

*As Engrossed: 2/23/95*

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**  
4 **By: Senator Bookout**

# A Bill

**ACT 949 OF 1995**  
**SENATE BILL 478**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 24-2-401, 24-2-402, AND  
9 24-3-303 TO MAKE THE ARKANSAS JUDICIAL RETIREMENT SYSTEM A  
10 RECIPROCAL SYSTEM WITH THE OTHER STATE SUPPORTED  
11 RETIREMENT SYSTEMS IN ARKANSAS; TO DECLARE AN EMERGENCY;  
12 AND FOR OTHER PURPOSES."

## Subtitle

15 "TO MAKE THE ARKANSAS JUDICIAL  
16 RETIREMENT SYSTEM A RECIPROCAL SYSTEM  
17 WITH THE OTHER STATE SUPPORTED  
18 RETIREMENT SYSTEMS IN ARKANSAS."

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

22 SECTION 1. Arkansas Code § 24-2-401 is amended to read as follows:  
23 "24-2-401. Definitions.

24 As used in this subchapter, unless the context otherwise requires:

25 (1) Reciprocal system means the Teacher Retirement System of Arkansas  
26 in operation June 30, 1957, and continued by §§ 24-7-202 - 24-7-205, 24-7-301  
27 - 24-7-305, 24-7-401 - 24-7-411, 24-7-501, 24-7-502, 24-7-601 - 24-7-604,  
28 24-7-606, 24-7-701 - 24-7-713, 24-7-715, and 24-7-716; the Arkansas State  
29 Highway Employees' Retirement System, established by § 24-5-103; the Arkansas  
30 Public Employees' Retirement System, established by § 24-4-103; the Arkansas  
31 State Police Retirement System, established by § 24-6-203 or the Arkansas  
32 Judicial Retirement System, as established by §§ 24-8-201 et seq.;

33 (2) State employer means the public employer whose employees are  
34 covered under the Teacher Retirement System of Arkansas, the public employer  
35 whose employees are covered under the Arkansas State Highway Employees'  
36 Retirement System, the public employer whose employees are covered under the

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1 Arkansas Public Employees' Retirement System, the public employer whose  
2 employees are covered under the Arkansas State Police Retirement System or the  
3 public employer whose employees are chancery, circuit, and Court of Appeals  
4 judges, and Supreme Court justices, whether, elected or appointed to office,  
5 covered under the Arkansas Judicial Retirement System;

6 (3) Public safety service covered by the Arkansas Public Employees'  
7 Retirement System means service as a public safety member as defined in  
8 § 24-3-102."  
9

10 SECTION 2. Arkansas Code § 24-2-402 is amended to read as follows:

11 "24-2-402. *Deferred annuity - Eligibility.*

12 *If a member of a reciprocal system left or leaves a position covered by*  
13 *a reciprocal system, if an employee in a position covered by a reciprocal*  
14 *system left the employ of a state employer before the latter position was*  
15 *covered by a reciprocal system, or if an employee in a position later covered*  
16 *by a reciprocal system leaves that position before it is covered by a*  
17 *reciprocal system, which in this section in each case is called the 'preceding*  
18 *system', and if that person entered or enters a position covered by a*  
19 *reciprocal system, which in this section is called the 'succeeding system',*  
20 *and if the person is a member of the succeeding system after July 1, 1975,*  
21 *then he shall be entitled to a deferred annuity payable by the preceding*  
22 *system subject to the following conditions:*

23 (1) *He has credited service acquired in the employ of the preceding*  
24 *state employer;*

25 (2) (A) *He does not withdraw his accumulated contributions from the*  
26 *preceding reciprocal system or, if he has withdrawn his accumulated*  
27 *contributions, he deposits with the preceding reciprocal system the amount he*  
28 *withdrew, together with interest from the date of withdrawal to the date of*  
29 *repayment at the rate in effect for the preceding reciprocal system, but that*  
30 *deposit must be made while he is an active member of a reciprocal system;*

31 (B) *In addition to the forfeited credited service, the active*  
32 *member of a reciprocal system shall receive credit for his previous employment*  
33 *with a public employer upon his paying the prescribed employee and employer*  
34 *contributions based upon the rate in effect during the previous employment,*  
35 *together with regular interest from the dates for the previous service to the*

1 date of repayment;

2 (C) The provisions for determining a year of service credit shall  
3 be the prevailing regulations of each reciprocal system;

4 (3) He qualifies for age and service retirement in the succeeding  
5 reciprocal system using his credited service in force with the preceding  
6 reciprocal system plus his credited service acquired in the employ of  
7 succeeding state employers to meet the minimum service requirements of the  
8 succeeding systems;

9 (4) (A) His annuity payable by the preceding reciprocal system shall be  
10 upon the basis of the annuity formula of the preceding reciprocal system,  
11 exclusive of any minimum amount at the time the person begins to receive  
12 monthly retirement benefits from that system;

13 (B) The final average compensation to be used to determine  
14 monthly benefits payable to that person shall be that of the reciprocal system  
15 which furnishes the highest final average salary at the time of retirement,  
16 but each reciprocal system shall use the method of computing final average  
17 salary stipulated by its law and compensation in the Arkansas Judicial  
18 Retirement System shall not be used to determine final average compensation;

19 (C) Any person retiring on or after July 1, 1982, with credited  
20 service in more than one (1) reciprocal system shall have his benefits  
21 recomputed based on the provisions of this section;

22 (5) (A) It is the expressed intention of this subdivision to provide the  
23 same death-in-service benefits that would have been payable had the member  
24 died while an active member of a reciprocal retirement system;

25 (B) A member who dies in service while a member of one (1)  
26 reciprocal system shall be considered as currently employed by all systems in  
27 which the member retains credited service;

28 (C) If a member has accrued credited service under the provisions  
29 of this subchapter but dies before retirement or before becoming eligible to  
30 retire, then the benefits payable shall be those provided by the reciprocal  
31 retirement system named in this subchapter, with each system being responsible  
32 for the payment of the death-in-service benefits provided by the applicable  
33 provisions of its retirement laws;

34 (D) If death-in-service benefits are payable by more than one (1)  
35 reciprocal system to eligible survivors of a deceased member, the survivors

1 shall not receive more, as a percent of the deceased member's final pay or as  
2 a minimum dollar amount, than the largest amount payable by any single  
3 reciprocal system;

4           (E) Each reciprocal system that has a minimum benefit provision  
5 in its plan shall pay only a proportionate share of that minimum amount based  
6 on the ratio of service in that system to the total service in all reciprocal  
7 systems;

8           (6) Upon termination of public safety service with all Arkansas  
9 governmental units, a public safety employee whose public safety service was  
10 covered at different times by the Arkansas Public Employees' Retirement System  
11 and by the Arkansas Local Police and Fire Retirement System shall receive  
12 retirement benefits based upon public safety service covered by either system  
13 if all of the following conditions are satisfied:

14           (A) The total of public safety service credit in the Arkansas  
15 Public Employees' Retirement System and the Arkansas Local Police and Fire  
16 Retirement System is at least twenty (20) years, provided the provisions of §  
17 24-3-301(b) are not used to meet the service requirements; and

18           (B) The benefit payable by each system shall be based upon the  
19 service credit with that system, the benefit program the system had in effect  
20 at the time the member terminated service covered by the system, and his  
21 service and pay covered by the system while the service was being rendered;

22           (7) Both service in the Arkansas Public Employees' Retirement System as  
23 a member of the General Assembly and service in another reciprocal system  
24 during the same period of time may be counted to meet the service requirements  
25 for benefits from the reciprocal system subject to the following:

26           (A) The benefit payable by a reciprocal system will be based on  
27 the credited service in that system and the final average compensation under  
28 that system. However, nothing in this subdivision shall diminish the General  
29 Assembly member's right to a benefit for which he is qualified under the  
30 provisions of § 24-4-706; and

31           (B) If a member has less than five (5) years of service credited  
32 in a reciprocal system, then "final average compensation" means the monthly  
33 average of pay to him during his total years of service in that system.

34           (8) If the preceding or succeeding reciprocal system is the Arkansas  
35 Judicial Retirement System, the benefit payable by Judicial Retirement System

1 shall be determined by multiplying one-half (1/2) of the annual salary payable  
2 to the last judicial office held by the following fraction:

3           (A) The numerator shall be the number of the actual years of  
4 service credited in the Arkansas Judicial Retirement System as a justice of  
5 the Supreme Court or judge of the circuit or chancery courts or the Court of  
6 Appeals;

7           (B) the denominator shall be fourteen (14) years.

8           In no instance shall the benefit payable by the Judicial Retirement  
9 System exceed one half (1/2) of the annual salary payable to the last judicial  
10 office held."

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12           SECTION 3. Arkansas Code § 24-3-303 is amended to read as follows:

13           "24-3-303. Credited service - Reciprocity.

14           (a) (1) Upon the retirement of a member whose credited service results  
15 from employment covered by more than one (1) named plan, or the Teacher  
16 Retirement System or the Arkansas State Highway Employees' Retirement System  
17 or the Arkansas Judicial Retirement System, the amount of his annuity shall be  
18 based upon his total credited service in force at the time of his retirement,  
19 exclusive of any minimums.

20           (2) Each named plan or retirement system shall be responsible  
21 financially for only that portion of the annuity based upon the credited  
22 service in the plan or system.

23           (3) The final average compensation on which benefits shall be  
24 determined shall be based on the period of total credited service for the  
25 named plans, the Teacher Retirement System, and the Arkansas State Highway  
26 Employees' Retirement System, with each plan or system computing the final  
27 average compensation by the method as determined by its laws. *Compensation for*  
28 *credited service in the Arkansas Judicial Retirement System shall not be used*  
29 *to determine final average compensation.*

30           (4) The final average compensation for persons receiving benefits  
31 from the Arkansas State Highway Employees' Retirement System shall be based on  
32 the final average compensation at the date of termination of employment  
33 covered by that system.

34           (5) The benefit program to be applied to each portion of credited  
35 service shall be the benefit program in effect in each plan or system at the

1 time of retirement.

2           (b)(1) Upon the retirement on disability or death-in-service of a  
3 member of either the Arkansas Public Employees' Retirement System, the  
4 Arkansas Teacher Retirement System, the Arkansas State Highway Employees'  
5 Retirement System, the Arkansas Judicial Retirement System, or the Arkansas  
6 State Police Retirement System who has credited service in more than one of  
7 the plans, an annuity shall be payable based upon his total credited service  
8 with all systems in force at the time of retirement, with each system being  
9 responsible for the payment of such disability or death-in-service benefits as  
10 provided by the applicable provisions of each system's laws.

11           (2) If the greatest benefit payable to a survivor is a minimum  
12 percent of the deceased member's final pay or a minimum dollar amount, then  
13 each reciprocal system that has a minimum benefit provision in its plan shall  
14 only pay a proportionate share of the minimum amount based on the ratio of  
15 service in the system to the total service in all reciprocal systems.

16           (3) A member who dies in service while a member of one (1)  
17 reciprocal system shall be considered as currently employed by all systems in  
18 which the member has credited service at the time of death.

19           (c) Any person retiring on or after July 1, 1982, with credited service  
20 in more than one (1) reciprocal system shall have his benefits recomputed  
21 based on the provisions of this section.

22           (d) It is the intent of this section to provide reciprocal service  
23 credits, as provided by §§ 24-2-401 - 24-2-405, between contributory and  
24 noncontributory members of the Arkansas Public Employees' Retirement System,  
25 the Arkansas Teacher Retirement System, the Arkansas Judicial Retirement  
26 System, the Arkansas State Highway Employees' Retirement System, and the  
27 Arkansas State Police Retirement System."

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29           SECTION 4. All provisions of this act of general and permanent nature  
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
31 Revision Commission shall incorporate the same in the Code.

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33           SECTION 5. If any provisions of this act or the application thereof to  
34 any person or circumstance is held invalid, the invalidity shall not affect  
35 other provisions or applications of the act which can be given effect without

1 the invalid provisions or application, and to this end the provisions of this  
2 act are declared to be severable.

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

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7 SECTION 7. Emergency. It is hereby found and determined by the  
8 Eightieth General Assembly of the State of Arkansas that the Arkansas Judicial  
9 Retirement System is not a reciprocal system with other state supported  
10 retirement systems; that this creates an inequitable situation for public  
11 officials are members of the Judicial Retirement System and who later become  
12 members of another state supported retirement system; and that it is necessary  
13 to change the laws of Arkansas to correct this inequity. Therefore, in order  
14 to promote equity between the public retirement systems of Arkansas, an  
15 emergency is hereby declared to exist, and this act being necessary for the  
16 immediate preservation of the public peace, health, and safety, shall be in  
17 full force and effect from and after its passage and approval.

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*/s/Bookout*

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APPROVED: 4-6-95

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