

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative McGinnis**

A Bill

HOUSE BILL 1287

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 24, CHAPTER 7,
9 OF THE ARKANSAS CODE OF 1987 TO CHANGE THE MEMBER
10 CONTRIBUTION CHOICE OPTION; TO MAKE TECHNICAL CORRECTIONS
11 FOR THE TEACHER RETIREMENT SYSTEM; TO DECLARE AN
12 EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

15 "AN ACT TO CHANGE THE MEMBER CONTRIBUTION CHOICE OPTION
16 FOR THE TEACHER RETIREMENT SYSTEM AND TO MAKE TECHNICAL
17 CORRECTIONS."

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

21 SECTION 1. Subdivision (14) of Arkansas Code § 24-7-202 is
22 hereby amended to read as follows:

23 "(14) Salary means the recurring remuneration paid an employee for
24 personal services rendered by the employee in a position covered by the
25 system. Should a portion of an employee's remuneration be paid other than in
26 cash, the cash value of the remuneration shall be established by the system in
27 an amount not to exceed the amount the employee is required to report for
28 federal income tax purposes. In determining salary, no consideration shall be
29 given to any nonrecurring single sum payment paid by an employer, any employer
30 contributions to any employee benefit plan, except cafeteria plans as defined
31 in § 21-5-901, or any other unusual or nonrecurring remuneration, or stipends
32 paid by an employer or other educational agency which are five hundred dollars
33 (\$500) or less in amount. For salary purposes, the amounts shall be
34 cumulative. Money which is in lieu of remuneration and which is used by an
35 employer to purchase a qualified tax-sheltered annuity or a life insurance

1 policy for an employee shall be considered as salary for system purposes. An
2 employee who is receiving remuneration under both a regular contract and a
3 purchased contract or under both a regular contract and a contract won through
4 litigation shall have only the greater of the two (2) amounts considered as
5 salary for system purposes. Should an employee make a charitable donation, or
6 return any part of his salary, to his employer, the amount of his recurring
7 remuneration otherwise usable as salary shall be reduced by such amount or
8 amounts to arrive at his salary for system purposes. In case of any dispute
9 concerning an employee's salary for system purposes, the system shall have the
10 power to settle the dispute;"

11

12 SECTION 2. Subsection (c) of Arkansas Code § 24-7-401 is hereby amended
13 to read as follows:

14 "(c) (1) (A) The financial objective of this act shall be maintained for
15 each fiscal year and the state employer contribution rate shall be expressed
16 as a percent of active member payroll for each fiscal year.

17 (B) The state employer contribution rate shall be
18 established for fiscal years beginning July 1, 1989, and thereafter, by the
19 General Assembly upon the advice of the Joint Interim Committee on Retirement
20 and Social Security Programs. In determining such advice, the Joint Interim
21 Committee on Retirement and Social Security Programs shall use the following
22 input:

23 (i) The recommendation of the board based upon
24 consultation with the board's actuary; and

25 (ii) Information furnished by an actuary retained by
26 the committee.

27 (C) The employer contribution rate shall be such that the
28 amortization period for all unfunded liability shall not exceed thirty (30)
29 years.

30 (2) For each fiscal year beginning July 1, 1993, or later, the
31 dollar amount of state employer contributions to be paid during the fiscal
32 year shall be the lesser of the result of multiplying the applicable percent
33 of active member payroll for the fiscal year by the total covered salaries
34 during the fiscal year, including any required prior year reported salaries,
35 of members whose positions are financed by the State Public School Fund,

1 taking the result to the nearest dollar, or the amount appropriated by the
2 General Assembly during each biennium.

3 (3) The percent of active member payroll to be paid in each year
4 of the biennium shall be adjusted to reflect any benefit changes."

5

6 SECTION 3. Subsection (d) of Arkansas Code § 24-7-401 is hereby
7 amended to read as follows:

8 "(d)(1) The board shall certify annually to the State Treasurer the
9 amounts calculated at the rate established by law or appropriated, whichever
10 is less, for employer contributions to be paid by the state, which
11 contributions shall be paid from the State Public School Fund or federal funds
12 administered by the State Board of Education.

13 (2) The State Treasurer is authorized and directed to pay the
14 system the state's employer contributions for each fiscal year, as follows:
15 Ten million dollars (\$10,000,000) on or before September 1 of the fiscal year
16 and, on or before the first day of each succeeding month, at least ten percent
17 (10%) of the remainder due until there is no remainder due at the end of the
18 fiscal year."

19

20 SECTION 4. Subsection (c) of Arkansas Code § 24-7-406 is hereby amended
21 to read as follows:

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

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

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

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

14 (5) Money used by a school district to purchase a qualified
15 tax-sheltered annuity or a life insurance policy for a member in lieu of
16 salary shall be considered as salary for purposes of the system. Retainers,
17 consultant's fees, lump-sum payments for unused sick leave, special payments
18 not in the form of regular remuneration, and stipends paid by an employer or
19 other educational agency which are five hundred dollars (\$500) or less in
20 amount shall not be considered salary for the purposes of the system.
21 Further, stipend amounts shall not be cumulative."

22

23 SECTION 5. Subsection (f) of Arkansas Code § 24-7-406 is hereby amended
24 to read as follows:

25 "(f) (1) Each member may elect, by written election filed with the
26 system in accordance with rules and regulations adopted by the board, to
27 eliminate future member contributions otherwise provided for in this section.

28 (2) For a new member, the election shall become a binding
29 agreement upon its effective date, if the election is so filed before
30 preparation of the payroll containing his first salary payment, but in no
31 event before July 1, 1986. In all other circumstances, the election shall be
32 effective the July 1 immediately following the filing of the election, but in
33 no event before July 1, 1986.

34 (3) Beginning July 1, 1993, any member may change his election
35 concerning member contributions once each fiscal year, to be effective the

1 July 1 immediately following the filing of the election.

2 (4) If the election is to eliminate member contributions, then
3 the election shall apply only to future member salaries and shall not change
4 the status of any member contributions made before the election. If the
5 effect of the election is to require member contributions, then the election
6 shall apply only to future member salaries and shall not change any member
7 contribution requirements existing before the election. However, if a member
8 has previously contributed on only the first seven thousand eight hundred
9 dollars (\$7,800) of his annual salary, he cannot contribute on full future
10 salaries until he has made added contributions on past full salaries as
11 provided in subsection (b) of this section.

12 (5) All new members, including any former active members, shall
13 not make the member contributions otherwise provided for in this section.
14 Such members may elect, by written election filed with the system in
15 accordance with rules and regulations adopted by the board, to make
16 contributions as provided for in this section. Such election shall become a
17 binding agreement upon its effective date, if the election is so filed with
18 the system before the preparation of the payroll containing his first salary
19 payment. In all other circumstances, the election shall be effective the July
20 1 immediately following the filing of the election.

21 (6) For a new member who files in compliance with (f) (1) or
22 (f) (5), the effective date shall be the date the first paycheck is received.
23 In all other circumstances, the effective date shall be July 1."
24

25 SECTION 6. Arkansas Code § 24-7-502 is hereby amended to read as
26 follows:

27 "24-7-502. Termination of active membership.

28 (a) (1) When a member is no longer employed by an employer in a position
29 covered by the system, he shall thereupon cease to be an active member of the
30 system. Unless he becomes a retirant or an inactive member as provided in this
31 act, his credited service shall be forfeited by him upon termination of his
32 active membership.

33 (2) If a former active member has not become a retirant and later
34 becomes reemployed by an employer in a position covered by the system, he
35 shall again become an active member upon reemployment.

1 (3) If he becomes reemployed from inactive member status, he
2 shall immediately begin adding to his previous credited service; but if his
3 service during his last such reemployment is for less than one hundred twenty
4 (120) days, he shall be considered to be an inactive member at the termination
5 of such reemployed service, and the only monthly benefits payable shall be
6 those provided by § 24-7-707.

7 (4) If he becomes reemployed from neither retirant nor inactive
8 member status, after completing one hundred twenty (120) days of service
9 during his last such reemployment, the active member shall receive the
10 indicated credited service for the credited service forfeited by him if he
11 returns to the system the indicated amount, as follows:

12 (A) He shall receive his total forfeited credited service
13 if he returns the amount he received therefrom, together with regular interest
14 from the date of withdrawal to the date of repayment; or

15 (B) If a portion of his forfeited credited service has been
16 credited him under the provisions of a publicly supported teacher retirement
17 system of another state, he shall receive the portion of his forfeited
18 credited service not so credited by the other system if he returns the amount
19 he received from this system for that portion of his credited service not so
20 credited by the other system, together with regular interest from the date of
21 withdrawal to the date of repayment.

22 (5) In addition to the forfeited credited service, the active
23 member shall receive credit for his other previous service after July 1, 1937,
24 upon his paying to the system the member contributions in effect during the
25 previous service together with regular interest from the dates of the service
26 to the date of payment; for previous service rendered before July 1, 1971,
27 service credit shall be permitted for service in a fiscal school year only if
28 at least one hundred twenty (120) days of service were rendered in the fiscal
29 school year. To establish credit for previous service, a member must pay to
30 the system both member and employer contributions, plus regular interest from
31 the dates the contributions would normally have been received by the system to
32 the date of actual payment. (b) Upon a member's retirement, he shall cease
33 to be a member and, except as otherwise provided in this act, he shall not
34 again become a member of the system."

35

1 SECTION 7. Subsection (c) of Arkansas Code § 24-7-705 is hereby amended
2 to read as follows:

3 "(c) (1) The minimum straight life annuity for a member retiring after
4 June 30, 1965, but before July 1, 1986, shall be one hundred fifty dollars
5 (\$150) per month.

6 (2) For a member retiring July 1, 1986, or later, the minimum
7 straight life annuity shall be:

8 (A) One hundred fifty dollars (\$150) per month if the
9 member has no noncontributory credited service of the type specified in
10 subdivision (a) (6) of this section;

11 (B) Ninety-four dollars (\$94.00) per month if the member
12 has only credited service of the noncontributory type specified in subdivision
13 (a) (6) of this section; or

14 (C) If the member has a mixture of credited service, the
15 monthly amount shall be prorated between ninety-four dollars (\$94.00) and one
16 hundred fifty dollars (\$150) according to the relationship between his
17 noncontributory credited service and his total credited service; provided,
18 however, if the member has at least ten (10) years of contributory service,
19 regardless of his number of years of noncontributory service, his monthly
20 amount shall not be less than one hundred fifty dollars (\$150)."

21

22 SECTION 8. Arkansas Code § 24-7-717 is hereby amended to read as
23 follows:

24 "24-7-717. Rescission of termination of active membership.

25 (a) A retirant under §§ 24-7-201 - 24-7-713 who has not attained the
26 age of seventy-two (72) years may rescind the decision to terminate active
27 membership and may become an active member upon reemployment.

28 (b) Persons rescinding their decisions to terminate active membership
29 shall file a written rescission on the form furnished by the board.

30 (c) The rescission shall become effective the first day of the calendar
31 month next-following the date the written rescission is received by the board.

32 (d) Upon rescission, a former retirant shall be considered an active
33 member and shall accrue additional credited service subject to the provisions
34 of subsection (e) of this section. Any annuity benefit formerly due from the
35 system shall be terminated upon the effective date of the rescission.

1 (e) (1) If reemployment terminates before the end of the fiscal year in
2 which a former retirant has accumulated at least three (3) years of credited
3 service, the former retirant shall become a retired member and the payment of
4 the annuity shall resume upon such termination. The former retirant shall be
5 entitled to receive any member contributions which may have been made during
6 the reemployment period.

7 (2) If reemployment terminates after the end of the fiscal year
8 in which the former retirant has accumulated at least three (3) years of
9 credited service, upon termination of reemployment, the former retirant shall
10 become a retired member and receive an annuity which has been recalculated
11 according to the benefit formula in effect at the time of such termination of
12 reemployment."

13

14 SECTION 9. All provisions of this act of a general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

17

18 SECTION 10. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

23

24 SECTION 11. All laws and parts of laws in conflict with this act are
25 hereby repealed.

26

27 SECTION 12. EMERGENCY CLAUSE. It is hereby found and determined by the
28 Seventy-Ninth General Assembly that changed conditions have dictated that
29 certain provisions of the Teacher Retirement law need to be revised and
30 updated, that these changes are necessary for the System to continue with
31 proper management and administration, and that the revisions in the law are
32 essential to the continued effective operation of the Teacher Retirement
33 System. Therefore, an emergency is hereby declared to exist and this act
34 being necessary for the immediate preservation of the public peace, health and
35 safety shall be in full force and effect from and after July 1, 1993.

1
2
3
4
5
6
7

/s/Rep. McGinnis