

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

# A Bill

Act 11 of 1999  
SENATE BILL 103

5 By: Senator Hopkins  
6 By: Representative Faris  
7  
8

## For An Act To Be Entitled

9  
10 "AN ACT TO AMEND ARKANSAS CODE 24-7-202 TO CHANGE THE  
11 DEFINITION OF 'SALARY' UNDER THE TEACHER RETIREMENT  
12 SYSTEM; TO REPEAL ARKANSAS CODE 24-7-406(c)(5)  
13 REGARDING AN ALTERNATE DEFINITION OF SALARY; TO  
14 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

## Subtitle

15  
16  
17 "TO CHANGE THE DEFINITION OF 'SALARY'  
18 UNDER THE TEACHER RETIREMENT SYSTEM AND  
19 TO REPEAL A PROVISION OF LAW DEALING  
20 WITH AN ALTERNATE DEFINITION OF SALARY."  
21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code 24-7-202(14), regarding the definitions under  
26 the Teacher Retirement System, is amended to read as follows:

27 "(14)(A) 'Salary' means the ~~recurring~~ remuneration paid an ~~employee for~~  
28 ~~personal services rendered by the~~ employee in a position covered by the system  
29 and on which the employer withholds federal income tax.

30 (i) Provided, however, compensation in excess of the  
31 limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall  
32 be disregarded. The limitation on compensation for eligible employees shall  
33 not be less than the amount which was allowed to be taken into account under  
34 the system as in effect on July 1, 1993. For this purpose, an eligible  
35 employee is an individual who was a member of the system before the first plan  
36 year beginning after December 31, 1995.

1 (ii) However, when a member retires, the current  
2 year's salary used in the computation of retirement benefits shall not exceed  
3 one hundred ten percent (110%) of the previous year's salary, unless the  
4 increase is a direct result of a promotion, change in position, incremental  
5 increase provided in the school district salary schedule, or an increase in  
6 school revenues.

7 (B) Should a portion of an employee's remuneration be paid  
8 other than in cash, the cash value of the remuneration shall be established by  
9 the system in an amount not to exceed the amount the employee is required to  
10 report for federal income tax purposes.

11 (C) In determining salary, ~~no consideration shall be given~~  
12 ~~to any nonrecurring single sum payment paid by an employer, any employer~~  
13 ~~contributions to any employee benefit plan, except cafeteria plans as defined~~  
14 ~~in § 21-5-901, or any other unusual or nonrecurring remuneration or stipends~~  
15 ~~paid by an employer or other educational agency which are six hundred dollars~~  
16 ~~(\$600) or less in amount. For salary purposes, the amounts shall not be~~  
17 ~~cumulative~~ employer pick-up contributions, cafeteria plans as defined in 21-5-  
18 901, and employee contributions to tax-sheltered annuities shall be included.  
19 Provided, however, a member may establish salary earned under a purchase  
20 service contract with a covered employer by paying employee and employer  
21 contributions plus interest.

22 (D) Money which is in lieu of remuneration and which is  
23 used by an employer to purchase a qualified tax-sheltered annuity or a life  
24 insurance policy for an employee shall be considered as salary for system  
25 purposes.

26 (E) An employee who is receiving remuneration under both a  
27 regular contract and a purchased contract or under both a regular contract and  
28 a contract won through litigation shall have only the greater of the two (2)  
29 amounts considered as salary for system purposes.

30 (F) Should an employee make a charitable donation or return  
31 any part of his salary to his employer, the amount of his recurring  
32 remuneration otherwise usable as salary shall be reduced by such amount or  
33 amounts to arrive at his salary for system purposes.

34 (G) In case of any dispute concerning an employee's salary  
35 for system purposes, the system shall have the power to settle the dispute;"

36

1  
2 SECTION 2. Arkansas Code 24-7-406(c)(5), regarding an alternative  
3 salary treatment for some contributions to the member's deposit accounts, is  
4 repealed.

5 ~~(5)(A) Money used by an employer to purchase a qualified tax-sheltered~~  
6 ~~annuity or a life insurance policy for a member in lieu of salary shall be~~  
7 ~~considered as salary for purposes of the system.~~

8 ~~(B)(i) Retainers, consultants' fees, lump sum payments for~~  
9 ~~unused sick leave, special payments not in the form of regular remuneration,~~  
10 ~~and stipends paid by an employer or other educational agency which are six~~  
11 ~~hundred dollars (\$600) or less in amount shall not be considered salary for~~  
12 ~~the purposes of the system.~~

13 ~~(ii) Further, stipend amounts shall not be~~  
14 ~~cumulative.~~

15  
16 SECTION 3. No benefit enhancement provided for by this act shall be  
17 implemented if it would cause the publicly supported retirement system's  
18 unfunded actuarial accrued liabilities to exceed a thirty (30) year  
19 amortization. No benefit enhancement provided for by this act shall be  
20 implemented by any publicly supported system which has unfunded actuarial  
21 accrued liabilities being amortized over a period exceeding thirty (30) years  
22 until the unfunded actuarial accrued liability is reduced to a level less than  
23 the standards prescribed by Arkansas Code, Title 24.

24  
25 SECTION 4. All provisions of this act of a general and permanent nature  
26 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
27 Revision Commission shall incorporate the same in the Code.

28  
29 SECTION 5. If any provision of this act or the application thereof to  
30 any person or circumstance is held invalid, such invalidity shall not affect  
31 other provisions or applications of the act which can be given effect without  
32 the invalid provision or application, and to this end the provisions of this  
33 act are declared to be severable.

34  
35 SECTION 6. All laws and parts of laws in conflict with this act are  
36 hereby repealed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

SECTION 7. Emergency. It is found and determined by the Eighty-second General Assembly that the Teacher Retirement System Law does not recognize certain payments made by schools to teaching personnel as salary payments as defined under the retirement law, that allowing a broader definition of salary will help members achieve higher salaries for credit in the retirement system, that by increasing the benefits to members, more educators will be encouraged to stay in the teaching career fields, and that the most effective time to make changes to the retirement system is at the beginning of the State's fiscal year and therefore this act should take effect immediately at that time. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.

APPROVED: 2/3/1999