

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

# A Bill

**HOUSE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 24-10-607 TO ELIMINATE  
9 THE CONFLICT BETWEEN THE ARKANSAS LOCAL POLICE AND FIRE  
10 RETIREMENT SYSTEM DISABILITY RETIREMENT PROVISIONS AND  
11 FEDERAL LAW; TO DECLARE AN EMERGENCY; AND FOR OTHER  
12 PURPOSES."

## Subtitle

14 "AN ACT TO ELIMINATE THE CONFLICT BETWEEN THE ARKANSAS  
15 LOCAL POLICE AND FIRE RETIREMENT SYSTEM DISABILITY  
16 RETIREMENT PROVISIONS AND FEDERAL LAW."

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 SECTION 1. Arkansas Code § 24-10-607 is hereby amended to read as  
22 follows:

23 "24-10-607. Disability retirement.

24 (a) (1) Any active member with five (5) years of credited service,  
25 including credited service for seventy-five percent (75%) of the two (2) years  
26 immediately preceding his disability, who becomes totally and permanently  
27 physically or mentally incapacitated for any suitable duty as an employee as a  
28 result of a personal injury or disease may be retired by the board upon  
29 written application filed with the board by or on behalf of the member. The  
30 employee shall be retired only if, after a medical examination of the member  
31 made by or under the direction of a physician or physicians designated by the  
32 board, the physician reports to the plan in writing that the member is  
33 physically or mentally totally incapacitated for the further performance of  
34 any suitable duty, that the incapacity will probably be permanent, and that  
35 the member should be retired.

1           (2) The disability annuity shall be effective the first day of  
2 the calendar month next following the later of:

3                   (A) His termination of active membership; and

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

6           (b)(1) Upon disability retirement as provided in subsection (a) of this  
7 section, a member shall receive an annuity provided for in § 24-10-602.

8                   (2) He shall have the right to elect an option provided for in  
9 §24-10-603.

10           (3) His disability retirement and annuity shall be subject to the  
11 provisions of subsection (e) of this section and to the provisions of  
12 §24-10-610.

13           (c)(1) Any active member who becomes totally and permanently physically  
14 or mentally incapacitated for any suitable duty as an employee as the result  
15 of a personal injury or disease which the board finds to have arisen out of,  
16 and in the course of, his actual performance of duty as an employee may be  
17 retired by the board upon written application filed with the board by or on  
18 behalf of the member. The employee shall be retired only if, after a medical  
19 examination of the member made by or under the direction of a physician or  
20 physicians designated by the board, the physician reports to the plan in  
21 writing that the member is physically or mentally totally incapacitated for  
22 the further performance of any suitable duty, that the incapacity will  
23 probably be permanent, and that the member should be retired.

24           (2) The disability annuity shall be effective the first day of  
25 the calendar month next following the later of:

26                   (A) His termination of active membership; and

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

29           (d)(1) Upon disability retirement as provided in subsection (c) of this  
30 section, a member shall receive an annuity provided for in § 24-10-602;  
31 however, for the sole purpose of computing the amount of the annuity for such  
32 retirant who does not have twenty-five (25) years of credited service in force  
33 at the beginning of the disability retirement, credited service shall be  
34 granted for the period from the date of disability retirement to the date the  
35 retirant would have completed twenty-five (25) years of credited service.

1           (2) He shall have the right to elect an option provided for in  
2 §24-10-603.

3           (3) His disability retirement and annuity shall be subject to the  
4 provisions of subsection (e) of this section and to the provisions of  
5 §24-10-610.

6           (e)(1) At least one (1) time each year during the first five (5) years  
7 following a member's retirement on account of disability and at least one (1)  
8 time in each three-year period thereafter, the board may require any  
9 disability retirant who has not attained his normal retirement age to undergo  
10 a medical examination to be made by or under the direction of a physician or  
11 physicians designated by the board.

12           (2) If the retirant refuses to submit to the medical examination  
13 in any period, his disability annuity may be suspended by the board until his  
14 withdrawal of his refusal.

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

17           (4) If, upon the medical examination of the retirant, the  
18 physician reports to the board that the retirant is physically and mentally  
19 able and capable of resuming suitable duty as an employee, his disability  
20 retirement shall terminate.

21           (5) If the former disability retirant does not immediately again  
22 become an employee, then, for the purpose of determining his eligibility for  
23 any other system benefit, he shall be considered to have terminated active  
24 membership as of the time of disability retirement, but for a reason other  
25 than disability or death.

26           (6)(A) If the former disability retirant immediately again  
27 becomes an employee, he shall immediately again become a member of the system,  
28 and his credited service at the time of his disability retirement shall be  
29 restored to his credit.

30           (B) He shall be given service credit for the period he was  
31 in receipt of the disability annuity.

32           (C) Should the former disability retirant again become  
33 totally and permanently disabled within two (2) years immediately following  
34 his return to membership, the seventy-five percent (75%) credited service  
35 requirement specified in subsection (a) of this section shall be waived."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

SECTION 2. All provisions of this act of general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provisions of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. Emergency. It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that the disability retirement provisions of the Arkansas Local Police and Fire Retirement System law conflicts with federal laws; that any conflict between federal laws and state laws leads to costly litigation and attorneys\_ fees; and that changing the laws of the state of Arkansas to eliminate these conflicts in laws will promote the more efficient and effective use of state and local government funds in Arkansas. Therefore, in order to promote the most proper expenditure of Arkansas state and local government funds, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

1

2

3