

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4
5 By: Senator J. Jeffress
6
7

A Bill

SENATE BILL 231

For An Act To Be Entitled

9 AN ACT TO AMEND THE DEFINITIONS OF SALARY AND
10 INTEREST TO EXCLUDE NONRECURRING PAYMENTS FROM
11 THE CALCULATION OF FINAL AVERAGE SALARY IN THE
12 ARKANSAS TEACHER RETIREMENT SYSTEM ACT; AND FOR
13 OTHER PURPOSES.
14

Subtitle

15 TO AMEND THE DEFINITIONS OF SALARY AND
16 INTEREST IN THE ARKANSAS TEACHER
17 RETIREMENT SYSTEM ACT TO EXCLUDE
18 NONRECURRING PAYMENTS FROM THE
19 CALCULATION OF FINAL AVERAGE SALARY.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 24-7-202(15) - (27) concerning definitions
26 of salary and interest under the Arkansas Teacher Retirement System, is
27 amended to read as follows:

28 (15)(A)(i)(a) "Final average salary" means, ~~for a member who~~
29 ~~retires after June 30, 1997,~~ the average of the ~~annual salaries~~ remuneration
30 paid to him or her a member by a participating employer during the period the
31 fiscal year ending June 30 of not less than three (3) years nor more than
32 five (5) years of credited service producing the highest annual average ~~with~~
33 ~~the exact time period to be~~ determined in accordance with the rules and
34 regulations of the board as is actuarially appropriate for the Arkansas
35 Teacher Retirement System, ~~subject to the provisions of subdivision (27)(A)~~
36 ~~of this section.;~~



1 (b) However, compensation in excess of the
 2 limitations set forth in Section 401(a)(17) of the Internal Revenue Code of
 3 1986 shall be disregarded.

4 (ii) ~~Prior to~~ Before reducing the time period used
 5 to determine final average salary, the board shall file relevant information
 6 concerning the actuarial appropriateness of the action with the Joint Interim
 7 Committee on Public Retirement and Social Security Programs, and the action
 8 shall be reviewed by the committee.

9 (B) ~~Should a member have~~ If a member has less than the
 10 minimum of three (3) years of credited service, “final average salary” means
 11 the annual average of salaries paid to him or her during his or her total
 12 years of credited service, subject to the provisions of subdivision (27)(A)
 13 of this section+.

14 (C) Nonrecurring, solitary payments to a member shall not
 15 be included in salary for purposes of calculating a member’s final average
 16 salary, excluding any mandatory nonrecurring payments set forth in the
 17 employer’s applicable classification and compensation schedule or other
 18 uniform remuneration provision;

19 (16) “Inactive member” means ~~any former active~~ a formerly active
 20 member who is:

21 (A) No longer rendering service that is covered by the
 22 Arkansas Teacher Retirement System; and

23 (B) Not a retirant;

24 (17) “Interest” means the rate or rates per annum, compounded
 25 annually, as the board shall adopt from time to time, that will be charged
 26 for the purchase of service credit or to repay a refund, or repayment of
 27 benefits, but the rate shall equal no less than the Arkansas Teacher
 28 Retirement System’s current assumed interest rate assumption;

29 (18) “Internal Revenue Code” means the federal Internal Revenue
 30 Code of 1986, as amended, as it existed on January 1, ~~2007~~2009;

31 (19) “Member” means any person included in the membership of the
 32 Arkansas Teacher Retirement System;

33 (20) “Nonteacher” means any member except a teacher;

34 (21) “Normal retirement age” means sixty-five (65) years of age;

35 (22) “Reciprocal service” means credited service rendered under
 36 a reciprocal system as defined by § 24-2-401;

1 (23) "Regular interest" means the rate or rates per annum,
 2 compounded annually, which the board shall adopt from time to time, that will
 3 be used to compute interest on members' contributions;

4 (24) "Reserve" means the present value of all payments to be
 5 made on account of any Arkansas Teacher Retirement System benefit based upon
 6 such reasonable tables of experience and regular interest as the board shall
 7 adopt from time to time;

8 (25) "Retirant" means a ~~former~~ member receiving an Arkansas
 9 Teacher Retirement System annuity;

10 (26) "Retires" means that a member ceases to be active and is
 11 eligible to receive retirement benefits from the Arkansas Teacher Retirement
 12 System;

13 (27)(A)(i) "Salary" means the remuneration paid to ~~an employee a~~
 14 member employed in a position covered by the Arkansas Teacher Retirement
 15 System ~~and~~ on which the employer withholds federal income tax.

16 (ii)(a) However, compensation in excess of the
 17 limitations set forth in section 401(a)(17) of the Internal Revenue Code of
 18 1986 shall be disregarded.

19 (b) The limitation on compensation for
 20 eligible employees shall not be less than the amount that was allowed to be
 21 taken into account under the Arkansas Teacher Retirement System as in effect
 22 on July 1, 1993. For this purpose, an eligible employee is an individual who
 23 was a member of the Arkansas Teacher Retirement System before the first plan
 24 year beginning after December 31, 1995.

25 (iii) ~~However, in computing retirement benefits, no~~
 26 ~~salary paid in one (1) of the years which is utilized in the computation of~~
 27 ~~the member's final average salary shall exceed one hundred ten percent (110%)~~
 28 ~~of the salary earned in the year preceding that year used in the computation,~~
 29 ~~unless the increase is a direct result of:~~

30 ~~(a) A promotion;~~

31 ~~(b) A change in position;~~

32 ~~(c) An incremental increase provided in the school district salary~~
 33 ~~schedule; or~~

34 ~~(d) An increase in school revenues.~~ If a member's salary includes
 35 remuneration paid other than in cash, the cash value of the remuneration
 36 shall be considered in the amount the employer is required to report for

1 federal income tax purposes;

2 ~~(B) Should a portion of an employee's remuneration be paid other~~
3 ~~than in cash, the cash value of the remuneration shall be established by the~~
4 ~~Arkansas Teacher Retirement System in an amount not to exceed the amount the~~
5 ~~employee is required to report for federal income tax purposes.~~

6 ~~(C)(B)(i)~~ In determining salary, employer pick-up contributions,
7 cafeteria plans as defined in § 21-5-901, and employee contributions to tax-
8 sheltered annuities qualified retirement plans, including without limitation
9 qualified annuities and deferred compensation plans, shall be included.

10 (ii) However, a member may establish salary earned
11 under a purchase service contract with a covered employer by paying employee
12 and employer contributions plus interest.

13 (iii) Employment contracts purchased by a covered
14 employee or won through litigation that results in either a consent
15 agreement, judgment, or decree may be counted as salary upon payment of all
16 required member and employer contributions, including interest, to the
17 system.

18 (iv) A member who receives remuneration under a
19 regular contract and a purchased contract or under both a regular contract and
20 a contract won through litigation shall have the greater of two (2) amounts
21 considered as salary for the purposes of determining the final average salary
22 of the member.

23 (v) A retirement annuity may be based on service
24 credit covered by the purchased contract.

25 (vi) A contributory employee's contributions and an
26 employer's contributions are required on covered salary including
27 contributions that are paid concurrently with other remuneration for another
28 covered employer or used in calculating member benefits.

29 ~~(D) Money that is in lieu of remuneration and is used by~~
30 ~~an employer to purchase a qualified tax sheltered annuity or a life insurance~~
31 ~~policy for an employee shall be considered as salary for Arkansas Teacher~~
32 ~~Retirement System purposes.~~

33 ~~(E) An employee who is receiving remuneration under both a~~
34 ~~regular contract and a purchased contract or under both a regular contract~~
35 ~~and a contract won through litigation shall have only the greater of the two~~
36 ~~(2) amounts considered as salary for Arkansas Teacher Retirement System~~

1 purposes.

2 (F) ~~Should an employee make a charitable donation or~~
3 ~~return any part of his or her salary to his or her employer, the amount of~~
4 ~~his or her recurring remuneration otherwise usable as salary shall be reduced~~
5 ~~by such an amount or amounts to arrive at his or her salary for Arkansas~~
6 ~~Teacher Retirement System purposes.~~

7 (G)(C) In case of any dispute concerning an employee's
8 salary for Arkansas Teacher Retirement System purposes, the Arkansas Teacher
9 Retirement System ~~shall have the power to~~ may settle the dispute;

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11 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that certain provisions of the
13 Arkansas Teacher Retirement System Act are badly in need of revision and
14 updating to bring them into conformance with sound public pension policy;
15 that such revision and updating is of great importance to members of the
16 Arkansas Teacher Retirement System and to other citizens of the State of
17 Arkansas; and that this act is immediately necessary in order to maintain an
18 orderly system of benefits for the members of the Arkansas Teacher Retirement
19 System. Therefore, an emergency is declared to exist and this act being
20 necessary for the preservation of the public peace, health, and safety shall
21 become effective on July 1, 2009.