

Act 33 of the Third Special Session of 1989.

Act 33

HB1055

By: Representative Foster

For An Act To Be Entitled  
"AN ACT TO AMEND ARKANSAS CODE 21-3-201 ET SEQ. TO MAKE  
ARKANSAS' PUBLIC EMPLOYER AGE DISCRIMINATION LAW CONSISTENT  
WITH THE COMPARABLE FEDERAL LAW; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code Sections 21-3-202 and 203 are hereby amended to read as follows:

"21-3-202. Applicability. The prohibitions in this subchapter shall be limited to individuals who are at least forty (40) years of age.

21-3-203. Age discrimination prohibited - Exceptions.

(a) It shall be unlawful for a public employer:

(1) To fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of the individual's age;

(2) To limit, segregate, or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of the individual's age; or

(3) To reduce the wage rate of any employee in order to comply with this subchapter.

(b) It shall not be unlawful for a public employer:

(1) To take any action otherwise prohibited by this subchapter where age is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age; or

(2) To discharge or otherwise discipline an individual for good cause."

SECTION 2. Arkansas Code Section 21-3-205 is hereby amended to read as follows:

"21-3-205. Compulsory retirement of certain employees.

(a)(1) Nothing in this subchapter shall be construed to prohibit compulsory retirement of any employee who has attained sixty-five (65) years of age, and who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position if the employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, savings, or deferred compensation plan, or any combination of such plans, of the employer of the employee, which equals, in the aggregate, at least forty-four thousand (\$44,000) dollars.

(2) In applying the retirement benefit test of subdivision (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity with no ancillary benefits, or if employees contribute to any such plan or make rollover contributions, that benefit shall be adjusted by the actuary of the employee's public retirement system, so that the benefit is the equivalent of a straight life annuity with no ancillary benefits under a plan to which employees do not contribute and under which no rollover contributions are made.

(b) The prohibitions of this subchapter shall apply to employees with

unlimited tenure who retire after July 1, 1982."

SECTION 3. Subchapter 2 of Chapter 3 of Title 21 of the Arkansas Code is hereby amended by adding two sections to read as follows:

"23-3-206. Nothing in this subchapter shall be construed to prohibit compulsory retirement of any employee who has attained seventy (70) years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education.

21-3-207. The provisions of Section 21-3-206 shall expire and shall have no effect after December 31, 1993."

SECTION 4. Arkansas Code 21-3-204 is hereby repealed.

SECTION 5. All provisions of this Act of a 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 6. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: November 8, 1989

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