

***As Engrossed: 2/25/93 3/2/93***

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

# **A Bill**

**HOUSE BILL 1314**

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

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED 24-4-207(c) AND  
9 ARKANSAS CODE ANNOTATED 24-4-508 TO PROVIDE FOR THE  
10 ISSUANCE OF AN ANNUITY DETERMINATION, THE FINALITY OF SUCH  
11 DETERMINATIONS, THE RECONSIDERATION OF AN ANNUITY  
12 DETERMINATION, AND A STATUTE OF LIMITATION ON THE  
13 RECOUPMENT OF ERRONEOUS OVERPAYMENTS; AND FOR OTHER  
14 PURPOSES."

## **Subtitle**

17 "TO AMEND CERTAIN PROVISIONS CONCERNING ANNUITY  
18 DETERMINATIONS"

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

22 SECTION 1. Arkansas Code Annotated 24-4-207(c) is amended to read as  
23 follows:

24 "(c) (1) Should any change or error in the records of the system or any  
25 audit of a member\_s annuity calculations result in any person's receiving more  
26 or less than he would have been entitled to receive had the records or the  
27 calculations been correct, the board shall correct the error(s) and, as far as  
28 *is equitable and practicable, shall adjust the payment in accordance with the*  
29 *provisisons of this subsection and in such manner that the actuarial*  
30 *equivalent of the benefit to which the person was correctly entitled shall be*  
31 *paid. However, no monthly adjustment of less than one dollar (\$1.00) shall be*  
32 *made.*

33 (2) *The board shall have the right to recover any overpayment that any*  
34 *person may have received from funds of the system provided the overpayment is*  
35 *determined and the person is so notified within one (1) year of the date of*

1 the first overpayment. If the overpayment is determined at a date later than  
2 one (1) year after the date of the first overpayment, the overpayment shall  
3 not be recouped by the Board unless the overpayment is a result of an error on  
4 the part of a member, retirant, or beneficiary. In all instances where an  
5 overpayment is determined, any subsequent payments shall be adjusted to the  
6 correct amount.

7 (3) If it is determined that any person has received an underpayment  
8 from the funds of the system, regardless of the date of the determination, the  
9 system shall pay in a lump sum to the person the total of any underpayments  
10 made prior to the date of determination, and any subsequent payments shall be  
11 adjusted to the correct amount."

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13 SECTION 2. Arkansas Code Annotated 24-4-508 is amended by adding the  
14 following subsection (d) at the end thereof:

15 "(d) (1) Annuity Determination. An annuity determination shall be made  
16 promptly by the system upon a member\_s filing a written application for  
17 retirement in accordance with Section 24-4-508(a). Such determination shall  
18 include the member\_s total years of credited service, the specific factors  
19 used to make the determination, the base annuity payable to the member, and  
20 the amount of annuity payments, if any, payable under the annuity options of  
21 Section 24-4-606. If the member is not eligible for a retirement annuity, the  
22 determination shall state the reasons for such determination.

23 (2) Redetermination. The board may reconsider a benefit  
24 determination in accordance with 24-4-207(c). Except as provided for the  
25 calculation of the annual cost of living adjustment under Section 24-4-607, no  
26 reconsideration may be made after one (1) year from the date of the original  
27 determination.

28 If the annuity amount is decreased upon the reconsideration, the matters  
29 involved in the decrease shall be set forth in writing and shall be subject to  
30 review upon the filing of an appeal thereof by the member, or annuity  
31 recipient. The redetermination shall be deemed to be final and binding on all  
32 parties unless within twenty (20) days after the mailing of notice of the  
33 redetermination to the member's last known address, or twenty (20) days after  
34 personal delivery of such notice to the member, an appeal thereof is filed  
35 with the executive director of the system.

1           (3) Appeal. The executive director of the system shall promptly hear  
2 all appeals of annuity determinations or redeterminations and shall conduct  
3 such hearings in accordance with procedures set forth by the Board of  
4 Trustees."

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6           SECTION 3. All provisions of this act of a general and permanent nature  
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
8 Revision Commission shall incorporate the same in the Code.

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10          SECTION 4. If any provision of this act or the application thereof to  
11 any person or circumstance is held invalid, such invalidity shall not affect  
12 other provisions or applications of the act which can be given effect without  
13 the invalid provision or application, and to this end the provisions of this  
14 act are declared to be severable.

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16          SECTION 5. All laws and parts of laws in conflict with this act are  
17 hereby repealed.

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19          SECTION 6. EMERGENCY. It is hereby found and determined by the General  
20 Assembly of the State of Arkansas that immediate passage and approval of this  
21 act is necessary to render finality to annuity determinations made by the  
22 Public Employees Retirement System Board and to prevent the hardship and  
23 instability that results from the recoupment of the overpayments of  
24 incorrectly calculated annuity payments to retired State employees for a  
25 protracted period of time. Therefore, an emergency is hereby declared to  
26 exist and this act being necessary for the immediate preservation of the  
27 public peace, health, and safety, shall be in full force and effect from and  
28 after its passage and approval.

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*/s/B. Fairchild*

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**HB 1314**

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