERISA opinions.

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C. Application for Membership.

Any organization that desires its employees to become members of ATRS shall make written application to the Executive Director of ATRS, specifying the proposed effective date for such participation.

D. Information Provided to ATRS.

Each application for membership shall contain the following information and materials:

1. A certified copy of the Articles of Incorporation, Bylaws, and other organizational documents of the organization;
2. A copy of the most recent three (3) years' annual financial statements, including balance sheet, financial statements, and statement of cash flows, or if such organization does not have audited financial statements, the year-end compilation reports or internal balance sheet and income statements for the organization;
3. A copy of the most recent three (3) years' federal and state income tax returns;
4. A description of the sources of funding of the organization, including the percentage of such funds provided by federal or state government

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and the type of such government funds;

5. A description of how the board of directors or board of trustees is selected, and whether any governmental agency has input in the selection of board members;
6. A description of the types of persons served by the organization, and which government agency or agencies would be responsible for providing such services if the organization did not do so.

E. Tax Ruling.

After counsel for ATRS has reviewed the above information provided to ATRS, such counsel shall determine whether a ruling should be requested from the Internal Revenue Service that the participation of the employees of the organization will not jeopardize the status of ATRS as a "governmental plan." If counsel determines that such a ruling should be requested, the organization shall provide any additional information and statements requested by counsel in connection with such ruling request.

F. Fees.

If counsel for ATRS determines that a ruling should be requested, the organization shall pay to ATRS not less than the sum of \$3,000.00 or the actual cost for the fees and costs associated with such ruling request.

VIII. Confidentiality of Member Accounts

- A. In compliance with the ATRS Code of Ethics, ATRS shall keep all members' salary, employment history, retirement account, and other personal data or information compiled by ATRS for purposes of establishing and maintaining a member's retirement account confidential. Such information shall not be disclosed to any third party without the express written consent of the member or other valid legal process.
- B. Individual member's records which are kept for the purpose of compiling information for the member's retirement or social security records shall not be open to the public under A.C.A. § 24-4-1003.

IX. College Plan Rules

- A. Generally, an ATRS member who became employed by a non-mandatory employer prior to July 1, 2011, may continue to participate in ATRS instead of an alternative program offered by the non-mandatory employer if the ATRS member continues providing consistent service to the non-mandatory employer. For new employees after July 1, 2011, participation is governed by A.C.A. § 24-7-1601 et seq.
- B. A post-secondary or higher education employer may elect to offer ATRS

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participation to its employees by fulfilling the requirements under A.C.A. § 24-7-1605.

- C. If an eligible non-mandatory employer college elects to offer ATRS participation to its employees, then the employer must regularly report information to ATRS on forms developed by ATRS as allowed by ATRS law. In addition to standard ATRS reporting forms, a post-secondary or higher education employer shall provide supplemental reports on any form approved and adopted by the ATRS Board as a required form.

1 From July 1, 1991, until December 31, 1991, an active member of the Arkansas Public Employees Retirement System who was an active member of ATRS prior to January 1, 1978, and who became a member of the Arkansas Public Employees Retirement System within thirty (30) days of departure from ATRS may establish reciprocity between the two systems and purchase out-of-state service rendered prior to January 1, 1978, in accordance with the provisions and conditions contained in A.C.A § 24-7-601 and § 24-7-603. Effective July 1, 1993, for a ninety (90) day period, employees of the Arkansas Rehabilitation Services may transfer from the Arkansas Public Employees Retirement System to ATRS under Act 574 of 1993. Any employee making the change will establish reciprocity between the two systems, and Act 793 of 1977 shall no longer apply.

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Contributory/Non-Contributory Service Chart by Year of Entry into System (Elections and Re-entry may affect Individual Member Service Status)

All Members

<u>1937 -</u> <u>1986</u>	<u>All Members</u>	<u>Contributory</u>
<u>1986-</u> <u>1991</u>	<u>All Members</u>	<u>Contributory unless elect Non-Contributory</u>
<u>1991-</u> <u>1999</u>	<u>All Members</u>	<u>Non-contributory unless elect Contributory</u>

School District Employees

<u>1999-</u> <u>2007</u>	<u>Active</u>	<u>One time election to be Contributory or Non-Contributory, no election made by 7/1/2000, status on 6/30/2000</u>
-	<u>Inactive</u>	<u>One time election to be Contributory or Non-Contributory upon reentering system, no election then status</u>
-	<u>New</u>	<u>Contract 181 days or more - Contributory</u>
-		<u>Contract 180 days or less - Non-Contributory, may elect Contributory, election must be made one year from hire date</u>
-	-	<u>No contract, member must be non-contributory</u>
<u>2005 -</u>	<u>Non-teacher to Teacher or Administrator</u>	<u>Contract 181 days or more - Contributory. If position change happens during the year, election is effective first of next fiscal year</u>
-	-	<u>All Non-Contributory members may elect to be Contributory</u>
<u>2007 -</u>	<u>All Members</u>	<u>May elect Contributory</u>
-	<u>New</u>	<u>Contract 181 days or more - Contributory</u>
-		<u>Contract 180 days or less - Non-Contributory, may elect Contributory</u>
-		<u>No contract - Non-Contributory, may elect Contributory</u>
-	<u>Inactive</u>	<u>May elect Contributory</u>

State Agency Employees

<u>1999 -</u> <u>2007</u>	<u>Full-Time Employment</u>	<u>Must be Contributory</u>
-	<u>Part-Time Employment</u>	<u>Must be Non-Contributory</u>
<u>2007 -</u>	<u>Full-Time Employment</u>	<u>Must be Contributory</u>
-	<u>Part-Time Employment</u>	<u>Non-Contributory, may elect to be Contributory</u>

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Once you are a contributory member of ATRS, your contributory status is irrevocable.

If election to be contributory is made before the preparation of the first salary payment to the member in the fiscal year, the election will become effective immediately. If the election is after the preparation of the first payroll containing the first salary payment to the member in the fiscal year, the election shall become effective July 1 of the next fiscal year.

If a member enters ATRS and is reported incorrectly by an employer for the first year, ATRS will accept the election reported by the employer the first year. ATRS shall notify the employer of the member's correct status. Effective the next July 1, the member shall be reported with the correct status.

Inactive members who had been contributory on a maximum salary of \$7,800.00, return to work on or after July 1, 1995, and elect to become contributory will make contributions on their full salary.

State of Arkansas

As Engrossed: S2/14/19

92nd General Assembly

A Bill

Regular Session, 2019

SENATE BILL 222

By: Senator E. Cheatham

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING MEMBER
CONTRIBUTIONS UNDER THE ARKANSAS TEACHER RETIREMENT
SYSTEM; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING MEMBER
CONTRIBUTIONS UNDER THE ARKANSAS TEACHER
RETIREMENT SYSTEM; AND TO DECLARE AN
EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative history, findings, and intent.

(a) The General Assembly finds that:

(1) Member contributions as a portion of the salary of an individual employed by a school or an educational institution has been a historical component of the Arkansas Teacher Retirement System since 1937;

(2) Acts 1937, No. 266 created the Arkansas Teacher Retirement System to manage contributions made by teachers to the retirement system in order to ensure that every teacher receives an annuity upon his or her retirement;

(3) The Arkansas Teacher Retirement System Act originally required a teacher to contribute four percent (4%) of his or her salary to fund the investment of the retirement system in the retirement of the teacher;

(4) When the Arkansas Teacher Retirement System Act was first



1 enacted, every teacher:

2 (A) Had to contribute to the retirement system; and

3 (B) Was enrolled as a contributory member of the
4 retirement system;

5 (5) Throughout the eighty-one (81) year history of the
6 retirement system, the law has been amended multiple times to either allow a
7 member to opt-in or opt-out of his or her contributory or noncontributory
8 status in the retirement system as follows:

9 (A) From the time the Arkansas Teacher Retirement System
10 Act was first enacted until 1986, the provisions of the act did not provide
11 an option for a member to become a noncontributory member that was consistent
12 with the design of the retirement system;

13 (B) Acts 1985, No. 504 allowed a new member of the
14 retirement system to elect whether he or she would participate as a
15 contributory or noncontributory member of the retirement system, and if the
16 member did not make an election, the member was enrolled as a contributory
17 member of the retirement system;

18 (C) Amendments to the Arkansas Teacher Retirement System
19 Act that occurred between 1986 and 1991 added new categories of employees
20 from various state agencies or eligibility requirements that affected the
21 reporting or classifications of the employees;

22 (D) Acts 1989, No. 821 allowed a member of the retirement
23 system to make a one-time additional election to become a contributory or
24 noncontributory member of the retirement system;

25 (E) Effective July 1, 1991, a new member of the retirement
26 system was enrolled as a noncontributory member of the retirement system and
27 could elect to become a contributory member of the retirement system.

28 (F) Additionally, effective July 1, 1991, if a member
29 became an inactive member who later returned to the retirement system, the
30 member was enrolled as a noncontributory member of the retirement system with
31 the option of electing to become a contributory member of the retirement
32 system;

33 (G) Similar to Acts 1985, No. 504, Acts 1991, No. 14
34 allowed new and returning members to the retirement system to be enrolled as
35 noncontributory members of the retirement system with the option of electing
36 to become a contributory member of the retirement system;

1 (H) Acts 1993, No. 435, effective July 1, 1993, allowed a
2 member to annually change his or her status from a:

3 (i) Contributory to noncontributory member of the
4 retirement system; or

5 (ii) Noncontributory to contributory member of the
6 retirement system;

7 (I) Acts 1995, No. 332 added more state agency employees
8 to the retirement system while Acts 1995, No. 542 changed the amount of
9 service an employee was required to have before he or she could become an
10 active member of the retirement system;

11 (J) Acts 1997, No. 393 amended the annual election window
12 of a member to be effective for July 1 of the year of the election if the
13 member made the election before October of that same year;

14 (K) Acts 1999, No. 81, effective July 1, 1999, eliminated
15 the noncontributory option for a new member and allowed a current member a
16 one-time irrevocable option to become either a contributory or
17 noncontributory member of the retirement system;

18 (L) Acts 1999, No. 81 set a different requirement for an
19 election to become either a contributory or noncontributory member of the
20 retirement system that was based on the status of the member as an active,
21 inactive, or new member of the retirement system;

22 (M) Acts 1999, No. 907 repealed Acts 1999, No. 81 and
23 allowed certain members to retain the option to elect either contributory or
24 noncontributory status in the retirement system;

25 (N) The Arkansas Teacher Retirement System notified the
26 members of the retirement system of the election permitted under Acts 1999,
27 No. 907, and allowed a member with service credit as of June 30, 1998 to make
28 a final election to become a contributory or noncontributory member of the
29 retirement system by June 30, 2000;

30 (O) Acts 2003, No. 23 allowed an active member who
31 previously elected a noncontributory status to make an irrevocable election
32 to become a contributory member of the retirement system;

33 (P) Additionally, Acts 2003, No. 23 required the length of
34 a contract between a member and school to determine the:

35 (i) Status of a member as a contributory or
36 noncontributory member of the retirement system; and

1 (ii) Right of a member to elect a contributory or
2 noncontributory status in the retirement system;

3 (Q) Acts 2003, No. 23 permitted a member who transferred
4 from employment as a nonteacher to employment as a teacher with a contract of
5 one hundred eighty-one (181) days or more to become a contributory member of
6 the retirement system regardless of a previous election made by the member;

7 (R) Effective July 1, 2005, Acts 2005, No. 385 provided an
8 active member who previously elected to become a noncontributory member of
9 the retirement system with the option of irrevocably electing to become a
10 contributory member of the retirement system; and

11 (S) Effective July 1, 2007, Acts 2007, No. 93 provided a
12 member with an option to elect to be a contributory member depending on
13 whether the member was:

14 (i) An active, non-contributory member of the
15 retirement system;

16 (ii) An inactive member or a rescinding retiree
17 reentering the retirement system; or

18 (iii) A new member of the retirement system under
19 contract for one hundred eighty (180) days or less;

20 (6) The right of a member to elect a contributory or
21 noncontributory status in the retirement system has not been amended since
22 the passage of Acts 2007, No. 93;

23 (7) Myriad legislative amendments have continuously changed the
24 ability of a member of the retirement system to become a revocable or
25 irrevocable contributory or noncontributory member of the retirement system;

26 (8) The classification of a member as an active, an inactive, or
27 a new member of the retirement system affects the right of a member to elect
28 a contributory or noncontributory status in the retirement system;

29 (9) The incorporation of the various legislative amendments into
30 the Arkansas Code has created challenging subsections and subdivisions of the
31 law through which the retirement system must determine the status of a member
32 based on when the member first:

33 (A) Enrolled in the retirement system;

34 (B) Returned to the retirement system; or

35 (C) Elected a different status in the retirement system;

36 (10) The election of a contributory or noncontributory status in

1 the retirement system affects the retirement benefit calculation for a
2 member;

3 (11) A restructuring of § 24-7-406(e) concerning the
4 contributory or noncontributory status of a member of the retirement system
5 is intended to retain existing law without impairing, broadening, or changing
6 the applicability of § 24-7-406(e) to the current status of a member;

7 (12) The purpose of the amendment to § 24-7-406(e) is to
8 simplify the current language and application of the statute to the current
9 contributory or noncontributory status of a member of the retirement system,
10 so that the retirement system may correctly and efficiently manage records
11 pertaining to a member; and

12 (13) Therefore, a restructuring of § 24-7-406(e) is necessary
13 to:

14 (A) Accurately and logically organize the language of the
15 statute in order to prevent ambiguity of the law and allow the Arkansas
16 Teacher Retirement System to administer vested benefits and manage the
17 accounts of its members;

18 (B) Clarify the existing provisions under § 24-7-406(e) so
19 that the provisions may be correctly interpreted and efficiently managed by
20 the retirement system;

21 (C) Preserve and retain existing law regarding the vested
22 contributory or noncontributory status of a member of the retirement system;

23 (D) Neither expand nor contract a current vested or
24 nonvested contributory or noncontributory status of a member of the
25 retirement system; and

26 (E) Provide a logical framework for a future amendment to
27 § 24-7-406(e).

28
29 SECTION 2. Arkansas Code § 24-7-406(e), concerning retirement fund
30 asset accounts, member deposit accounts, and contributions under the Arkansas
31 Teacher Retirement System, is amended to read as follows:

32 (e)(1)(A) ~~Active members as of July 1, 1999, shall elect by written~~
33 ~~election filed with the system in accordance with rules and regulations~~
34 ~~adopted by the board to eliminate future member contributions or to make~~
35 ~~member contributions, otherwise provided for in this section. Effective July~~
36 ~~1, 1999, an active member shall:~~

1 (i) Elect to become a contributory or
2 noncontributory member of the system as provided for in this section; and

3 (ii) File a written election with the system in
4 accordance with the rules and regulations adopted by the board.

5 (B)(i) The election of the member:

6 (a) ~~shall be~~ Is irrevocable; and

7 (b) ~~shall~~ Shall be made on or before July 1,
8 2000.

9 (ii) ~~If no election is made, then the member's~~
10 ~~status on June 30, 2000, shall be in effect and shall be irrevocable~~ If a
11 member does not make an election, then the status of the member on June 30,
12 2000:

13 (a) Remains in effect;

14 (b) Is irrevocable.

15 (iii) The election of a member to become a
16 contributory or noncontributory member of the system:

17 (a) Applies only to the future salaries of a
18 member of the system;

19 (b) Does not alter the contribution
20 requirements of a member; and

21 (c) Does not alter the status of member
22 contributions that existed before the election.

23 (iv) An active member who previously elected to
24 become a noncontributory member of the system may change credited service on
25 which a member contribution has not been paid to contributory credited
26 service by paying the system the actuarial equivalent of the member benefits.

27 (v) If a member previously made contributions to
28 only the first seven thousand eight hundred dollars (\$7,800) of his or her
29 annual salary, then the member cannot contribute on a full future salary
30 until the member makes additional contributions to previous full salaries as
31 provided under this section.

32 (C)(i) Effective July 1, 2005, an active member whose
33 status later changes from a nonteacher status to an administrator or teacher
34 status under contract for one hundred eighty-one (181) days or more shall
35 become a contributory member of the system otherwise provided for in this
36 section regardless of an earlier election to be a noncontributory member of

1 the system.

2 (ii)(a) From July 1, 2005 to June 30, 2007, an
3 active member who has previously elected to be a noncontributory member of
4 the system may make an irrevocable election to become a contributory member
5 of the system.

6 (b) If the election is made before the
7 preparation of the first salary payment to the member in the fiscal year, the
8 election is effective immediately.

9 (c) If the election is made after the
10 preparation of the first payroll containing the first salary payment to the
11 member in the fiscal year, the election is effective July 1 of the next
12 fiscal year.

13 (D) On and after July 1, 2007, an active member who has
14 previously been a noncontributory member of the system, by election or
15 otherwise, may make an irrevocable election to become a contributory member
16 of the system under this section.

17 (2)(A) For an inactive member who enters the system after June
18 30, 1999, the election shall be made within one (1) year of the effective
19 date the member is considered an active member Effective July 1, 1999, an
20 inactive member who reenters the system shall elect to become a contributory
21 or noncontributory member of the system within one (1) year of the effective
22 date that the member is considered an active member of the system.

23 (i) The election is effective the earlier of the:

24 (a) Preparation of the payroll containing the
25 first salary payment upon the reentry of the member into the system; or

26 (b) July 1 immediately following the date the
27 election is filed with the system.

28 (ii) If the member does not make an election within
29 one (1) year, then the status of the member before the member reentered the
30 system remains in effect.

31 ~~(B)(i)(B) The election shall be effective the earlier of:~~
32 ~~(a) The preparation of the payroll containing~~
33 ~~the first salary payment upon reentry; or~~

34 ~~(b) The July 1 next following the date the~~
35 ~~election is filed with the system.~~

36 ~~(ii) If no election is made within one (1) year,~~

1 ~~then the member's status prior to reentry will remain in effect~~ Effective
2 July 1, 2007, an inactive member who becomes an active member of the system
3 shall reenter as a contributory member of the system if the member was
4 contributory when he or she first entered the inactive status;

5 (C) Effective July 1, 2007, an inactive member or a
6 rescinding retiree who reenters the system may make an irrevocable election
7 to become contributory member of the system under this section at the time of
8 his or her reemployment regardless of his or her previous noncontributory
9 status.

10 (D) If the election is made:

11 (i) Before the preparation of the first salary
12 payment to the member in the fiscal year, the election is effective
13 immediately; and

14 (ii) After the preparation of the first payroll
15 containing the first salary payment to the member in the fiscal year, the
16 election is effective July 1 of the next fiscal year.

17 ~~{3}(A)(i)(3) If the election is to eliminate member~~
18 ~~contributions, then the election shall apply only to future member salaries~~
19 ~~and shall not change the status of any member contributions made before the~~
20 ~~election~~ Effective July 1, 1999, a new member shall be a contributory member
21 of the system.

22 (A) From July 1, 1999 to June 30, 2007, a new member who
23 is under contract with a covered employer for one hundred eight (180) days or
24 less shall have one (1) year to make an irrevocable election to become a
25 contributory member of the system.

26 (B) From July 1, 1999 to June 30, 2007, a new member who
27 is not under contract with a covered employer shall not become a contributory
28 member of the system.

29 (C)(i) Effective July 1, 2007, a new member under contract
30 with a covered employer for one hundred eight-one (181) days or more shall be
31 a contributory member of the system.

32 (ii) A new member under contract with a covered
33 employer for one hundred eighty (180) days or less may make an irrevocable
34 election to become a contributory member of the system.

35 (iii) A new member not under contract with a covered
36 employer may make an irrevocable election to become a contributory member of

1 the system under this section.

2 ~~(ii) Beginning July 1, 1999, an active member who~~
3 ~~has previously elected to eliminate member contributions may change credited~~
4 ~~service on which no member contributions have been paid to contributory~~
5 ~~credited service by paying the actuarial equivalent of the member's benefits~~
6 ~~to the system.~~

7 ~~(B)(i) If the effect of the election is to require member~~
8 ~~contributions, then the election shall apply only to future member salaries~~
9 ~~and shall not change any member contribution requirements existing before the~~
10 ~~election.~~

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

16 ~~(4)(A)(i) After July 1, 1999, all new members shall make the~~
17 ~~member contributions otherwise provided for in this section. From July 1,~~
18 ~~1999, through June 30, 2007, new members who are under contract with a~~
19 ~~covered employer for one hundred eighty (180) days or less shall have one (1)~~
20 ~~year to make an irrevocable election to make member contributions.~~

21 ~~(ii) Effective July 1, 2005, any active member whose~~
22 ~~status later changes from nonteacher status to teacher status under contract~~
23 ~~for one hundred eighty one (181) days or more shall make the member~~
24 ~~contributions otherwise provided for in this section regardless of an earlier~~
25 ~~election to be noncontributory.~~

26 ~~(B) Through June 30, 2007, new members who are not under~~
27 ~~contract with a covered employer shall not make member contributions.~~

28 ~~(5)(A)(4)(A) From July 1, 2005, and each July 1 thereafter through~~
29 ~~June 30, 2007, active members who have previously elected to eliminate member~~
30 ~~contributions may make an irrevocable election to make future contributions~~
31 ~~to the system. The board may exclude the participation of a member under this~~
32 ~~subsection if the board determines that the contributions of a member may not~~
33 ~~be treated as employer contributions under the:~~

34 ~~(i) Internal Revenue Code, 26 U.S.C. § 1 et seq., or~~

35 ~~(ii) Income Tax Act of 1929, § 26-51-101 et seq.~~

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

1 ~~(i) Before the preparation of the first salary~~
2 ~~payment to the member in the fiscal year, the election shall become effective~~
3 ~~immediately; and~~

4 ~~(ii) After the preparation of the first payroll~~
5 ~~containing the first salary payment to the member in the fiscal year, the~~
6 ~~election shall become effective July 1 of the next fiscal year~~ The board
7 shall interpret this subsection in a manner that is consistent with the
8 requirements of the:

9 (i) Internal Revenue Code; and

10 (ii) Applicable United States Department of the
11 Treasury regulations under the Internal Revenue Code, 26 U.S.C. § 401(a).

12 ~~(6)(A)(i) Effective July 1, 2007, new members who are under~~
13 ~~contract with a covered employer for one hundred eighty-one (181) days or~~
14 ~~more shall make member contributions under this section.~~

15 ~~(ii) Effective July 1, 2007, persons reentering the~~
16 ~~system who left as contributory members shall reenter as contributory members~~
17 ~~and shall make member contributions under this section.~~

18 ~~(B)(i) Effective July 1, 2007, new members who are under~~
19 ~~contract with a covered employer for one hundred eighty (180) days or less~~
20 ~~and new members who are not under contract with a covered employer may make~~
21 ~~an irrevocable election to make future member contributions under this~~
22 ~~section.~~

23 ~~(ii) Effective July 1, 2007, and each July 1~~
24 ~~thereafter, active members who have previously been noncontributory, whether~~
25 ~~by election or otherwise, may make an irrevocable election to make future~~
26 ~~member contributions under this section.~~

27 ~~(iii) Effective July 1, 2007, inactive members or~~
28 ~~rescinding retirees reentering the system may make an irrevocable election to~~
29 ~~make future member contributions under this section at the time of~~
30 ~~reemployment regardless of previous noncontributory status.~~

31 ~~(iv) If the election is made:~~

32 ~~(a) Before the preparation of the first salary~~
33 ~~payment to the member in the fiscal year, the election shall become effective~~
34 ~~immediately; and~~

35 ~~(b) After the preparation of the first payroll~~
36 ~~containing the first salary payment to the member in the fiscal year, the~~

1 ~~election shall become effective July 1 of the next fiscal year.~~

2 ~~(C) If the board determines that a member's contributions~~
3 ~~may not be treated as employer contributions under the Internal Revenue Code,~~
4 ~~26 U.S.C. § 1 et seq., or the Income Tax Act of 1929, § 26-51-101 et seq.,~~
5 ~~the board may exclude the member's participation under this subsection.~~

6
7 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that the Arkansas Teacher
9 Retirement System maintains a system of member records that reflect the
10 contributory or noncontributory status of each member in the system according
11 to the laws in effect at the time and, if an election was made, the election
12 of a member; that numerous laws enacted over many legislative sessions have
13 modified, amended, or repealed the laws enacted in previous sessions
14 concerning the contributory or noncontributory status of members of the
15 Arkansas Teacher Retirement System; that accurately keeping track of these
16 election options requires precise administrative recordkeeping and
17 understanding of the laws in effect at the time a member first entered the
18 system or was allowed to exercise a membership option; that the laws need to
19 be simplified to reduce the risk of confusion of keeping track of these
20 election options; and that this act is necessary because the most effective
21 time to make changes to the retirement system is at the beginning of the
22 state's fiscal year. Therefore, an emergency is declared to exist, and this
23 act being necessary for the preservation of the public peace, health, and
24 safety shall become effective on July 1, 2019.

25
26
27 */s/E. Cheatham*

28
29
30 **APPROVED: 3/5/19**

State of Arkansas

As Engrossed: H2/27/19

92nd General Assembly

A Bill

Regular Session, 2019

HOUSE BILL 1320

By: Representative Maddox

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 24 OF
THE ARKANSAS CODE CONCERNING RETIREMENT AND PENSIONS
UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 24
OF THE ARKANSAS CODE CONCERNING
RETIREMENT AND PENSIONS UNDER THE
ARKANSAS TEACHER RETIREMENT SYSTEM; AND
TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-2-701(c)(1), concerning employer
contribution rates to the state public employee retirement systems, is
amended to read as follows:

(1)(A) For the Arkansas Teacher Retirement System, ~~for the~~
~~fiscal years ending June 30, 2008, and June 30, 2009,~~ the Board of Trustees
of the Arkansas Teacher Retirement System shall establish employer
contribution rates prospectively each year.

(B) The employer contribution rates shall be based on the
actuary's determination of the rate required to fund the plan ~~in accordance~~
~~with the objectives~~ as necessary to meet the general financial objective set
forth in subsection (a) of this section.

(C) The employer contribution rates shall be the rates
determined by the Board of Trustees of the Arkansas Teacher Retirement System



1 under § 24-7-401(c) and based on the annual actuarial valuation of the
2 Arkansas Teacher Retirement System.

3 ~~(D) For the fiscal years ending June 30, 2008, and June 20,~~
4 ~~2009, the employer contribution rate shall not exceed fourteen percent (14%).~~

6 SECTION 2. Arkansas Code § 24-7-202(18), concerning the definition of
7 "final average salary" under the Arkansas Teacher Retirement System Act, is
8 amended to read as follows:

9 (18)(A)(i) "Final average salary" means the average of the
10 ~~remuneration paid to a member by a participating employer during the fiscal~~
11 ~~year ending June 30 of not less than three (3) years nor more than five (5)~~
12 ~~years of credited service producing the highest annual average~~ highest
13 salaries earned by a member in state fiscal years determined in accordance
14 with the rules and regulations of the board as is actuarially appropriate for
15 the Arkansas Teacher Retirement System;

16 ~~(ii) Before reducing the time period used to~~
17 ~~determine final average salary, the board shall file relevant information~~
18 ~~concerning the actuarial appropriateness of the action with the Joint Interim~~
19 ~~Committee on Public Retirement and Social Security Programs, and the action~~
20 ~~shall be reviewed by the Joint Interim Committee on Public Retirement and~~
21 ~~Social Security Programs.~~

22 ~~(B) If a member has less than the minimum of three (3)~~
23 ~~years of credited service, "final average salary" means the annual average of~~
24 ~~salaries paid to him or her during his or her total years of credited~~
25 ~~service, subject to the provisions of subdivision (32) of this section;~~

27 SECTION 3. Arkansas Code § 24-7-202(25), concerning the definition of
28 "nonteacher" under the Arkansas Teacher Retirement System Act, is amended to
29 read as follows:

30 (25) "Nonteacher" means ~~any member except a~~ member who is not a
31 teacher;

33 SECTION 4. Arkansas Code § 24-7-202(30), concerning the definition of
34 "retirant" under the Arkansas Teacher Retirement System Act, is amended to
35 read as follows:

36 (30) ~~"Retirant"~~ "Retiree" or "retirant" means a member receiving

1 an Arkansas Teacher Retirement System annuity;

2
3 SECTION 5. Arkansas Code § 24-7-202, concerning definitions applicable
4 to the Arkansas Teacher Retirement System Act, is amended to add an
5 additional subdivision to read as follows:

6 (43) "Administrator" means:

7 (A) A person who is:

8 (i) Employed by an education related agency that
9 participates in the Arkansas Teacher Retirement System;

10 (ii) An active member employed in a position that is
11 a grade GS13, a grade above a GS13, or the equivalent of a grade GS13; or

12 (B) A person who is:

13 (i) Employed by a participating employer of the
14 Arkansas Teacher Retirement System; and

15 (ii) Any one of the following:

16 (a) A public school superintendent, assistant
17 superintendent, principal, or vice principal;

18 (b) A president, chancellor, or a director of
19 an institution of higher education; or

20 (c) A president, vice president, or a director
21 of a community college vocational, technical, or educational cooperative.

22
23 SECTION 6. Arkansas Code § 24-7-208 is amended to read as follows:
24 24-7-208. Benefit enhancements – Restrictions.

25 (a) No benefit enhancement provided for by this act shall be
26 implemented if it would cause the publicly supported retirement system's
27 unfunded actuarial accrued liabilities to exceed ~~a thirty-year~~ an eighteen-
28 year amortization.

29 (b) No benefit enhancement provided for by this act shall be
30 implemented by any publicly supported system which has unfunded actuarial
31 accrued liabilities being amortized over a period exceeding ~~thirty (30)-~~
32 eighteen (18) years until the unfunded actuarial accrued liability is reduced
33 to a level less than the standards prescribed by § 24-1-101 et seq.

34
35 SECTION 7. Arkansas Code § 24-7-301(2)(C), concerning active member
36 trustees employed in a position requiring an administrator's license as

1 members of the Board of Trustees of the Arkansas Teacher Retirement System,
2 is amended to read as follows:

3 (C)(i) Two (2) active member trustees shall be employed in
4 a position requiring an administrator's license, one (1) of whom ~~must~~ shall
5 be a ~~superintendent or an educational cooperative director~~ an administrator.

6 (ii) These two (2) active member trustees shall be
7 elected by members employed in positions requiring ~~administrator licensure~~ an
8 administrator's license.

9
10 SECTION 8. Arkansas Code § 24-7-406(b)(5), concerning members who left
11 covered employment under the Arkansas Teacher Retirement System before July
12 1, 1985, is amended to read as follows:

13 (5) Members who ~~left~~ leave covered employment ~~before July 1,~~
14 ~~1985,~~ and who had annual compensation of seven thousand eight hundred dollars
15 (\$7,800) or less shall have, upon their return to covered employment, full
16 salary considered for purposes of the system.

17
18 SECTION 9. Arkansas Code § 24-7-601(c)(2)(A), concerning when days of
19 paid sick leave cannot be considered service under the Arkansas Teacher
20 Retirement System, is amended to read as follows:

21 (2)(A) Except as provided under subdivision (c)(2)(B) of this
22 section, ~~days of paid sick leave shall not be considered service if the~~
23 ~~payment is for unused sick leave~~ paid or unpaid accrued, unused sick leave
24 shall not be credited as service in the Arkansas Teacher Retirement System.

25
26
27 SECTION 10. Arkansas Code § 24-7-605 is amended to read as follows:
28 24-7-605. Service in General Assembly.

29 (a)(1)(A)(i) Any member of the Senate or House of Representatives of
30 the General Assembly who is a member of the Arkansas Teacher Retirement
31 System shall be eligible, upon application, to receive credited service and
32 salary in the system for his or her full contract salary in the event that a
33 cut in pay is required by the school district during his or her attendance at
34 regular or extraordinary sessions of the General Assembly or during his or
35 her attendance at meetings of regular or special committees of the General
36 Assembly during the interim.

1 (ii) These meetings shall include, but not be
2 limited to, the Legislative Council, the Legislative Joint Auditing
3 Committee, the interim committees, and special legislative committees.

4 (B) The member shall receive credited service and salary
5 upon payment by him or her of the necessary member contribution and upon
6 appropriation from the Public School Fund of the necessary employer
7 contribution for the amount of the salary reduction during periods of
8 attending regular or extraordinary sessions of the General Assembly or
9 sessions of legislative committees.

10 (2) The amount of credited service salary shall not exceed the
11 contract salary of the member for the school year contract period.

12 (3)(A) Any member of the House of Representatives or the Senate
13 currently serving in the General Assembly or the legislative committees for
14 any year prior to July 6, 1977, not to exceed five (5) years, may make
15 application for and receive credited service and salary in the system for his
16 or her full contract salary as an employee with respect to any reduction
17 therein during attendance at regular or extraordinary sessions of the General
18 Assembly or sessions of legislative committees in which he or she served.

19 (B) This shall be done only if he or she pays to the
20 system the member contribution required by law, and if appropriation is made
21 from the Public School Fund for the necessary employer contribution required
22 by law for that portion of his or her contract salary for any period for
23 which he or she suffered a reduction in pay during legislative service.

24 (b)(1) Any member of the Senate or House of Representatives of the
25 General Assembly who is an employee and is a member of the system shall be
26 eligible, upon application, to receive credited service and salary in the
27 system for his or her full contract salary in the event that either the
28 member or the school district decides it is in the best interest of the
29 school district for the member to take a leave of absence for up to one (1)
30 full calendar year at a time to attend to his or her duties as a General
31 Assembly member.

32 (2) Service and salary shall be credited upon payment by the
33 member of the necessary member contribution and the necessary employer
34 contribution for the amount of the member's contract salary during periods of
35 attending regular or extraordinary sessions of the General Assembly or
36 sessions of legislative committees.

1 (3) The amount of credited ~~service~~ salary shall not exceed the
2 member's contract salary for the school year contract period.

3
4 SECTION 11. Arkansas Code § 24-7-608 is amended to read as follows:
5 24-7-608. Limitation on benefit enhancement.

6 (a) ~~No~~ A benefit enhancement provided for by this act shall not be
7 implemented if it would cause the publicly supported retirement system's
8 unfunded actuarial accrued liabilities to exceed ~~a thirty-year~~ an eighteen-
9 year amortization.

10 (b) ~~No~~ A benefit enhancement provided for by this act shall not be
11 implemented by any publicly supported system which has unfunded actuarial
12 accrued liabilities being amortized over a period exceeding ~~thirty (30)~~
13 eighteen (18) years until the unfunded actuarial accrued liability is reduced
14 to a level less than the standards prescribed by § 24-1-101 et seq.

15
16 SECTION 12. Arkansas Code § 24-7-610(c), concerning the amount of
17 purchased service credit a member receives for service in the National Guard
18 or armed forces reserve under the Arkansas Teacher Retirement System, is
19 amended to read as follows:

20 (c) ~~Members shall receive one (1) year of purchased service credit for~~
21 ~~each one (1) year of service in the National Guard or the armed forces~~
22 ~~reserve~~ A member may, one (1) time each fiscal year, purchase up to one (1)
23 year of service credit for each one (1) year of service in the National Guard
24 or armed forces reserve.

25
26 SECTION 13. Arkansas Code § 24-7-710(d), concerning amounts received
27 in the form of a survivor annuity from the deposit account of a member of the
28 Arkansas Teacher Retirement System, is amended to read as follows:

29 (d) For the purposes of § 24-7-709 related to the disposition of a
30 member's residue amount, ~~any amounts a survivor annuity~~ received from the
31 member's deposit account ~~in the form of a survivor annuity~~ under this section
32 shall be considered annuity payments received by the member or his or her
33 designated beneficiary and shall offset any disposition of residue payable
34 under § 24-7-709 to the estate of the member or to an alternate payee.

35
36 SECTION 14. Arkansas Code § 24-7-713(b), concerning a modification of

1 the amount of a benefit stipend by the Board of Trustees of the Arkansas
2 Teacher Retirement System, is amended to read as follows:

3 (b)(1) A member with at least ten (10) years of actual service in the
4 Arkansas Teacher Retirement System is eligible to receive a benefit stipend
5 in addition to his or her monthly retirement benefit.

6 ~~(2) Effective July 1, 2013, the~~ The Board of Trustees of the
7 Arkansas Teacher Retirement System may modify the amount of the benefit
8 stipend from a maximum of seventy-five dollars (\$75.00) per month to not less
9 than one dollar (\$1.00) per month for eligible benefit participants as a
10 benefit supplement in addition to the cost of living adjustment under
11 subsection (a) of this section.

12 ~~(2)(3)~~ A benefit stipend increase or decrease adopted by the
13 board shall apply to a complete fiscal year and shall remain in effect until
14 adjusted by the board subject to the limitations under subdivision ~~(b)(4)~~
15 (b)(5) of this section.

16 ~~(3)(4)~~ The board may adjust the benefit stipend amount by
17 resolution at a meeting of the board.

18 ~~(4)(5)~~ The board shall not reduce the benefit stipend unless
19 the:

20 (A) Arkansas Teacher Retirement System's actuary certifies
21 to the board that the amortization period exceeds eighteen (18) years; and

22 (B) Board determines that a reduction in the benefit
23 stipend is prudent to maintain actuarial soundness.

24 ~~(5)(6)~~ The board may phase in an increase or decrease of the
25 benefit stipend.

26 (7) If a member was eligible for a benefit stipend, the benefit
27 stipend shall be applied to the monthly benefit of the member's designated
28 survivor and option beneficiary.

29
30 SECTION 15. Arkansas Code § 24-7-718(a), concerning the requirements
31 for an increase in benefit formulas to be effective under the Arkansas
32 Teacher Retirement System, is amended to read as follows:

33 (a) For an increase in benefit formulas to be effective, the regular
34 annual actuarial valuation for the calendar year immediately preceding the
35 effective date of the increase shall be based upon an investment rate
36 ~~assumption of no more than eight percent (8%) as recommended by the system's~~

1 actuary as financially sound for the Arkansas Teacher Retirement System and
2 set by the Board of Trustees of the Arkansas Teacher Retirement System and
3 shall indicate that up to and including a fourteen percent (14%) of pay
4 employer contribution rate is sufficient to amortize all unfunded actuarial
5 accrued liabilities for members over a period of ~~thirty (30)~~ eighteen (18)
6 years or less unless the required contribution rate would exceed fourteen
7 percent (14%).

8
9 SECTION 16. Arkansas Code § 24-7-720(e), concerning the implementation
10 of a benefit enhancement under the Arkansas Teacher Retirement System, is
11 amended to read as follows:

12 (e)(1) ~~No~~ A benefit enhancement provided for by under this section
13 shall not be implemented if it would cause the ~~publicly supported retirement~~
14 ~~system's unfunded actuarial accrued liabilities to exceed a thirty-year~~ an
15 eighteen-year amortization.

16 (2) ~~No~~ If the system's unfunded actuarial accrued liabilities
17 exceed an eighteen-year amortization, a benefit enhancement provided for by
18 under this section shall not be implemented by ~~any publicly supported system~~
19 ~~that has unfunded actuarial accrued liabilities being amortized over a period~~
20 ~~exceeding thirty (30) years~~ until the unfunded actuarial accrued liability is
21 reduced to a level less than the standards prescribed by § 24-1-101 et seq.

22
23 SECTION 17. Arkansas Code § 24-7-725 is amended to read as follows:
24 24-7-725. Limitation on benefit enhancement of § 24-7-702.

25 (a) ~~No~~ A benefit enhancement provided by § 24-7-702 shall not be
26 implemented if it would cause the ~~publicly supported retirement system's~~
27 ~~unfunded actuarial accrued liabilities of the Arkansas Teacher Retirement~~
28 System to exceed a ~~thirty-year~~ an eighteen-year amortization.

29 (b) ~~No~~ If the system's unfunded actuarial accrued liabilities exceed
30 an eighteen-year amortization, a benefit enhancement provided for by § 24-7-
31 702 shall not be implemented by ~~any publicly supported system which has~~
32 ~~unfunded actuarial accrued liabilities being amortized over a period~~
33 ~~exceeding thirty (30) years~~ until the unfunded actuarial accrued liability is
34 reduced to a level less than the standards prescribed by § 24-1-101 et seq.

35
36 SECTION 18. Arkansas Code § 24-7-736(c)(1) and (2), concerning the

1 computation of a final average salary for retirement benefits received under
2 the Arkansas Teacher Retirement System, are amended to read as follows:

3 (c)(1) The Board of Trustees of the Arkansas Teacher Retirement System
4 shall set annually the applicable number of years to be used in computing
5 final average salary for retirement benefits at not less than three (3) years
6 and not more than five (5) years.

7 (2)(A) Full service years that are recorded as service credit
8 shall be used in the calculation ~~unless the member has a partial service year~~
9 ~~that is higher than a full service year of the final average salary~~.

10 (B) If the member does not have full service years for the
11 total years of service used in the calculation of final average salary, then
12 the board may establish by rule a fair base year for a member's final average
13 salary for purposes of comparison under subdivision (c)(3) of this section.

14 (C) If a member has less than the minimum number of years
15 of credited service required for the final average salary formula, the final
16 average salary of the member shall be the total salary paid to the member for
17 his or her years of credited service divided by the member's total credited
18 years of service.

19 (D) Before reducing the number of years that is used to
20 determine the final average salary, the board shall file relevant information
21 concerning the actuarial appropriateness of the action with the Joint Interim
22 Committee on Public Retirement and Social Security Programs for review by the
23 Joint Interim Committee on Public Retirement and Social Security Programs.

24
25 SECTION 19. Arkansas Code § 24-7-736(f), concerning final average
26 salary calculations under the Arkansas Teacher Retirement System, is amended
27 to read as follows:

28 (f)(1) The board may adjust the final average salary calculated in
29 accordance with subsection (c) of this section by board resolution provided
30 that:

31 ~~(1)(A)~~ (A) The percentage increase under subdivision (c)(3)(D)
32 of this section is adjusted no lower than one hundred five percent (105%) per
33 year and no higher than one hundred twenty percent (120%) per year; and

34 ~~(2)(B)~~ (B) The salary differential permitted under subdivision
35 (c)(3)(D) of this section is set no lower than one thousand two hundred fifty
36 dollars (\$1,250) per year and no higher than five thousand dollars (\$5,000)

1 per year.

2 (2) A partial service year is excluded from the calculation of
3 the final average salary under this subsection.

4
5 SECTION 20. Arkansas Code § 24-7-1307(d), concerning interest applied
6 to the Teacher Deferred Retirement Option Plan account of a participant, is
7 amended to read as follows:

8 (d) If a participant continues covered employment after completing ten
9 (10) consecutive years in the plan, the participant's plan account shall be
10 credited on June 30 of each year or through the date of retirement, whichever
11 occurs first, with ten (10) year plus plan interest as set by the board.

12
13 SECTION 21. Arkansas Code § 24-7-1313 is amended to read as follows:

14 24-7-1313. Limitation on benefit enhancement – Acts 1997, No. 953.

15 (a) ~~No A~~ benefit enhancement provided for by § 24-7-1306 shall not be
16 implemented if it would cause the ~~publicly supported retirement system's~~
17 Arkansas Teacher Retirement System's unfunded actuarial accrued liabilities
18 to exceed ~~a thirty-year~~ an eighteen-year amortization.

19 (b) ~~No A~~ benefit enhancement provided for by § 24-7-1306 shall not be
20 implemented by ~~any publicly supported the system which has unfunded actuarial~~
21 ~~accrued liabilities being amortized over a period exceeding thirty (30) years~~
22 until the unfunded actuarial accrued liability is reduced to a level less
23 than ~~the standards prescribed by § 24-1-101 et seq.~~ an eighteen-year
24 amortization.

25
26 SECTION 22. Arkansas Code § 24-7-1504(b), concerning the
27 implementation of ad hoc benefits under the Retirants' Ad Hoc Increase Act,
28 is amended to read as follows:

29 (b) An ad hoc benefit under this subchapter shall not be implemented
30 if the ad hoc benefit would cause the Arkansas Teacher Retirement System's
31 unfunded actuarial accrued liabilities to exceed ~~a thirty-year~~ an eighteen-
32 year amortization.

33
34 SECTION 23. EMERGENCY CLAUSE. It is found and determined by the
35 General Assembly of the State of Arkansas that certain provisions of the
36 Arkansas Teacher Retirement System Act, an act that created a state agency

1 for the purpose of providing retirement benefits to school employees of the
2 state, are in need of revision and updating to maintain the teacher
3 retirement laws in conformance with sound public pension policy; that the
4 Arkansas Teacher Retirement System operates on a fiscal year of July 1 to
5 June 30; that a July 1, 2019 effective date is necessary to allow the
6 provisions of this act to begin on the first day of the fiscal year and to
7 provide for the proper administration of the Arkansas Teacher Retirement
8 System; that the updates and revisions to the Arkansas Teacher Retirement
9 System Act are of great importance for actuarial purposes and the protection
10 of member benefits under the Arkansas Teacher Retirement System; and that
11 this act is necessary in order to maintain an orderly system of benefits for
12 the members of the Arkansas Teacher Retirement System. Therefore, an
13 emergency is declared to exist, and this act being necessary for the
14 preservation of the public peace, health, and safety shall become effective
15 on July 1, 2019.

16
17 */s/Maddox*

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20 **APPROVED: 3/12/19**
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