

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative McGinnis**

# A Bill

**HOUSE BILL**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND VARIOUS SUBCHAPTERS OF TITLE 24, CHAPTER  
9 7, OF THE ARKANSAS CODE OF 1987 TO CLARIFY INTEREST  
10 CHARGES FOR PURCHASED OVERSEAS SERVICE; MAKE TECHNICAL  
11 CORRECTIONS FOR THE TEACHER RETIREMENT SYSTEM; AND FOR  
12 OTHER PURPOSES."

13  
14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. Arkansas Code 24-7-302(b) (2) is hereby amended to read as  
17 follows:

18 "(2) If a vacancy occurs in the office of member or retirant trustee,  
19 the remaining trustees shall fill the vacancy for the remainder of the  
20 unexpired term."

21

22 SECTION 2. Arkansas Code 24-7-406(c) is hereby amended to read as  
23 follows:

24 "(c) (1) Each employer shall deduct the member contributions provided  
25 for in this section from the salary of each member on each and every payroll,  
26 for each and every payroll period, from the date of his entrance into the  
27 system until he retires, and the employer shall remit the contributions to the  
28 system; however, a member who is receiving remuneration under both a regular  
29 contract and a contract won through litigation, shall have only the greater of  
30 the two (2) amounts considered as salary for the purposes of the system.  
31 Should the employer fail at any time to report the salary of a member and  
32 remit the contributions to the system, the system shall have the right to  
33 collect from the employee and the employer the contributions due, if any, from  
34 each, together with regular interest beginning with the subsequent fiscal  
35 year; provided further, in no case shall a member be given credit for service

1 rendered until any contributions and interest due from each are paid in full.

2 (2) The members' contributions provided for in this section shall be  
3 made notwithstanding that the minimum salary provided by law for any member  
4 shall be thereby changed.

5 (3) Each member shall be deemed to consent and agree to the deductions  
6 made and provided for in this section. Payment of his salary less the  
7 deductions shall be a full and complete discharge and acquittance of all  
8 claims and demands whatsoever for the services rendered by the member during  
9 the period covered by the payment, except as to benefits provided by the  
10 system.

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

15 (5) Money used by a school district to purchase a qualified tax-  
16 sheltered annuity or a life insurance policy for a member in lieu of salary  
17 shall be considered as salary for purposes of the system. Retainers,  
18 consultant's fees, lump-sum payments for unused sick leave, and special  
19 payments not in the form of regular remuneration shall not be considered  
20 salary for the purposes of the system."

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22 SECTION 3. Arkansas Code 24-7-501 is hereby amended to read as follows:

23 "24-7-501. Generally.

24 (a) The membership of the system shall include the following persons:

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26 (1) All teachers who last began service before July 1, 1971, in  
27 accordance with provisions in force before July 1, 1971;

28 (2) All teachers who last began service on or after July 1, 1971, and  
29 whose service is not covered by another retirement plan similar in purpose to  
30 the system, except social security; and

31 (3) (A) All nonteachers who begin nonteaching service on or after July  
32 1, 1989, and whose nonteaching service is not covered by another retirement  
33 plan similar in purpose to the system, except social security.

34 (B) All nonteachers who began nonteaching service before July 1, 1989,  
35 whose nonteaching service is covered or coverable by the Arkansas Public

1 Employees' Retirement System shall continue to be covered by the Arkansas  
2 Public Employees' Retirement System for all nonteaching service, both past and  
3 future.

4 (C) These nonteachers who began service before July 1, 1989, shall be  
5 considered members of a closed system to be administered by the Arkansas  
6 Public Employees' Retirement System.

7 (D) The employer contribution rate for this closed system shall be  
8 established at a rate necessary to fund all present and future liabilities  
9 until such time as there are no longer members, retirants or deferred  
10 annuitants.

11

12 (b)(1) A person who has excluded himself from membership before July 1,  
13 1991, may rescind the exclusion by filing with the system a Membership Data  
14 Form.

15 (2) The rescission shall be effective July 1 of the fiscal year in  
16 which it is exercised.

17 (3) At the direction of the person, the membership may be prospective  
18 only, or both prospective and retroactive.

19 (4) For the membership to be retroactive, the member must pay to the  
20 system both the member contributions and the employer contributions which  
21 would have been paid to the system had there been no exclusion, plus regular  
22 interest from the dates the contributions would normally have been received by  
23 the system to the date of actual payment.

24 (c) In any case of question as to the system membership status of any  
25 person, the board shall have the final power to decide the question.

26 (d) Membership in the system shall be a condition of employment in  
27 accordance with subsections (a) through (c) of this section and shall not be  
28 subject to election by individual employees."

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30 SECTION 4. Arkansas Code 24-7-601 is hereby amended to read as follows:

31 "24-7-601. Generally.

32 (a) By rules and regulations, the board shall fix and determine the  
33 number of years, and fraction thereof, of service to be credited each member  
34 for his employment as an employee.

35 (b) In no case, other than specifically provided otherwise in this

1 subchapter, shall fewer than one hundred twenty (120) days of teaching service  
2 rendered in any fiscal school year be credited as one (1) year of service, nor  
3 shall more than one (1) year of service be credited any member for all  
4 teaching service rendered by him in any one (1) fiscal school year.

5 (c) Days of absence from service because of sickness shall be  
6 considered as service if the days are paid sick leave; days of paid sick leave  
7 shall not be considered service if the payment is for unused sick leave.

8 (d) No credited service may be granted by the board for service  
9 rendered before July 1, 1937.

10 (e) (1) The system is a reciprocal system under the provisions of §§  
11 24-2-401 - 24-2-405.

12 (2) In establishing eligibility for a benefit from the system, the  
13 credited service under all reciprocal systems shall be totaled and the total  
14 credited service shall be used in determining eligibility for a system  
15 benefit.

16 (3) In determining the amount of a benefit from this system, there  
17 shall be used only the credited service under this system and the benefit  
18 formula of this system.

19 (4) The final average compensation used shall be that of the reciprocal  
20 system which furnishes the highest final salary at the time of retirement.

21 (5) Wherever this system provides a benefit amount which is not  
22 dependent on length of credited service, the benefit amount shall be reduced  
23 to the proportion that system credited service bears to total reciprocal  
24 system credited service.

25 (f) In any case of question as to the service credit of any person, the  
26 board shall have the final power to decide the question."

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28 SECTION 5. Arkansas Code 24-7-602 is hereby amended to read as follows:  
29 "24-7-602. Military service.

30 (a) In the event an active member enters the armed forces of the United  
31 States during any period of compulsory military service, the armed service  
32 actually required of him shall be credited him as service under this  
33 subchapter, but only if he returns to the system the amount, if any, he may  
34 have received therefrom at the time he entered or while in the armed service,  
35 together with regular interest from the date of withdrawal to the date of

1 repayment.

2 (b) During the period of armed service and until his return as an  
3 employee, his contributions to the system shall be suspended, and any balance  
4 remaining to his credit in the members deposit account shall be accumulated at  
5 regular interest.

6 (c) A person who entered the armed forces and who was not an active  
7 member at the time of entry shall have the armed service actually required of  
8 him credited as service under this subchapter if he satisfies all of the  
9 following conditions:

10 (1) He completes ten (10) years of credited service for service in  
11 Arkansas; and

12 (2) The armed service is not credited as service under any other  
13 retirement plan except social security. Receipt of a disability pension from  
14 the federal military system shall not be considered as having service credit  
15 with another retirement plan.

16 (d) If mandated by federal law, armed service not otherwise creditable  
17 under the provisions of this section shall be creditable, provided the member  
18 pays both the employee and employer contributions required by the system, plus  
19 regular interest from the date of discharge from active duty until paid in  
20 full.

21 (e) In no event shall a person be credited with a total of more than  
22 five (5) years of armed service.

23 (f) In any case of doubt as to the period of the armed service to be  
24 credited a member, the board shall have the power to determine the period."

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26 SECTION 6. Arkansas Code 24-7-604 is hereby amended to read as follows:

27 "24-7-604. Overseas service.

28 (a) As used in this section, 'overseas service' means service in an  
29 American-type overseas school, sponsored and approved by either the United  
30 States Department of State or the Department of Defense.

31 (b) A member of the system may receive membership service credit for  
32 service in an overseas school subject to the following conditions:

33 (1) To be eligible for overseas service credit, a member must have a  
34 minimum of ten (10) years of membership service in a position covered by the  
35 system;

1           (2) The overseas service credit to be granted shall be limited to  
2 service for which no benefit could be paid by another system similar in  
3 purpose to this system, except social security. The maximum overseas service  
4 credited to any member shall be ten (10) years;

5           (3) To be eligible for a year of overseas service credit, a member must  
6 have rendered at least one hundred twenty (120) days of service. Fractions of  
7 years of service may be credited in keeping with board policies as provided by  
8 § 24-7-601;

9           (4) Contributions must be paid on the member's salary in the overseas  
10 school. The member shall pay the member contributions rate. For each year of  
11 the member's service overseas, employer contributions shall be based upon the  
12 employer contribution rate in effect for that year. Employer contributions may  
13 be paid either by the employer or by the member. If contributions were not  
14 paid to the system promptly, as service was rendered, regular interest shall  
15 be added to the delayed contributions, from the date of service to the date of  
16 payment in full."

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18           SECTION 7. Arkansas Code 24-7-708(b) is hereby amended to read as  
19 follows:

20           "(b) For each year ending June 30, the social security retirement test  
21 to be considered shall be the test in effect for the calendar year beginning  
22 the January 1 immediately preceding June 30. The retirant's earnings shall be  
23 his remuneration for such employment for the year ending June 30."

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25           SECTION 8. All provisions of this act of a general and permanent nature  
26 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
27 Revision Commission shall incorporate the same in the Code.

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29           SECTION 9. If any provision of this act or the application thereof to  
30 any person or circumstance is held invalid, such invalidity shall not affect  
31 other provisions or applications of the act which can be given effect without  
32 the invalid provision or application, and to this end the provisions of this  
33 act are declared to be severable.

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35           SECTION 10. All laws and parts of laws in conflict with this act are

1 hereby repealed.

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3           SECTION 11. EMERGENCY. It is hereby found and determined by the  
4 General Assembly that certain provisions of the Teacher Retirement Law are  
5 badly in need of revision and updating to bring them into conformance with  
6 sound public pension policy and that such revision and updating is of great  
7 importance to members of the Teacher Retirement System and to other citizens  
8 of the state of Arkansas. Therefore, an emergency is hereby declared to exist  
9 and this act being necessary for the preservation of the public peace, health  
10 and safety shall be in full force and effect from and after July 1, 1991.

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