

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Luelf**
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A BILL ACT 511 OF 1991
SENATE BILL 422

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For An Act To Be Entitled

"AN ACT TO AMEND TITLE 24, CHAPTER 7, SUBCHAPTER 8 OF THE
ARKANSAS CODE OF 1987 TO CLARIFY PARTICIPATION IN
RETIREMENT PLANS FOR EMPLOYEES OF THE DEPARTMENT OF HIGHER
EDUCATION; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code §24-7-801 is hereby amended to read as follows:

"24-7-801. Definitions. As used in this subchapter, unless the context otherwise requires:

- (1) 'State' means the State of Arkansas;
- (2) 'State Board' means the State Board of Higher Education;
- (3) 'Department employees' means the director and the professional education employees of the State Department of Higher Education;
- (4) 'Alternate retirement plan' means a retirement plan based on the purchase of contracts providing retirement and death benefits for the teachers and administrative officers of state-supported colleges, Arkansas State University, and the department employees;
- (5) 'Retirement system' means the Teacher Retirement System of the State of Arkansas;
- (6) 'College' means any one of the state-supported colleges and junior colleges and Arkansas State University;
- (7) 'Board' means the governing body of a college;
- (8) 'Staff members' means both teachers and administrative officers of a college who are eligible for membership in the retirement system."

SECTION 2. Arkansas Code §24-7-804 is hereby amended to read as follows:

1 "24-7-804. Establishment and administration of plan.

2 (a) The board of any college and the State Board may establish and
3 maintain an alternate retirement plan which shall authorize the purchase of
4 contracts providing retirement and death benefits for staff members and
5 department employees.

6 (b) Under the plan, staff members and department employees shall
7 contribute, to the extent authorized or required, toward the purchase of the
8 contracts, which shall be issued to and become the property of the
9 participants.

10 (c) The board of any college which elects to establish and maintain an
11 alternate retirement plan and the director of the department, if it elects to
12 establish and maintain a plan, shall have authority to administer the plan and
13 to perform or authorize the performance of all such functions as may be
14 reasonably appropriate in its administration."

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16 SECTION 3. Arkansas Code §24-7-805 is hereby amended to read as
17 follows:

18 "24-7-805. Methods of providing benefits - Agent for service of
19 process.

20 (a) An alternate retirement plan may be a separate system or fund or
21 may be one (1) which participates in a larger system or fund with respect to
22 some or all of the benefits provided thereunder.

23 (b) The benefits to be provided for or on behalf of staff members and
24 department employees under an alternate retirement plan may be provided
25 through insurance policies and annuity contracts, both fixed and variable in
26 nature, or a combination thereof, as specified in the plan, which insurance
27 policies and annuity contracts may be obtained from any insurance company
28 authorized to do business in this state or from any nonprofit company
29 organized and operated exclusively for the purpose of aiding and strengthening
30 education or scientific institutions by issuing insurance or annuity contracts
31 only to or for the benefit of such institutions or individuals engaged in
32 their services.

33 (c) In any action brought by a staff member or department employee on a
34 policy or contract, any official of the college or the director of the
35 department shall be deemed to be the agent of the nonprofit company only for

1 the purpose of service of process on the contract or policy, and for no other
2 purpose."

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4 SECTION 4. Arkansas Code §24-7-806 is hereby amended to read as
5 follows:

6 "24-7-806. Procedure for designation of companies to provide benefit
7 contracts. The State Board shall designate the companies from which contracts
8 are to be purchased under the alternate retirement plan and shall approve the
9 form and contents of the contracts. In making the designation and giving the
10 approval, the state board shall give due consideration to:

11 (1) The nature and extent of the rights and benefits to be provided by
12 the contracts for staff members and their beneficiaries;

13 (2) The relation of the rights and benefits to the amount of
14 contributions to be made pursuant to the provisions of this subchapter;

15 (3) The suitability of the rights and benefits to the needs of the
16 staff members and the interests of the college in the recruitment and
17 retention of staff members; and

18 (4) The ability of the designated company or companies to provide the
19 suitable rights and benefits under the contracts."

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21 SECTION 5. Arkansas Code §24-7-807 is hereby amended to read as
22 follows:

23 "24-7-807. Participation in plan. Participation in an alternate
24 retirement plan established pursuant to this subchapter shall be as follows:

25 (1) Any staff member employed or appointed by a college or university
26 on or after the establishment of its alternate retirement plan shall
27 participate in the plan or in the teacher retirement system;

28 (2) Any staff member employed or appointed by a college or university
29 prior to July 1, 1969, who is a member of the retirement system shall continue
30 in such membership or shall participate in the alternate retirement plan, as
31 provided in this subchapter;

32 (3) (A) Any staff member employed or appointed by a college or
33 university with less than ten (10) years of member service in the retirement
34 system may elect to terminate his membership in the retirement system and
35 participate in the alternate retirement plan established by the employing

1 college or university.

2 (B) The election shall be in writing and filed with the
3 retirement system and the disbursing officer of the employing college or
4 university within one (1) year after he becomes eligible to participate in the
5 alternate retirement plan.

6 (C) All accumulated contributions to the credit of the staff
7 member in the members deposit account which is maintained pursuant to the
8 provisions of §24-7-406 shall be returned to the staff member, and all of his
9 credited service under the retirement system shall be canceled.

10 (4) (A) Any staff member employed or appointed by a college or
11 university with ten (10) or more years of credited service who elects to
12 participate only in the alternate retirement plan and who has left his
13 contributions in the retirement system shall be eligible to receive an annuity
14 on or after attaining sixty (60) years of age and on his retirement from
15 covered employment. The amount of the annuity shall be determined by the
16 benefit formula of the retirement system at the time of his retirement.

17 (B) The election authorized under subdivision (4) (A) of this
18 section shall be made in writing and filed with the retirement system and with
19 the disbursing officer of the employing college or university on or before
20 July 1 of the year in which the person makes the election to participate in
21 the alternate retirement plan. The person's annuity shall begin on the first
22 day of the month following the date his application for retirement is filed
23 with the board of trustees on or after his attainment of age sixty (60) years.

24 (5) (A) Any department employee *who transferred from another state*
25 *department covered by a state-supported retirement system may elect to*
26 *participate in an alternate retirement plan. Such employee shall file written*
27 *notice of his election with the executive director of the department.*

28 (B) Any department employee with ten (10) or more years of
29 credited service who elects to participate only in the alternate retirement
30 plan and who has left his contributions in the retirement system shall be
31 eligible to receive an annuity on or after attaining the normal retirement age
32 and on his retirement from covered employment. The amount of the annuity
33 shall be determined by the benefit formula of the retirement system at the
34 time of his retirement.

35 (C) The election authorized under this subsection shall be made

1 in writing and filed with the retirement system and with the director of the
2 State Department of Higher Education on or before July 1 of the year in which
3 the person makes the election to participate in the alternate retirement plan.
4 The person's annuity shall begin on the first day of the month following the
5 date his application for retirement is filed with the board of trustees on or
6 after his attainment of normal retirement age and on his retirement from
7 covered employment."

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9 SECTION 6. Arkansas Code §24-7-808 is hereby amended to read as
10 follows:

11 "24-7-808. Contributions.

12 (a) Any college or university which elects to establish and maintain an
13 alternate retirement plan, and the State Board if it so elects, shall
14 contribute to that plan on behalf of each staff member who elects to
15 participate in the alternate retirement plan, or department employee, six
16 percent (6%) of his total regular compensation during the continuance of his
17 employment. Each staff member who elects to participate in the alternate
18 retirement plan, or department employee, at the discretion of the college or
19 university, shall also contribute thereto six percent (6%) of his total
20 regular compensation.

21 (b) The college or university may, at its discretion, contribute up to
22 an additional four percent (4%) of the staff member's total regular
23 compensation. Each staff member shall match that contribution by contributing
24 a like percent of his total regular compensation.

25 (c) Payment of contributions authorized by the provisions of this
26 section shall be made by the disbursing officer of the college or university
27 and by the state official charged with the duty of paying salaries to
28 department employees to the designated companies in accordance with the
29 provisions of this section."

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31 SECTION 7. All provisions of this act of a general and permanent nature
32 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
33 Revision Commission shall incorporate the same in the Code.

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35 SECTION 8. If any provision of this act or the application thereof to

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

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6 SECTION 9. All laws and parts of laws in conflict with this act are
7 hereby repealed.

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9 SECTION 10. EMERGENCY CLAUSE. It is hereby found and determined by the
10 Seventy-Eighth General Assembly that the Arkansas Department of Higher
11 Education needs to recruit personnel from higher education institutions and
12 employees of other state agencies to accommodate the demands made upon the
13 department; that in making a choice of employment, staff members place much
14 stress on the adequacy and transportability of pension and retirement
15 benefits; that in order to retain staff members who are now employed, and to
16 employ new staff members of high quality, it is necessary that Arkansas offer
17 a retirement plan that is acceptable and does not penalize employees for
18 transfers from institutions of higher education or other public employment.
19 Therefore, an emergency is hereby declared to exist and this act being
20 immediately necessary for the preservation of the public peace, health and
21 safety shall be in full force and effect from and after its passage and
22 approval.

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/s/Lueif

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APPROVED: 3-13-91

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