

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 As Engrossed: S2/10/09 S2/18/09 S3/4/09 S4/1/09

2 87th General Assembly

A Bill

3 Regular Session, 2009

SENATE BILL 231

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5 By: Senator J. Jeffress

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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.

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Subtitle

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17 TO AMEND THE DEFINITIONS OF SALARY AND
18 INTEREST IN THE ARKANSAS TEACHER
19 RETIREMENT SYSTEM ACT TO EXCLUDE
20 NONRECURRING PAYMENTS FROM THE
21 CALCULATION OF FINAL AVERAGE SALARY.

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

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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:

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



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

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

11 (16) "Inactive member" means ~~any former active~~ a formerly active
12 member who is:

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

15 (B) Not a retirant;

16 (17) "Interest" means the rate or rates per annum, compounded
17 annually, as the board shall adopt from time to time, that will be charged
18 for the purchase of service credit or to repay a refund, or repayment of
19 benefits, but the rate shall equal no less than the Arkansas Teacher
20 Retirement System's current assumed interest rate assumption;

21 (18) "Internal Revenue Code" means the federal Internal Revenue
22 Code of 1986, as amended, as it existed on January 1, ~~2007~~2009;

23 (19) "Member" means any person included in the membership of the
24 Arkansas Teacher Retirement System;

25 (20) "Nonteacher" means any member except a teacher;

26 (21) "Normal retirement age" means sixty-five (65) years of age;

27 (22) "Reciprocal service" means credited service rendered under
28 a reciprocal system as defined by § 24-2-401;

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

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

36 (25) "Retirant" means a ~~former~~ member receiving an Arkansas

1 Teacher Retirement System annuity;

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

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

8 (ii)(a) However, compensation in excess of the
9 limitations set forth in section 401(a)(17) of the Internal Revenue Code of
10 1986 shall be disregarded.

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

17 (c) However, compensation in excess of the
18 limitations set forth in Section 401(a)(17) of the Internal Revenue Code of
19 1986 shall be disregarded.

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

25 ~~(a) A promotion;~~

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

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

29 ~~(d) An increase in school revenue~~ The applicable number of years used
30 in computing final average salary for retirement benefits shall be set by the
31 board.

32 (2) Only full service years shall be used in
33 the calculation.

34 (3) The applicable number of highest salary
35 years shall be ranked from lowest to highest remuneration.

36 (4) The lowest remuneration year in the

1 ranking shall be the base year.

2 (5) The next highest ranked remuneration year
3 shall be compared to the base year.

4 (6) The next highest year's value in the
5 calculation of final average salary shall not exceed one hundred twenty
6 percent (120%) of the base year, unless the difference in value between the
7 next highest year and the base year is five thousand dollars (\$5,000) or
8 less.

9 (7) After comparison of the base year to the
10 next highest year, any required reduction to the next highest year shall be
11 made.

12 (8) The next highest year, with any required
13 reduction, becomes the new base year to compare to the next succeeding
14 highest remuneration year in the ranking until all years in the ranking have
15 been compared to its base and reduced as necessary according to the formula.

16 (9) The total value of the base years shall
17 then be averaged to determine final average salary.

18 (b) If full service years of service are not
19 available for the number of applicable years of service required by board
20 rule for the calculation of a member's final average salary for retirement
21 benefits, the board may promulgate rules to establish a fair base year for a
22 member's final average salary for purposes of comparison under subdivision
23 (27)(A)(iii)(a) of this section.

24 (iv) If a member's salary includes remuneration paid
25 other than in cash, the cash value of the remuneration is considered in the
26 amount the employer is required to report for federal income tax purposes.

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

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

35 (ii) However, a member may establish salary earned
36 under a purchase service contract with a covered employer by paying employee

1 and employer contributions plus interest.

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

7 (iv) A member who receives remuneration under a
8 regular contract and a purchased contract or under both a regular contract and
9 a contract won through litigation shall have the greater of two (2) amounts
10 considered as salary for the purposes of determining the final average salary
11 of the member.

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

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

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

22 ~~(E)(C) An employee~~ A member ~~who is receiving remuneration~~
23 ~~under both a regular contract and a purchased contract or under both a~~
24 ~~regular contract and a contract won through litigation, consent agreement,~~
25 ~~judgment, or decree shall have only the greater of the two (2) amounts~~
26 ~~considered as salary for Arkansas Teacher Retirement System purposes.~~

27 (D) A member's contributions if contributory, and an
28 employer's contributions are required on covered salary, including salary
29 that is paid concurrently with other remuneration from another covered
30 employer, even if the salary is not used in calculating member benefits.

31 (E) Retirement annuities may be based on service credit
32 covered by the purchased contract.

33 ~~(F) Should an employee make a charitable donation or~~
34 ~~return any part of his or her salary to his or her employer, the amount of~~
35 ~~his or her recurring remuneration otherwise usable as salary shall be reduced~~
36 ~~by such an amount or amounts to arrive at his or her salary for Arkansas~~

