

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4
5 By: Senator Wilson

A Bill

ACT 857 OF 1997
SENATE BILL 349

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE §§ 24-2-401, 24-2-402, AND
10 24-3-303 TO MAKE THE ALTERNATE RETIREMENT PLANS FOR
11 ARKANSAS COLLEGES AND UNIVERSITIES AND FOR VOCATIONAL-
12 TECHNICAL SCHOOLS A RECIPROCAL SYSTEM WITH THE OTHER STATE
13 SUPPORTED RETIREMENT SYSTEMS IN ARKANSAS; TO DECLARE AN
14 EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

16
17 "TO MAKE THE ALTERNATE RETIREMENT PLANS
18 FOR COLLEGES AND FOR VOCATIONAL-
19 TECHNICAL SCHOOLS RECIPROCAL SYSTEMS
20 WITH THE OTHER STATE SUPPORTED
21 RETIREMENT SYSTEMS IN ARKANSAS."

22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24
25 SECTION 1. Arkansas Code § 24-2-401 is amended to read as follows:
26 "24-2-401. Definitions.

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

28 (1) Reciprocal system means the Arkansas Teacher Retirement System in
29 operation June 30, 1957, and continued by §§ 24-7-202 - 24-7-205, 24-7-301 -
30 24-7-305, 24-7-401 - 24-7-411, 24-7-501, 24-7-502, 24-7-601 - 24-7-604,
31 24-7-606, 24-7-701 - 24-7-713, 24-7-715, and 24-7-716; the Arkansas State
32 Highway Employees' Retirement System, established by § 24-5-103; the Arkansas
33 Public Employees' Retirement System, established by § 24-4-103; the State
34 Police Retirement System, established by § 24-6-203; ~~or~~ the Arkansas Judicial
35 Retirement System, established by § 24-8-201 et seq.; or an alternate
36 retirement plan for a college, university or the Arkansas Department of Higher

1 Education provided for under §§ 24-7-801, et seq., or for a
 2 vocational-technical school or the Division of Vocational and Technical
 3 Education provided for under §§ 24-7-901, et seq.;

4 (2) State employer means the public employer whose employees are
 5 covered under the Arkansas Teacher Retirement System, the public employer
 6 whose employees are covered under the Arkansas State Highway Employees'
 7 Retirement System, the public employer whose employees are covered under the
 8 Arkansas Public Employees' Retirement System, the public employer whose
 9 employees are covered under the State Police Retirement System, ~~or~~ the public
 10 employer whose employees are chancery or circuit court judges, judges of the
 11 Arkansas Court of Appeals, and Supreme Court justices, whether elected or
 12 appointed to office, covered under the Arkansas Judicial Retirement System, or
 13 a public employer who is a college, university or the Department of Higher
 14 Education whose employees are covered by an alternate retirement plan provided
 15 for under §§ 24-7-801, et seq., or who is a vocational-technical school or the
 16 Division of Vocational and Technical Education whose employees are covered by
 17 an alternate retirement plan provided for under §§ 24-7-901, et seq.; and

18 (3) Public safety service covered by the Arkansas Public Employees'
 19 Retirement System means service as a public safety member as defined in
 20 § 24-3-102(5)."

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

23 "24-2-402. Deferred annuity - Eligibility.

24 If a member of a reciprocal system left or leaves a position covered by
 25 a reciprocal system, if an employee in a position covered by a reciprocal
 26 system left the employ of a state employer before the latter position was
 27 covered by a reciprocal system, or if an employee in a position later covered
 28 by a reciprocal system leaves that position before it is covered by a
 29 reciprocal system, which in this section in each case is called the preceding
 30 system, and if that person entered or enters a position covered by a
 31 reciprocal system, which in this section is called the succeeding system, and
 32 if the person is a member of the succeeding system after July 1, 1975, then he
 33 shall be entitled to a deferred annuity payable by the preceding system
 34 subject to the following conditions:

35 (1) He has credited service acquired in the employ of the preceding
 36 state employer;

1 (2)(A) He does not withdraw his accumulated contributions from the
2 preceding reciprocal system, or if he has withdrawn his accumulated
3 contributions, he deposits with the preceding reciprocal system the amount he
4 withdrew, together with interest from the date of withdrawal to the date of
5 repayment at the rate in effect for the preceding reciprocal system, but that
6 deposit must be made while he is an active member of a reciprocal system.

7 (B) In addition to the forfeited credited service, the active
8 member of a reciprocal system shall receive credit for his previous employment
9 with a public employer upon his paying the prescribed employee and employer
10 contributions based upon the rate in effect during the previous employment,
11 together with regular interest from the dates for the previous service to the
12 date of repayment.

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

15 (3) He qualifies for age and service retirement in the succeeding
16 reciprocal system using his credited service in force with the preceding
17 reciprocal system plus his credited service acquired in the employ of
18 succeeding state employers to meet the minimum service requirements of the
19 succeeding systems;

20 (4)(A) His annuity payable by the preceding reciprocal system shall be
21 upon the basis of the annuity formula of the preceding reciprocal system,
22 exclusive of any minimum amount at the time the person begins to receive
23 monthly retirement benefits from that system.

24 (B) The final average compensation to be used to determine
25 monthly benefits payable to that person shall be that of the reciprocal system
26 which furnishes the highest final average salary at the time of retirement,
27 but each reciprocal system shall use the method of computing final average
28 salary stipulated by its law, and compensation in the Arkansas Judicial
29 Retirement System or in a position covered by an alternate retirement plan for
30 a college, university or the Arkansas Department of Higher Education provided
31 for under §§ 24-7-801, et seq., or for a vocational-technical school or the
32 Division of Vocational and Technical Education provided for under §§ 24-7-901,
33 et seq., shall not be used to determine final average compensation.

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

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

4 (B) A member who dies in service while a member of one (1)
5 reciprocal system shall be considered as currently employed by all systems in
6 which the member retains credited service.

7 (C) If a member has accrued credited service under the provisions
8 of this subchapter but dies before retirement or before becoming eligible to
9 retire, then the benefits payable shall be those provided by the reciprocal
10 retirement system named in this subchapter, with each system being responsible
11 for the payment of the death-in-service benefits provided by the applicable
12 provisions of its retirement laws.

13 (D) If death-in-service benefits are payable by more than one (1)
14 reciprocal system to eligible survivors of a deceased member, the survivors
15 shall not receive more, as a percentage of the deceased member's final pay or
16 as a minimum dollar amount, than the largest amount payable by any single
17 reciprocal system.

18 (E) Each reciprocal system that has a minimum benefit provision
19 in its plan shall pay only a proportionate share of that minimum amount based
20 on the ratio of service in that system to the total service in all reciprocal
21 systems.

22 (F) If the reciprocal system is an alternate retirement plan
23 under §§ 24-7-801, et seq., or §§ 24-7-901, et seq., death-in-service benefits
24 shall be contingent on provision of that benefit having been provided by the
25 alternate retirement plan and having been selected by the member as a benefit;

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

32 (A) The total of public safety service credit in the Arkansas
33 Public Employees' Retirement System and the Arkansas Local Police and Fire
34 Retirement System is at least twenty (20) years, provided the provisions of
35 § 24-3-301(b) are not used to meet the service requirements; and

36 (B) The benefit payable by each system shall be based upon the

1 service credit with that system, the benefit program the system had in effect
 2 at the time the member terminated service covered by the system, and his
 3 service and pay covered by the system while the service was being rendered;

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

8 (A) The benefit payable by a reciprocal system will be based on
 9 the credited service in that system and the final average compensation under
 10 that system. However, nothing in this subdivision (7)(A) shall diminish the
 11 General Assembly member's right to a benefit for which he is qualified under
 12 the provisions of § 24-4-706; and

13 (B) If a member has less than five (5) years of service credited
 14 in a reciprocal system, then final average compensation means the monthly
 15 average of pay to him during his total years of service in that system; ~~and~~

16 (8)(A) If the preceding or succeeding reciprocal system is the Arkansas
 17 Judicial Retirement System, the benefit payable by the Arkansas Judicial
 18 Retirement System shall be determined by multiplying one-half (1/2) of the
 19 annual salary payable to the last judicial office held by the following
 20 fraction:

21 (i) The numerator shall be the number of the actual years
 22 of service credited in the Arkansas Judicial Retirement System as a justice of
 23 the Supreme Court or judge of the circuit or chancery courts or the Court of
 24 Appeals; and

25 (ii) The denominator shall be fourteen (14) years.

26 (B) In no instance shall the benefit payable by the Arkansas
 27 Judicial Retirement System exceed one-half (1/2) of the annual salary payable
 28 to the last judicial office held; and

29 (9) If the preceding or succeeding reciprocal system is an alternate
 30 retirement plan for a college, university or the Arkansas Department of Higher
 31 Education provided for under §§ 24-7-801, et seq., or for a
 32 vocational-technical school or the Division of Vocational and Technical
 33 Education provided for under §§ 24-7-901, et seq., the benefits payable shall
 34 be in accordance with terms specified in the written alternate retirement plan
 35 document for purchasing the insurance policies or annuity contracts, both
 36 fixed and variable in nature, for the participants."

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

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

4 (a)(1) Upon the retirement of a member whose credited service results
5 from employment covered by more than one (1) named plan, or the Arkansas
6 Teacher Retirement System or the Arkansas State Highway Employees' Retirement
7 System or the Arkansas Judicial Retirement System or an alternate retirement
8 plan under §§ 24-7-801, et seq., or §§ 24-7-901, et seq., the amount of his
9 annuity shall be based upon his total credited service in force at the time of
10 his retirement, exclusive of any minimums.

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

14 (3)(A) The final average compensation on which benefits shall be
15 determined shall be based on the period of total credited service for the
16 named plans, the Arkansas Teacher Retirement System, and the Arkansas State
17 Highway Employees' Retirement System, with each plan or system computing the
18 final average compensation by the method as determined by its laws.

19 (B) Compensation for credited service in the Arkansas
20 Judicial Retirement System or an alternate retirement plan under §§ 24-7-801,
21 et seq., or §§ 24-7-901, et seq. shall not be used to determine final average
22 compensation.

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

27 (5) The benefit program to be applied to each portion of credited
28 service shall be the benefit program in effect in each plan or system at the
29 time of retirement.

30 (b)(1) Upon the retirement on disability or death in service of a
31 member of either the Arkansas Public Employees' Retirement System, the
32 Arkansas Teacher Retirement System, the Arkansas State Highway Employees'
33 Retirement System, the Arkansas Judicial Retirement System, ~~or~~ the State
34 Police Retirement System or an alternate retirement plan under §§ 24-7-801, et
35 seq., or §§ 24-7-901, et seq., who has credited service in more than one (1)
36 of the plans, an annuity shall be payable based upon his total credited

1 service with all systems in force at the time of retirement, with each system
 2 being responsible for the payment of such disability or death-in-service
 3 benefits as are provided by the applicable provisions of each system's laws or
 4 plan's provisions.

5 (2) If the greatest benefit payable to a survivor is a minimum
 6 percentage of the deceased member's final pay or a minimum dollar amount, then
 7 each reciprocal system that has a minimum benefit provision in its plan shall
 8 only pay a proportionate share of the minimum amount based on the ratio of
 9 service in the system to the total service in all reciprocal systems.

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

13 (4) If a member has service credit in an alternate retirement
 14 plan under §§ 24-7-801, et seq., or §§ 24-7-901, et seq., disability and
 15 death-in-service benefits shall be contingent on provision of those benefits
 16 having been provided by the alternate retirement plan and having been selected
 17 by the member as a benefit.

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

21 (d) It is the intent of this section to provide reciprocal service
 22 credits, as provided by §§ 24-2-401 - 24-2-405, between contributory and
 23 noncontributory members of the Arkansas Public Employees' Retirement System,
 24 the Arkansas Teacher Retirement System, the Arkansas Judicial Retirement
 25 System, the Arkansas State Highway Employees' Retirement System, ~~and~~ the State
 26 Police Retirement System, and an alternate retirement plan for a college,
 27 university or the Arkansas Department of Higher Education provided for under
 28 §§ 24-7-801, et seq., or for a vocational-technical school or the Division of
 29 Vocational and Technical Education provided for under §§ 24-7-901, et seq."

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31 SECTION 4. All provisions of this act of 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 5. If any provisions of this act or the application thereof to
 36 any person or circumstance is held invalid, the invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provisions or application, and to this end the provisions of this
3 act are declared to be severable.

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

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8 SECTION 7. Emergency. It is hereby found and determined by the
9 Eighty-First General Assembly of the State of Arkansas that the alternate
10 retirement plans for the state colleges and universities and the state's
11 vocational-technical schools are not reciprocal systems with other state
12 supported retirement systems; that this creates an inequitable situation for
13 the educators and administrators who are members of these alternative
14 retirement systems and who later become members of another state supported
15 retirement system; and that it is necessary to change the laws of Arkansas to
16 correct this inequity and have it effective at the beginning of the state's
17 fiscal year. Therefore, in order to promote equity between the public
18 retirement systems of Arkansas and promote sound fiscal administration, an
19 emergency is hereby declared to exist, and this act being necessary for the
20 immediate preservation of the public peace, health, and safety, shall become
21 effective July 1, 1997.

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23 APPROVED:3-27-97

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