

As Engrossed: 2/25/93 3/2/93

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Fairchild**

A Bill

ACT 1093 OF 1993
HOUSE BILL 1314

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED 24-4-207(c) AND
9 ARKANSAS CODE ANNOTATED 24-4-508 TO PROVIDE FOR THE
10 ISSUANCE OF AN ANNUITY DETERMINATION, THE FINALITY OF SUCH
11 DETERMINATIONS, THE RECONSIDERATION OF AN ANNUITY
12 DETERMINATION, AND A STATUTE OF LIMITATION ON THE
13 RECOUPMENT OF ERRONEOUS OVERPAYMENTS; AND FOR OTHER
14 PURPOSES."

Subtitle

17 "TO AMEND CERTAIN PROVISIONS CONCERNING ANNUITY
18 DETERMINATIONS"

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

21

22 SECTION 1. Arkansas Code Annotated 24-4-207(c) is amended to read as
23 follows:

24 "(c) (1) Should any change or error in the records of the system or any
25 audit of a member_s annuity calculations result in any person's receiving more
26 or less than he would have been entitled to receive had the records or the
27 calculations been correct, the board shall correct the error(s) and, as far as
28 *is equitable and practicable, shall adjust the payment in accordance with the*
29 *provisisons of this subsection and in such manner that the actuarial*
30 *equivalent of the benefit to which the person was correctly entitled shall be*
31 *paid. However, no monthly adjustment of less than one dollar (\$1.00) shall be*
32 *made.*

33 (2) *The board shall have the right to recover any overpayment that any*
34 *person may have received from funds of the system provided the overpayment is*
35 *determined and the person is so notified within one (1) year of the date of*
36 *the first overpayment. If the overpayment is determined at a date later than*

1 one (1) year after the date of the first overpayment, the overpayment shall
2 not be recouped by the Board unless the overpayment is a result of an error on
3 the part of a member, retirant, or beneficiary. In all instances where an
4 overpayment is determined, any subsequent payments shall be adjusted to the
5 correct amount.

6 (3) If it is determined that any person has received an underpayment
7 from the funds of the system, regardless of the date of the determination, the
8 system shall pay in a lump sum to the person the total of any underpayments
9 made prior to the date of determination, and any subsequent payments shall be
10 adjusted to the correct amount."

11

12 SECTION 2. Arkansas Code Annotated 24-4-508 is amended by adding the
13 following subsection (d) at the end thereof:

14 "(d) (1) Annuity Determination. An annuity determination shall be made
15 promptly by the system upon a member_s filing a written application for
16 retirement in accordance with Section 24-4-508(a). Such determination shall
17 include the member_s total years of credited service, the specific factors
18 used to make the determination, the base annuity payable to the member, and
19 the amount of annuity payments, if any, payable under the annuity options of
20 Section 24-4-606. If the member is not eligible for a retirement annuity, the
21 determination shall state the reasons for such determination.

22 (2) Redetermination. The board may reconsider a benefit
23 determination in accordance with 24-4-207(c). Except as provided for the
24 calculation of the annual cost of living adjustment under Section 24-4-607, no
25 reconsideration may be made after one (1) year from the date of the original
26 determination.

27 If the annuity amount is decreased upon the reconsideration, the matters
28 involved in the decrease shall be set forth in writing and shall be subject to
29 review upon the filing of an appeal thereof by the member, or annuity
30 recipient. The redetermination shall be deemed to be final and binding on all
31 parties unless within twenty (20) days after the mailing of notice of the
32 redetermination to the member's last known address, or twenty (20) days after
33 personal delivery of such notice to the member, an appeal thereof is filed
34 with the executive director of the system.

35 (3) Appeal. The executive director of the system shall promptly hear

1 all appeals of annuity determinations or redeterminations and shall conduct
2 such hearings in accordance with procedures set forth by the Board of
3 Trustees."

4

5 SECTION 3. All provisions of this act of a general and permanent nature
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
7 Revision Commission shall incorporate the same in the Code.

8

9 SECTION 4. If any provision of this act or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 act are declared to be severable.

14

15 SECTION 5. All laws and parts of laws in conflict with this act are
16 hereby repealed.

17

18 SECTION 6. EMERGENCY. It is hereby found and determined by the General
19 Assembly of the State of Arkansas that immediate passage and approval of this
20 act is necessary to render finality to annuity determinations made by the
21 Public Employees Retirement System Board and to prevent the hardship and
22 instability that results from the recoument of the overpayments of
23 incorrectly calculated annuity payments to retired State employees for a
24 protracted period of time. Therefore, an emergency is hereby declared to
25 exist and this act being necessary for the immediate preservation of the
26 public peace, health, and safety, shall be in full force and effect from and
27 after its passage and approval.

28

/s/B. Fairchild

29

30

APPROVED: 04/13/93

31

32

33

34

35

As Engrossed: 2/25/93 3/2/93

HB 1314

1

jjd547