

As Engrossed: 2/9/93

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

A Bill

ACT 435 OF 1993
HOUSE BILL 1287

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 24, CHAPTER 7,
9 OF THE ARKANSAS CODE OF 1987 TO CHANGE THE MEMBER
10 CONTRIBUTION CHOICE OPTION; TO MAKE TECHNICAL CORRECTIONS
11 FOR THE TEACHER RETIREMENT SYSTEM; TO DECLARE AN
12 EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

15 "AN ACT TO CHANGE THE MEMBER CONTRIBUTION CHOICE OPTION
16 FOR THE TEACHER RETIREMENT SYSTEM AND TO MAKE TECHNICAL
17 CORRECTIONS."

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. Subdivision (14) of Arkansas Code § 24-7-202 is
22 hereby amended to read as follows:

23 "(14) Salary means the recurring remuneration paid an employee for
24 personal services rendered by the employee in a position covered by the
25 system. Should a portion of an employee's remuneration be paid other than in
26 cash, the cash value of the remuneration shall be established by the system in
27 an amount not to exceed the amount the employee is required to report for
28 federal income tax purposes. In determining salary, no consideration shall be
29 given to any nonrecurring single sum payment paid by an employer, any employer
30 contributions to any employee benefit plan, except cafeteria plans as defined
31 in § 21-5-901, or any other unusual or nonrecurring remuneration, or stipends
32 paid by an employer or other educational agency which are five hundred dollars
33 (\$500) or less in amount. For salary purposes, the amounts shall be
34 cumulative. Money which is in lieu of remuneration and which is used by an
35 employer to purchase a qualified tax-sheltered annuity or a life insurance
36 policy for an employee shall be considered as salary for system purposes. An

1 employee who is receiving remuneration under both a regular contract and a
2 purchased contract or under both a regular contract and a contract won through
3 litigation shall have only the greater of the two (2) amounts considered as
4 salary for system purposes. Should an employee make a charitable donation, or
5 return any part of his salary, to his employer, the amount of his recurring
6 remuneration otherwise usable as salary shall be reduced by such amount or
7 amounts to arrive at his salary for system purposes. In case of any dispute
8 concerning an employee's salary for system purposes, the system shall have the
9 power to settle the dispute;"

10

11 SECTION 2. Subsection (c) of Arkansas Code § 24-7-401 is hereby amended
12 to read as follows:

13 "(c) (1) (A) The financial objective of this act shall be maintained for
14 each fiscal year and the state employer contribution rate shall be expressed
15 as a percent of active member payroll for each fiscal year.

16 (B) The state employer contribution rate shall be
17 established for fiscal years beginning July 1, 1989, and thereafter, by the
18 General Assembly upon the advice of the Joint Interim Committee on Retirement
19 and Social Security Programs. In determining such advice, the Joint Interim
20 Committee on Retirement and Social Security Programs shall use the following
21 input:

22 (i) The recommendation of the board based upon
23 consultation with the board's actuary; and

24 (ii) Information furnished by an actuary retained by
25 the committee.

26 (C) The employer contribution rate shall be such that the
27 amortization period for all unfunded liability shall not exceed thirty (30)
28 years.

29 (2) For each fiscal year beginning July 1, 1993, or later, the
30 dollar amount of state employer contributions to be paid during the fiscal
31 year shall be the lesser of the result of multiplying the applicable percent
32 of active member payroll for the fiscal year by the total covered salaries
33 during the fiscal year, including any required prior year reported salaries,
34 of members whose positions are financed by the State Public School Fund,
35 taking the result to the nearest dollar, or the amount appropriated by the

1 General Assembly during each biennium.

2 (3) The percent of active member payroll to be paid in each year
3 of the biennium shall be adjusted to reflect any benefit changes."

4

5 SECTION 3. Subsection (d) of Arkansas Code § 24-7-401 is hereby
6 amended to read as follows:

7 "(d) (1) The board shall certify annually to the State Treasurer the
8 amounts calculated at the rate established by law or appropriated, whichever
9 is less, for employer contributions to be paid by the state, which
10 contributions shall be paid from the State Public School Fund or federal funds
11 administered by the State Board of Education.

12 (2) The State Treasurer is authorized and directed to pay the
13 system the state's employer contributions for each fiscal year, as follows:
14 Ten million dollars (\$10,000,000) on or before September 1 of the fiscal year
15 and, on or before the first day of each succeeding month, at least ten percent
16 (10%) of the remainder due until there is no remainder due at the end of the
17 fiscal year."

18

19 SECTION 4. Subsection (c) of Arkansas Code § 24-7-406 is hereby amended
20 to read as follows:

21 "(c) (1) Each employer shall deduct the member contributions provided
22 for in this section from the salary of each member on each and every payroll,
23 for each and every payroll period, from the date of his entrance into the
24 system until he retires, and the employer shall remit the contributions to the
25 system; however, a member who is receiving remuneration under both a regular
26 contract and a purchased contract, or under both a regular contract and a
27 contract won through litigation, shall have only the greater of the two (2)
28 amounts considered as salary for the purposes of the system. Should the
29 employer fail at any time to report the salary of a member and remit the
30 contributions to the system, the system shall have the right to collect from
31 the employee and the employer the contributions due, if any, from each,
32 together with regular interest beginning with the subsequent fiscal year;
33 provided further, in no case shall a member be given credit for service
34 rendered until any contributions and interest due from each are paid in full.

35 (2) The members' contributions provided for in this section shall

1 be made notwithstanding that the minimum salary provided by law for any member
2 shall be thereby changed.

3 (3) Each member shall be deemed to consent and agree to the
4 deductions made and provided for in this section. Payment of his salary less
5 the deductions shall be a full and complete discharge and acquittance of all
6 claims and demands whatsoever for the services rendered by the member during
7 the period covered by the payment, except as to benefits provided by the
8 system.

9 (4) The members' contributions, so deducted from their salaries,
10 shall be remitted to the system in such manner and form and in such frequency
11 and shall be accompanied by such supporting data as the board shall prescribe
12 from time to time.

13 (5) Money used by a school district to purchase a qualified
14 tax-sheltered annuity or a life insurance policy for a member in lieu of
15 salary shall be considered as salary for purposes of the system. Retainers,
16 consultant's fees, lump-sum payments for unused sick leave, special payments
17 not in the form of regular remuneration, and stipends paid by an employer or
18 other educational agency which are five hundred dollars (\$500) or less in
19 amount shall not be considered salary for the purposes of the system.
20 Further, stipend amounts shall not be cumulative."

21

22 SECTION 5. Subsection (f) of Arkansas Code § 24-7-406 is hereby amended
23 to read as follows:

24 "(f) (1) Each member may elect, by written election filed with the
25 system in accordance with rules and regulations adopted by the board, to
26 eliminate future member contributions otherwise provided for in this section.

27 (2) For a new member, the election shall become a binding
28 agreement upon its effective date, if the election is so filed before
29 preparation of the payroll containing his first salary payment, but in no
30 event before July 1, 1986. In all other circumstances, the election shall be
31 effective the July 1 immediately following the filing of the election, but in
32 no event before July 1, 1986.

33 (3) Beginning July 1, 1993, any member may change his election
34 concerning member contributions once each fiscal year, to be effective the
35 July 1 immediately following the filing of the election.

1 (4) If the election is to eliminate member contributions, then
2 the election shall apply only to future member salaries and shall not change
3 the status of any member contributions made before the election. If the
4 effect of the election is to require member contributions, then the election
5 shall apply only to future member salaries and shall not change any member
6 contribution requirements existing before the election. However, if a member
7 has previously contributed on only the first seven thousand eight hundred
8 dollars (\$7,800) of his annual salary, he cannot contribute on full future
9 salaries until he has made added contributions on past full salaries as
10 provided in subsection (b) of this section.

11 (5) All new members, including any former active members, shall
12 not make the member contributions otherwise provided for in this section.
13 Such members may elect, by written election filed with the system in
14 accordance with rules and regulations adopted by the board, to make
15 contributions as provided for in this section. Such election shall become a
16 binding agreement upon its effective date, if the election is so filed with
17 the system before the preparation of the payroll containing his first salary
18 payment. In all other circumstances, the election shall be effective the July
19 1 immediately following the filing of the election.

20 (6) For a new member who files in compliance with (f) (1) or
21 (f) (5), the effective date shall be the date the first paycheck is received.
22 In all other circumstances, the effective date shall be July 1."

23

24 SECTION 6. Arkansas Code § 24-7-502 is hereby amended to read as
25 follows:

26 "24-7-502. Termination of active membership.

27 (a) (1) When a member is no longer employed by an employer in a position
28 covered by the system, he shall thereupon cease to be an active member of the
29 system. Unless he becomes a retirant or an inactive member as provided in this
30 act, his credited service shall be forfeited by him upon termination of his
31 active membership.

32 (2) If a former active member has not become a retirant and later
33 becomes reemployed by an employer in a position covered by the system, he
34 shall again become an active member upon reemployment.

35 (3) If he becomes reemployed from inactive member status, he

1 shall immediately begin adding to his previous credited service; but if his
2 service during his last such reemployment is for less than one hundred twenty
3 (120) days, he shall be considered to be an inactive member at the termination
4 of such reemployed service, and the only monthly benefits payable shall be
5 those provided by § 24-7-707.

6 (4) If he becomes reemployed from neither retirant nor inactive
7 member status, after completing one hundred twenty (120) days of service
8 during his last such reemployment, the active member shall receive the
9 indicated credited service for the credited service forfeited by him if he
10 returns to the system the indicated amount, as follows:

11 (A) He shall receive his total forfeited credited service
12 if he returns the amount he received therefrom, together with regular interest
13 from the date of withdrawal to the date of repayment; or

14 (B) If a portion of his forfeited credited service has been
15 credited him under the provisions of a publicly supported teacher retirement
16 system of another state, he shall receive the portion of his forfeited
17 credited service not so credited by the other system if he returns the amount
18 he received from this system for that portion of his credited service not so
19 credited by the other system, together with regular interest from the date of
20 withdrawal to the date of repayment.

21 (5) In addition to the forfeited credited service, the active
22 member shall receive credit for his other previous service after July 1, 1937,
23 upon his paying to the system the member contributions in effect during the
24 previous service together with regular interest from the dates of the service
25 to the date of payment; for previous service rendered before July 1, 1971,
26 service credit shall be permitted for service in a fiscal school year only if
27 at least one hundred twenty (120) days of service were rendered in the fiscal
28 school year. To establish credit for previous service, a member must pay to
29 the system both member and employer contributions, plus regular interest from
30 the dates the contributions would normally have been received by the system to
31 the date of actual payment. (b) Upon a member's retirement, he shall cease
32 to be a member and, except as otherwise provided in this act, he shall not
33 again become a member of the system."

34

35 SECTION 7. Subsection (c) of Arkansas Code § 24-7-705 is hereby amended

1 to read as follows:

2 "(c) (1) The minimum straight life annuity for a member retiring after
3 June 30, 1965, but before July 1, 1986, shall be one hundred fifty dollars
4 (\$150) per month.

5 (2) For a member retiring July 1, 1986, or later, the minimum
6 straight life annuity shall be:

7 (A) One hundred fifty dollars (\$150) per month if the
8 member has no noncontributory credited service of the type specified in
9 subdivision (a) (6) of this section;

10 (B) Ninety-four dollars (\$94.00) per month if the member
11 has only credited service of the noncontributory type specified in subdivision
12 (a) (6) of this section; or

13 (C) If the member has a mixture of credited service, the
14 monthly amount shall be prorated between ninety-four dollars (\$94.00) and one
15 hundred fifty dollars (\$150) according to the relationship between his
16 noncontributory credited service and his total credited service; provided,
17 however, if the member has at least ten (10) years of contributory service,
18 regardless of his number of years of noncontributory service, his monthly
19 amount shall not be less than one hundred fifty dollars (\$150)."

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21 SECTION 8. Arkansas Code § 24-7-717 is hereby amended to read as
22 follows:

23 "24-7-717. Rescission of termination of active membership.

24 (a) A retirant under §§ 24-7-201 - 24-7-713 who has not attained the
25 age of seventy-two (72) years may rescind the decision to terminate active
26 membership and may become an active member upon reemployment.

27 (b) Persons rescinding their decisions to terminate active membership
28 shall file a written rescission on the form furnished by the board.

29 (c) The rescission shall become effective the first day of the calendar
30 month next-following the date the written rescission is received by the board.

31 (d) Upon rescission, a former retirant shall be considered an active
32 member and shall accrue additional credited service subject to the provisions
33 of subsection (e) of this section. Any annuity benefit formerly due from the
34 system shall be terminated upon the effective date of the rescission.

35 (e) (1) If reemployment terminates before the end of the fiscal year in

1 which a former retirant has accumulated at least three (3) years of credited
2 service, the former retirant shall become a retired member and the payment of
3 the annuity shall resume upon such termination. The former retirant shall be
4 entitled to receive any member contributions which may have been made during
5 the reemployment period.

6 (2) If reemployment terminates after the end of the fiscal year
7 in which the former retirant has accumulated at least three (3) years of
8 credited service, upon termination of reemployment, the former retirant shall
9 become a retired member and receive an annuity which has been recalculated
10 according to the benefit formula in effect at the time of such termination of
11 reemployment."

12

13 SECTION 9. All provisions of this act of a general and permanent nature
14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
15 Revision Commission shall incorporate the same in the Code.

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17 SECTION 10. If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.

22

23 SECTION 11. All laws and parts of laws in conflict with this act are
24 hereby repealed.

25

26 SECTION 12. EMERGENCY CLAUSE. It is hereby found and determined by the
27 Seventy-Ninth General Assembly that changed conditions have dictated that
28 certain provisions of the Teacher Retirement law need to be revised and
29 updated, that these changes are necessary for the System to continue with
30 proper management and administration, and that the revisions in the law are
31 essential to the continued effective operation of the Teacher Retirement
32 System. Therefore, an emergency is hereby declared to exist and this act
33 being necessary for the immediate preservation of the public peace, health and
34 safety shall be in full force and effect from and after July 1, 1993.

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/s/Rep. McGinnis

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APPROVED: 03/10/93