

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1365

5 By: Representative Coleman  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING EMPLOYER AND  
9 MEMBER CONTRIBUTIONS TO THE ARKANSAS TEACHER  
10 RETIREMENT SYSTEM FOR SETTLEMENTS AND JUDGMENTS; TO  
11 ALLOW THE PURCHASE OF SALARY OR SERVICE CREDIT USING  
12 ACTUARIAL COSTS; TO DECLARE AN EMERGENCY; AND FOR  
13 OTHER PURPOSES.  
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## Subtitle

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17 TO AMEND THE LAW ON CONTRIBUTIONS MADE TO  
18 THE ARKANSAS TEACHER RETIREMENT SYSTEM  
19 FOR SETTLEMENTS AND JUDGMENTS; TO ALLOW  
20 THE PURCHASE OF SALARY OR SERVICE CREDIT  
21 USING ACTUARIAL COSTS; AND TO DECLARE AN  
22 EMERGENCY.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 24-7-202(32)(A), concerning the definition  
28 of salary under the Arkansas Teacher Retirement System Act, is amended to  
29 read as follows:

30 (32)(A) "Salary" means the remuneration paid to a member  
31 employed in a position covered by the Arkansas Teacher Retirement System on  
32 which the employer is required to withhold federal income tax from wages or  
33 on which income tax would be due under the Internal Revenue Code.  
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35 SECTION 2. Arkansas Code § 24-7-202(32)(C)(i), concerning the  
36 definition of salary under the Arkansas Teacher Retirement System Act, is



1 amended to read as follows:

2 (i) All or part of a payment made as a result of a  
3 contract buyout agreement, settlement, claim, judgment, arbitration award,  
4 decree, or court-ordered payment to a member ~~on which the employer is~~  
5 ~~required to withhold federal income tax from wages unless the amount paid to~~  
6 ~~the member is higher than the wages earned by the member for regular service;~~  
7 and

8  
9 SECTION 3. Arkansas Code § 24-7-735(b)-(d), concerning the settlement  
10 of claims and judgments between covered employees and covered employers of  
11 the Arkansas Teacher Retirement System, is amended to read as follows:

12 (b) ~~Employer contributions shall be payable to the system on payments~~  
13 ~~made to the member on which the employer is required to withhold federal~~  
14 ~~income tax as if the payments were made under § 24-7-708 if the member does~~  
15 ~~not continue to work on-site for the employer.~~

16 (e)(1) The employer shall provide a copy of a settlement agreement or  
17 court order under this section to the system so that the system can  
18 calculate any contributions due to the system or service credit and salary  
19 due to the member prevent the accumulation of service credit for any payments  
20 that are not for on-site work for the employer.

21 (2) A member shall not receive service credit or additional  
22 salary from the system under a settlement agreement or court order unless  
23 permitted under this section.

24 (d)(c) The system shall allow a member or employer to purchase service  
25 credit or additional salary for the member for salary that should have been  
26 paid under a settlement agreement or court order to resolve a claim of  
27 wrongful termination or the underpayment of salary that should have been paid  
28 if the service credit is:

29 (1)(A)(i) Purchased ~~from the date of termination~~ as additional  
30 salary by an employer ~~to the date of the settlement agreement, court order,~~  
31 ~~or other resolution of the dispute~~ or member to be added to the final average  
32 salary of the member calculated at the time of the purchase.

33 (ii) The member's official salary record shall  
34 include the purchased additional salary years which may be used to compute  
35 the final average salary at the time of retirement if the salary in any of  
36 the additional purchased salary years qualifies for the final average salary

1 calculation.

2 (B) Service credit earned by the member from an employer  
3 from the date of termination by an employer to the date of the settlement  
4 agreement or court order shall be subtracted from the amount of service  
5 credit allowed for purchase under subdivision ~~(d)(1)(A)~~ (c)(1)(A) of this  
6 section; and

7 (2) Paid using the actuarial equivalent, as calculated by the  
8 system, of the member's benefits to the system.

9 (d)(1) The system shall use the same factors as used to determine the  
10 cost of the additional salary purchase to calculate an additional monthly  
11 benefit in the annuitization of a T-DROP distribution.

12 (2) The calculation shall be made with the assumption that the  
13 member would have immediately retired at the time of the additional salary  
14 purchase.

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16 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
17 General Assembly of the State of Arkansas that the operations of a state  
18 public retirement system are complex; that the Arkansas Teacher Retirement  
19 System must be able to meet the needs of its members as anticipated by the  
20 General Assembly; that certain provisions of the Arkansas Teacher Retirement  
21 System Act are imminently in need of revision and updating to bring them into  
22 conformance with sound public pension policy and actuarial requirements; that  
23 such revision and updating is of great importance to members of the system  
24 and to other citizens of the State of Arkansas; that the system needs to have  
25 the ability to make immediate changes to maintain and improve its actuarial  
26 status; and that this act is immediately necessary in order to maintain an  
27 orderly system of benefits for the members of the Arkansas Teacher Retirement  
28 System. Therefore, an emergency is declared to exist, and this act being  
29 immediately necessary for the preservation of the public peace, health, and  
30 safety shall become effective on:

31 (1) The date of its approval by the Governor;

32 (2) If the bill is neither approved nor vetoed by the Governor,  
33 the expiration of the period of time during which the Governor may veto the  
34 bill; or

35 (3) If the bill is vetoed by the Governor and the veto is  
36 overridden, the date the last house overrides the veto.