

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 97 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S1/31/07

A Bill

SENATE BILL 166

5 By: Senator J. Jeffress
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE
10 ARKANSAS TEACHER RETIREMENT SYSTEM; AND FOR OTHER
11 PURPOSES.
12

13 **Subtitle**

14 AN ACT TO MAKE TECHNICAL CORRECTIONS TO
15 THE ARKANSAS TEACHER RETIREMENT SYSTEM.
16
17

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

20 SECTION 1. Arkansas Code § 24-7-202 is amended to read as follows:

21 24-7-202. Definitions.

22 As used in this act:

23 (1) "Accumulated contributions" means the total of all amounts
24 contributed by a member and standing to his or her credit in his or her
25 individual account in the members' deposit account, together with regular
26 interest credited thereon;

27 (2) "Active member" means any member rendering service ~~which~~ to
28 an employer that is covered by the Arkansas Teacher Retirement System;

29 (3) "Actual service" means service rendered in a position
30 covered by the Arkansas Teacher Retirement System and does not include
31 purchased or free credited service or reciprocal service;

32 ~~(3)~~(4) "Actuarial equivalent" means a benefit of equal reserve
33 value;

34 ~~(4)~~(5) "Annuity" means an annual amount payable by the Arkansas
35 Teacher Retirement System in equal monthly installments throughout the life



1 of a person or for a temporary period;

2 ~~(5)~~(6) "Beneficiary" means any person who is receiving or is
3 designated by a member to receive a Arkansas Teacher Retirement System
4 benefit ~~by reason of the Arkansas Teacher Retirement System membership of~~
5 ~~another person~~;

6 ~~(6)~~(7) "Benefit program" means a schedule of benefits or benefit
7 formulas from which the amounts of Arkansas Teacher Retirement System
8 benefits can be determined;

9 ~~(7)~~(8) "Board" means the Board of Trustees of the Arkansas
10 Teacher Retirement System;

11 ~~(8)~~(9) "Child of a member" means either a natural child of the
12 member, a child that has been made a child of the member by applicable court
13 action before the death of the member, or a child under the permanent care of
14 the member at the time of the latter's death, which permanent care status
15 shall be determined by evidence satisfactory to the board;

16 ~~(9)~~(10) "Credited service" means service which is creditable as
17 service by the Arkansas Teacher Retirement System;

18 (11) "Deferred member" means an inactive member who is eligible
19 to receive benefits under § 24-7-707;

20 ~~(10)~~(12) "Employee" means any person employed by ~~a school in a~~
21 ~~regular or special position~~ an employer covered by the Arkansas Teacher
22 Retirement System;

23 ~~(11)~~(13) "Employer" means any school or other educational agency
24 participating in the Arkansas Teacher Retirement System;

25 ~~(12)~~(14) "Employment with a school" means, beginning July 1,
26 1993:

27 (A) Employment with any of the following institutions or
28 agencies:

- 29 (i) Arkansas School for the Blind;
- 30 (ii) Arkansas School for the Deaf;
- 31 (iii) Arkansas Activities Association;
- 32 (iv) A local school board;
- 33 (v) State Board of Education;
- 34 (vi) Regional education cooperatives; and
- 35 (vii) Arkansas Teacher Retirement System;

36 (B) Employment in a position with any of the following

1 organizations:

2 (i) Juvenile training schools;

3 (ii) The Arkansas Educational Television Commission;

4 and

5 (iii) Area vocational-technical schools, except
6 those employees of area vocational schools and the Department of Workforce
7 Education who have elected to participate in an alternate retirement plan
8 established by §§ 24-7-901 and 24-7-903 - 24-7-908;

9 (C) Employment by the Arkansas Rehabilitation Services of
10 the Department of Workforce Education or the Division of State Services for
11 the Blind of the Department of Health and Human Services, except those
12 employees who have elected to participate in the noncontributory plan of the
13 Arkansas Public Employees' Retirement System;

14 (D)(i) Employment in a position with an educationally
15 related agency if the employee is or has been a member of the Arkansas
16 Teacher Retirement System for a minimum of five (5) years and elects to
17 become or remain a member of the Arkansas Teacher Retirement System. The
18 employment shall be related to:

19 (a) Training public school employees or
20 school board members;

21 (b) Teaching public school students; or

22 (c) Adult education programs.

23 (ii) The employment shall not be related in any
24 manner to private schools.

25 (iii) Each educationally related agency shall be:

26 (a) Approved according to rules and
27 regulations established by the board;

28 (b) Considered an employer under
29 subdivision (11) of this section; and

30 (c) Responsible for all required
31 employer contributions;

32 (E)(i) Employment in an enterprise privatized by a public
33 school district.

34 (ii) If a public school district should privatize
35 any of its services, any individual who is or was employed by the school
36 district in one (1) of those services and who is or has been a member of the

1 Arkansas Teacher Retirement System may elect to remain a member if:

2 (a) The board determines pursuant to rules and
3 regulations adopted by the board that the participation of these employees in
4 the Arkansas Teacher Retirement System will not in any way impair any legal
5 status of the Arkansas Teacher Retirement System, including, but not limited
6 to, its status as a governmental plan pursuant to the federal Internal
7 Revenue Code and the Employee Retirement Income Security Act of 1974, or have
8 a substantial adverse impact on the actuarial soundness of the Arkansas
9 Teacher Retirement System; and

10 (b) The private provider assumes all
11 responsibility for the required employer contributions and any fees for
12 obtaining Internal Revenue rulings or Employee Retirement Income Security Act
13 of 1974 opinions; and

14 (F)(i) Employment in positions with an educational
15 nonprofit corporation licensed and regulated by the Division of Developmental
16 Disabilities Services of the Department of Health and Human Services, if:

17 (a) The nonprofit corporation has elected to
18 participate in the Arkansas Teacher Retirement System; and

19 (b) The board determines pursuant to rules and
20 regulations adopted by the board that the participation of the educational
21 nonprofit corporation will not in any way impair any legal status of the
22 Arkansas Teacher Retirement System, including, but not limited to, its status
23 as a governmental plan pursuant to the Internal Revenue Code of 1986 and the
24 Employee Retirement Income Security Act of 1974, or have a substantial
25 adverse impact on the actuarial soundness of the Arkansas Teacher Retirement
26 System.

27 (ii) The employment shall be related to:

28 (a) Training public school employees or school
29 board members;

30 (b) Teaching public school students; or

31 (c) Adult education programs.

32 (iii) The employment shall not be related in any
33 manner to private schools.

34 (iv) Each educational nonprofit corporation shall
35 be:

36 (a) Approved according to rules and

1 regulations established by the board;

2 (b) Considered an employer under subdivision
3 (11) of this section; and

4 (c) Responsible for all required employer
5 contributions and any fees for obtaining Internal Revenue rulings or Employee
6 Retirement Income Security Act of 1974 opinions;

7 ~~(13)~~(15)(A)(i) "Final average salary" means, for a member who
8 retires after June 30, 1997, the average of the annual salaries paid to him
9 or her during the period of not less than three (3) years nor more than five
10 (5) years of credited service producing the highest annual average with the
11 exact time period to be determined in accordance with the rules and
12 regulations of the board as is actuarially appropriate for the Arkansas
13 Teacher Retirement System, subject to the provisions of subdivision
14 ~~(24)~~(27)(A) of this section.

15 (ii) Prior to reducing the time period used to
16 determine final average salary, the board shall file relevant information
17 concerning the actuarial appropriateness of the action with the Joint Interim
18 Committee on Public Retirement and Social Security Programs, and the action
19 shall be reviewed by the committee.

20 (B) Should a member have less than the minimum of three
21 (3) years of credited service, "final average salary" means the annual
22 average of salaries paid to him or her during his or her total years of
23 credited service, subject to the provisions of subdivision ~~(24)~~(27)(A) of
24 this section;

25 ~~(14)~~(16) "Inactive member" means any former active member who
26 is:

27 (A) No longer rendering service which is covered by the
28 Arkansas Teacher Retirement System; and

29 (B) Not a retirant;

30 ~~(15)~~(17) "Interest" means the rate or rates per annum,
31 compounded annually, as the board shall adopt from time to time, that will be
32 charged for the purchase of service credit or to repay a refund, or repayment
33 of benefits, but the rate shall equal no less than the Arkansas Teacher
34 Retirement System's current assumed interest rate assumption;

35 ~~(16)~~(18) "Internal Revenue Code" means the federal Internal
36 Revenue Code of 1986, as amended, as it existed on January 1, 2005, ~~except as~~

1 ~~provided in § 24-7-406(e)(1)(A)(ii) 2007;~~

2 ~~(17)~~(19) "Member" means any person included in the membership of
3 the Arkansas Teacher Retirement System;

4 ~~(18)~~(20) "Nonteacher" means any ~~employee~~ member except a
5 teacher;

6 ~~(19)~~(21) "Normal retirement age" means sixty-five (65) years of
7 age;

8 (22) "Reciprocal service" means credited service rendered under
9 a reciprocal system as defined by § 24-2-401;

10 ~~(20)~~(23) "Regular interest" means the rate or rates per annum,
11 compounded annually, which the board shall adopt from time to time, that will
12 be used to compute interest on members' contributions;

13 ~~(21)~~(24) "Reserve" means the present value of all payments to be
14 made on account of any Arkansas Teacher Retirement System benefit based upon
15 such reasonable tables of experience and regular interest as the board shall
16 adopt from time to time;

17 ~~(22)~~(25) "Retirant" means a former member receiving an Arkansas
18 Teacher Retirement System annuity ~~by reason of having been a member;~~

19 ~~(23)~~(26) "Retires" means ~~the beginning of annuity payments to a~~
20 ~~retirant~~ that a member ceases to be active and is eligible to receive
21 retirement benefits from the Arkansas Teacher Retirement System;

22 ~~(24)~~(27)(A)(i) "Salary" means the remuneration paid to an
23 employee in a position covered by the Arkansas Teacher Retirement System and
24 on which the employer withholds federal income tax.

25 (ii)(a) However, compensation in excess of the
26 limitations set forth in section 401(a)(17) of the Internal Revenue Code of
27 1986 shall be disregarded.

28 (b) The limitation on compensation for
29 eligible employees shall not be less than the amount which was allowed to be
30 taken into account under the Arkansas Teacher Retirement System as in effect
31 on July 1, 1993. For this purpose, an eligible employee is an individual who
32 was a member of the Arkansas Teacher Retirement System before the first plan
33 year beginning after December 31, 1995.

34 (iii) However, in computing retirement benefits, no
35 salary paid in one (1) of the years which is utilized in the computation of
36 the member's final average salary shall exceed one hundred ten percent (110%)

1 of the salary earned in the year preceding that year used in the computation,
2 unless the increase is a direct result of:

3 (a) A promotion;

4 (b) A change in position;

5 (c) An incremental increase provided in the
6 school district salary schedule; or

7 (d) An increase in school revenues.

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

12 (C)(i) In determining salary, employer pick-up
13 contributions, cafeteria plans as defined in § 21-5-901, and employee
14 contributions to tax-sheltered annuities shall be included.

15 (ii) However, a member may establish salary earned
16 under a purchase service contract with a covered employer by paying employee
17 and employer contributions plus interest.

18 (D) Money which is in lieu of remuneration and which is
19 used by an employer to purchase a qualified tax-sheltered annuity or a life
20 insurance policy for an employee shall be considered as salary for Arkansas
21 Teacher Retirement System purposes.

22 (E) An employee who is receiving remuneration under both a
23 regular contract and a purchased contract or under both a regular contract
24 and a contract won through litigation shall have only the greater of the two
25 (2) amounts considered as salary for Arkansas Teacher Retirement System
26 purposes.

27 (F) Should an employee make a charitable donation or
28 return any part of his or her salary to his or her employer, the amount of
29 his or her recurring remuneration otherwise usable as salary shall be reduced
30 by such an amount or amounts to arrive at his or her salary for Arkansas
31 Teacher Retirement System purposes.

32 (G) In case of any dispute concerning an employee's salary
33 for Arkansas Teacher Retirement System purposes, the Arkansas Teacher
34 Retirement System shall have the power to settle the dispute;

35 ~~(25)-(28)~~ "School" means any public school under the control of
36 school authorities of the state and supported wholly or partially by state

1 moneys;

2 ~~(26)~~(29) "Service" means employment rendered as an employee;

3 ~~(27)~~(30) "Social security" means the federal social security old
4 age, survivors, and disability insurance program;

5 ~~(28)~~(31) "State" means the State of Arkansas;

6 ~~(29)~~(32) "System" means the Arkansas Teacher Retirement System;

7 ~~(30)~~(33)(A) "Teacher" means, beginning July 1, 1989, any person
8 employed by a school for the purpose of giving instructions and whose
9 employment requires state ~~certification~~ licensure.

10 (B) In any case of a question as to who is a teacher, the
11 board shall have the final power to decide the question; ~~and~~

12 (34) "T-DROP" means the Teacher Deferred Retirement Option Plan
13 established by the Arkansas Teacher Retirement System;

14 (35) "T-DROP plan interest" means the rate per annum which the
15 board shall adopt from time to time that will be used to compute interest
16 paid on T-DROP mean balances at the end of each fiscal year; and

17 ~~(31)~~(36) "Trustee" means a member of the board.

18

19 SECTION 2. Arkansas Code § 24-7-209(a), concerning the suspension of
20 benefit payments upon request, is amended to read as follows:

21 (a) ~~Notwithstanding any other provision of the Arkansas Teacher~~
22 ~~Retirement System~~ Subject to the minimum distribution provisions of § 24-7-
23 730, a person entitled to receive an annuity may submit a request to the
24 system in writing, for personal reasons and without disclosure thereof, to
25 suspend the payment of all the benefit otherwise payable to him by the
26 system.

27

28 SECTION 3. Arkansas Code § 24-7-301 is amended to read as follows:

29 24-7-301. Members.

30 The general administration and responsibility for the proper operation
31 of the system and for making effective the provisions of this act are vested
32 in a board of trustees of fifteen (15) persons as follows:

33 (1) The Bank Commissioner, the Treasurer of State, the Auditor
34 of State, and the ~~Director~~ Commissioner of the ~~Department~~ of Education shall
35 be ex officio trustees;

36 (2)(A) Seven (7) members shall be elected member trustees, each

1 of whom shall have at least five (5) years of ~~credited~~ actual service in
 2 force and be an active member. For the purpose of this section and § 24-7-
 3 302, participants in the Teacher Deferred Retirement Option Plan shall be
 4 considered active members.

5 (B) Four (4) member trustees shall be employed in a
 6 position which requires state ~~certification,~~ licensure, but not an
 7 administrator's ~~certificate~~ license. One (1) member trustee will be elected
 8 from each of the four (4) congressional districts. The four (4) member
 9 trustees shall be elected by the members employed in positions which require
 10 state ~~certification,~~ licensure but not an administrator's
 11 ~~certificate~~ license.

12 (C) Two (2) member trustees shall be employed in a
 13 position requiring an administrator's ~~certificate,~~ license, one (1) of whom
 14 must be a superintendent. These two (2) member trustees shall be elected by
 15 members employed in positions requiring administrator ~~certification~~
 16 licensure.

17 (D) One (1) member trustee shall be employed in a position
 18 not requiring state ~~certification~~ licensure. This member trustee shall be
 19 elected by members employed in positions not requiring state
 20 ~~certification~~ licensure;

21 (3) One (1) trustee shall be a person of a minority racial
 22 ethnic group who is either an active or retired member of the Arkansas
 23 Teacher Retirement System and shall be elected from the active and retired
 24 membership of the system;

25 (4)(A) Three (3) retirants shall be elected retirant trustees by
 26 the retirees of the system.

27 (B) Each retirant trustee shall be a retirant with an
 28 annuity being paid by the system at the beginning of his term of office; and

29 (5) The member and retirant trustees shall be elected in
 30 accordance with ~~such rules and regulations~~ as have been adopted by the board
 31 to govern the elections.

32
 33 SECTION 4. Arkansas Code § 24-7-305 is amended to read as follows:

34 24-7-305. Duties and responsibilities.

35 (a)(1) Both the contributory plan provided by this act and the
 36 noncontributory plan established by §§ 24-7-401 - 24-7-411 and 24-7-701, 24-

1 7-702, 24-7-704 - 24-7-713, 24-7-715, and 24-7-716 shall be under the
2 administration and control of the Board of Trustees of the Arkansas Teacher
3 Retirement System as provided by § 24-7-301.

4 (2) It is the intent of the General Assembly that neither the
5 composition, responsibilities, or authority of the board be changed as a
6 result of §§ 24-7-401 - 24-7-411 and 24-7-701, 24-7-702, 24-7-704 - 24-7-713,
7 24-7-715, and 24-7-716.

8 (b) The board shall promulgate rules as it deems necessary from time
9 to time in the transaction of its business and in administering the Arkansas
10 Teacher Retirement System.

11 ~~(b)~~(c) The board shall adopt from time to time such reasonable
12 mortality and other tables of experience, and a rate or rates of regular
13 interest, as shall be necessary for the actuarial requirements of the
14 Arkansas Teacher Retirement System.

15 ~~(e)~~(d) The Executive Director of the Arkansas Teacher Retirement
16 System shall keep, or cause to be kept, in convenient form such data as shall
17 be necessary for actuarial investigations of the experiences of the system,
18 and such data as shall be necessary for annual actuarial valuations of the
19 system.

20 ~~(d)~~(e)(1) The board shall annually, not later than April 1 of each
21 year, render a report to each employer showing the financial condition of the
22 system as of the preceding June 30.

23 (2) The report shall contain, but shall not be limited to:

24 (A) A financial balance sheet;

25 (B) A statement of income and disbursements;

26 (C) A detailed statement of investments acquired and
27 disposed of during the year, together with a detailed statement of the annual
28 rates of investment income from all assets and from each type of investment;

29 (D) An actuarial balance sheet prepared by means of the
30 last valuation of the system; and

31 (E) Such other data as the board shall deem necessary to
32 comply with § 24-2-702.

33 (3) In addition to the distribution of the report provided by
34 this subsection, it shall also be distributed to the Legislative Council and
35 to the Governor ~~as provided by § 24-2-702.~~

36 ~~(e)~~(f) All records of the system shall be kept and maintained in the

1 office of the system.

2 ~~(f)~~(g)(1) The board shall arrange for adequate surety bonds covering
3 the executive director and any other custodian of the funds or investments of
4 the board.

5 (2) When approved by the board, the bonds shall be deposited in
6 the office of the Treasurer of State.

7 ~~(g)~~(h) The records and accounts of the system shall be audited by the
8 Division of Legislative Audit.

9 ~~(h)~~(i) The headquarters of the system shall be in Little Rock.
10

11 SECTION 5. Arkansas Code § 24-7-411(a), concerning compelling payment
12 upon the delinquency of an employer, is amended to read as follows:

13 (a)(1) If any participating employer fails to remit to the Arkansas
14 Teacher Retirement System those moneys which are required by law or
15 regulation by the fifteenth day of the month in which the moneys are due,
16 then the system shall impose a ~~penalty~~ of six percent (6%) interest penalty
17 on an annual basis on the moneys due.

18 (2) For purposes of this subsection, an employer's remittance
19 shall not be considered delinquent if received by the system by the fifteenth
20 day or postmarked no later than the fourteenth day of the month in which the
21 payment is due.

22 (3) The interest penalty shall be determined by the system on
23 the date the delinquent funds are received, and a statement of the interest
24 penalty shall be sent to the participating public employer.

25 (4) If the interest penalty or delinquent moneys are not
26 received by the system by the last business day of the month in which the
27 moneys were originally due, then the system shall cause the sums of moneys,
28 including the interest penalty, to be transferred from any moneys due the
29 participating employer from the Treasurer of State and the Department of
30 Education, as provided in § 19-5-106(a)(5).

31 (5) This interest penalty shall be computed on the actual days
32 of delinquency and shall be paid to the system for the purpose of reimbursing
33 the trust fund for the money which would have been earned on the moneys had
34 they been paid when due.

35

36 SECTION 6. Arkansas Code § 24-7-501 is amended to read as follows:

1 24-7-501. Generally.

2 (a) The membership of the Arkansas Teacher Retirement System shall
3 include the following persons:

4 ~~(1) All teachers who last began service before July 1, 1971, in~~
5 ~~accordance with provisions in force before July 1, 1971;~~

6 ~~(2)(1)~~ All teachers who last began service on or after July 1,
7 1971, and whose service is not covered by another retirement plan similar in
8 purpose to the Arkansas Teacher Retirement System, except social security;
9 and

10 ~~(3)(2)(A)~~ All nonteachers who begin nonteaching service on or
11 after July 1, 1989, and whose nonteaching service is not covered by another
12 retirement plan similar in purpose to the Arkansas Teacher Retirement System,
13 except social security.

14 (B)(i) All nonteachers who began nonteaching service
15 before July 1, 1989, whose nonteaching service is covered or coverable by the
16 Arkansas Public Employees' Retirement System shall continue to be covered by
17 the Arkansas Public Employees' Retirement System for all nonteaching service,
18 both past and future, ~~except if the nonteacher elects coverage under the~~
19 ~~Arkansas Teacher Retirement System in accordance with subdivision (a)(4) of~~
20 ~~this section unless the nonteacher elects to have the nonteaching service~~
21 after July 1, 2001, covered by the Arkansas Teacher Retirement System under
22 subsection (a)(2)(C) of this section.

23 ~~(C)(ii)~~ These nonteachers who began service before July 1,
24 1989, shall be considered members of a closed system to be administered by
25 the Arkansas Public Employees' Retirement System.

26 ~~(D)(iii)~~ The employer contribution rate for this closed
27 system shall be established at a rate necessary to fund all present and
28 future liabilities until such time as there are no longer members, retirants,
29 or deferred annuitants;

30 ~~(4)(A) All nonteachers who began nonteaching service before July~~
31 ~~1, 1989, whose nonteaching service is covered by the Arkansas Public~~
32 ~~Employees' Retirement System may elect to have the nonteaching service after~~
33 ~~July 1, 2001, covered by the Arkansas Teacher Retirement System.~~

34 ~~(B)(C)(i)~~ Beginning July 1, 2001, and each July 1 of each
35 year thereafter, nonteachers who participate in the Arkansas Public
36 Employees' Retirement System may elect to become members of the Arkansas

1 Teacher Retirement System.

2 ~~(G)(ii)~~ Service credit while a member of the Arkansas
3 Public Employees' Retirement System cannot be established in the Arkansas
4 Teacher Retirement System.

5 ~~(D)(iii)~~ The election to withdraw from the Arkansas Public
6 Employees' Retirement System and become a member of the Arkansas Teacher
7 Retirement System shall be made by May 31, 2001, or by May 31 of each year
8 thereafter, and notice of the election shall be made in writing and filed
9 with the Arkansas Teacher Retirement System.

10 (iv) The election to participate in the Arkansas Teacher
11 Retirement System shall be irrevocable.

12 ~~(E)(v)~~ Nonteachers who elect coverage in the Arkansas
13 Teacher Retirement System under the provisions of this section and who
14 accumulate five (5) or more years of credited service in the Arkansas Teacher
15 Retirement System will be eligible for benefits as provided in § 24-7-713(b).

16 ~~(F) The election to participate in the Arkansas Teacher~~
17 ~~Retirement System shall be irrevocable.~~

18 (b)(1) A person who has excluded himself or herself from membership
19 before July 1, 1991, may rescind the exclusion by filing with the system a
20 membership data form.

21 (2) The rescission shall be effective July 1 of the fiscal year
22 in which it is exercised.

23 (3) At the direction of the person, the membership may be
24 prospective only, or both prospective and retroactive.

25 (4) For the membership to be retroactive, the member must pay to
26 the system both the member contributions and the employer contributions which
27 would have been paid to the system had there been no exclusion, plus ~~regular~~
28 interest from the ~~dates the contributions would normally have been received~~
29 ~~by the system~~ effective date of the excluded service to the date of ~~actual~~
30 payment in full.

31 (c) In any case of question as to the system membership status of any
32 person, the Board of Trustees of the Arkansas Teacher Retirement System shall
33 have the final power to decide the question.

34 (d)(1) Membership in the system shall be a condition of employment in
35 accordance with subsections ~~(a)-(e)~~ (a) and (b) of this section ~~and shall not~~
36 ~~be subject to election by individual employees.~~

1 (2) Provided, however, individual ~~employees~~ members who
 2 ~~accumulate~~ are employed for less than thirty (30) days ~~of credited service~~
 3 within a fiscal year shall not be eligible for ~~membership~~ any credit or
 4 benefit in the system, and any employee contributions made by the member
 5 during that period shall be refunded by the system.

6
 7 SECTION 7. Arkansas Code § 24-7-502 is amended to read as follows:
 8 24-7-502. Termination of active membership.

9 (a)(1) A member of the Arkansas Teacher Retirement System must
 10 terminate covered employment to be eligible for retirement.

11 (2) A member shall not be terminated from employment for
 12 retirement purposes if within thirty (30) days of the person's effective date
 13 of retirement the person returns to a position that would otherwise be
 14 covered by the system.

15 (3) A person failing to meet the termination requirement of this
 16 subsection shall forfeit the person's benefits until the requirement is met.

17 (b)(1)~~(A)~~ When a member is no longer employed by an employer in a
 18 position covered by the system, the person shall ~~thereupon~~ cease to be an
 19 active member of the system.

20 ~~(B) Unless the member becomes a retirant or an inactive~~
 21 ~~member as provided in this act, his or her credited service shall be~~
 22 ~~forfeited by the member upon termination of active membership.~~

23 (2) If a ~~former active~~ an inactive member has not ~~become a~~
 24 ~~retirant~~ retired and later becomes reemployed by an employer in a position
 25 covered by the system, the person shall ~~again~~ become an active member ~~upon~~
 26 reemployment and is eligible to accrue additional service credit.

27 (3) ~~If the member becomes reemployed from inactive member~~
 28 ~~status, the person shall immediately begin adding to his or her previous~~
 29 ~~credited service. However, if~~ If the member's service during ~~the person's~~
 30 ~~last such~~ reemployment is for less than thirty (30) days, he or she shall be
 31 considered to be an inactive member at the termination of the reemployed
 32 service, and the only monthly benefits payable shall be those provided by §
 33 24-7-707.

34 ~~(4) If the member becomes reemployed from neither retirant nor~~
 35 ~~inactive member status, after completing thirty (30) days of service during~~
 36 ~~the person's last such reemployment, the active member shall receive the~~

1 ~~indicated credited service for the credited service forfeited by him or her~~
2 ~~if the member returns to the system the indicated amount, as follows:~~

3 ~~(A) The member shall receive his or her total forfeited~~
4 ~~credited service if the member returns the amount he or she received~~
5 ~~therefrom, together with regular interest from the date of withdrawal to the~~
6 ~~date of repayment; or~~

7 ~~(B) If a portion of the member's forfeited credited~~
8 ~~service has been credited the person under the provisions of a publicly~~
9 ~~supported teacher retirement system of another state, the member shall~~
10 ~~receive the portion of his or her forfeited credited service not so credited~~
11 ~~by the other system if the member returns the amount received from this~~
12 ~~system for that portion of the member's credited service not so credited by~~
13 ~~the other system, together with regular interest from the date of withdrawal~~
14 ~~to the date of repayment.~~

15 ~~(5)(4)(A)(i)~~ In addition to the forfeited credited service, the
16 An active member shall receive credit for his or her other previous any
17 previous unreported service after July 1, 1937, upon paying to the system the
18 member contributions in effect during the previous service, together with
19 ~~regular~~ interest from the dates of the service to the date of payment in
20 full.

21 ~~(ii)(B)~~ For previous service rendered before July 1,
22 1971, service credit shall be permitted for service in a fiscal school year
23 only if at least one hundred twenty (120) days of service were rendered in
24 the fiscal school year.

25 ~~(B) To establish credit for previous service, a member~~
26 ~~must pay to the system both member and employer contributions, plus regular~~
27 ~~interest from the dates the contributions would normally have been received~~
28 ~~by the system to the date of actual payment.~~

29 ~~(c)(1)~~ Upon a member's retirement, the person shall cease to be a an
30 active member and, except as otherwise provided in this act, he or she shall
31 not again become a member of accrue additional service credit or make
32 contributions to the system.

33 ~~(2) During any period of employment in a position covered by the~~
34 ~~system, a retirant shall not accrue additional credited service nor shall he~~
35 ~~or she contribute to the system.~~

36

1 SECTION 8. Arkansas Code § 24-7-601 is amended to read as follows:
2 § 24-7-601. Generally.

3 (a) By ~~rules and regulations~~ rule, the Board of Trustees of the
4 Arkansas Teacher Retirement System shall fix and determine the number of
5 years, and fraction thereof, of service to be credited each member for his
6 employment as an employee.

7 (b) In no case, other than specifically provided otherwise in this
8 subchapter, shall fewer than one hundred twenty (120) days of teaching
9 service rendered in any fiscal school year be credited as one (1) year of
10 service, nor shall more than one (1) year of service be credited any member
11 for all teaching service rendered by him in any one (1) fiscal school year.

12 (c)(1) Days of absence from service because of sickness shall be
13 considered as service if the days are paid sick leave.

14 (2) Days of paid sick leave shall not be considered service if
15 the payment is for unused sick leave.

16 (d) No credited service may be granted by the board for service
17 rendered before July 1, 1937.

18 (e)(1) The system is a reciprocal system under the provisions of §§
19 24-2-401 - 24-2-405.

20 (2) In establishing eligibility for a benefit from the Arkansas
21 Teacher Retirement System, the credited service under all reciprocal systems
22 shall be totaled and the total credited service shall be used in determining
23 eligibility for a system benefit.

24 (3) In determining the amount of a benefit from this system,
25 there shall be used only the ~~credited~~ actual service under this system and
26 the benefit formula of this system.

27 (4) The final average compensation used shall be that of the
28 reciprocal system which furnishes the highest final salary at the time of
29 retirement.

30 (5) Wherever this system provides a benefit amount which is not
31 dependent on length of credited service, the benefit amount shall be reduced
32 to the proportion that ~~system-credited~~ actual system service bears to total
33 reciprocal system-credited service.

34 (f) In any case of question as to the service credit of any person,
35 the board shall have the final power to decide the question.

36

1 SECTION 9. Arkansas Code § 24-7-607(a), concerning private school
2 service under the Arkansas Teacher Retirement System, is amended to read as
3 follows:

4 (a) As used in this section, "private school service" means service
5 rendered in any private school or agency which is recognized by the
6 Department of Education for the issuance of teaching ~~certificates~~ licenses.

7
8 SECTION 10. Arkansas Code § 24-7-701 is amended to read as follows:
9 24-7-701. Voluntary retirement.

10 (a)(1) Except as provided under subdivision (a)(2) of this section, an
11 active member who either attains age sixty (60) and has five (5) or more
12 years of actual and reciprocal service or who has twenty-eight (28) or more
13 years of credited service regardless of age may voluntarily retire upon
14 written application filed with the Board of Trustees of the Arkansas Teacher
15 Retirement System.

16 (2)(A) A member shall terminate covered employment to be
17 eligible for retirement except if the member has attained normal retirement
18 age.

19 (B) A member shall not be terminated from employment for
20 retirement purposes if the person returns to a position that would otherwise
21 be covered by the Arkansas Teacher Retirement System within thirty (30) days
22 of the person's effective date of retirement.

23 (C) A person failing to meet the termination of employment
24 requirements of this subsection shall forfeit retirement benefits until the
25 requirements are met.

26 (b) Upon his or her retirement, he or she shall receive an annuity as
27 provided for in § 24-7-705.

28 (c) The annuity shall begin the first day of the calendar month next
29 following the latest of:

30 (1) One (1) month after the date the written application is
31 filed with the board;

32 (2) The member's termination of active membership;

33 (3) The member's attainment of the minimum age; or

34 (4) The member's completion of the minimum years of credited
35 service.

36 ~~(d) If a member is retiring with an effective date other than July 1,~~

1 ~~the member may retire effective the first day of a calendar quarter within~~
2 ~~that fiscal year, subject to the following limitations:~~

3 ~~(1) No salary for service within that fiscal year shall be~~
4 ~~considered in determining final average salary; and~~

5 ~~(2) Credited service for service within that fiscal year shall~~
6 ~~not exceed one-quarter (1/4) year for each full calendar quarter elapsed~~
7 ~~since the beginning of that fiscal year.~~

8 ~~(e)(d)~~ If a member is retiring with an effective date other than July
9 1 or the first day of a calendar quarter within the fiscal year, the
10 following limitations shall apply:

11 (1) No salary for service within the fiscal year shall be
12 considered in determining final average salary;

13 (2) Credited service for service within the fiscal year shall
14 not exceed one-quarter (1/4) year for each full calendar quarter elapsed
15 since the beginning of the fiscal year; and

16 (3) Service credit to be used in the computation of benefits
17 shall be computed only on the full calendar quarter completed and shall not
18 include service credit for a partial calendar quarter worked.

19 ~~(f)(e)~~(1) If a member has signed an employment contract for a fiscal
20 school year and been paid in full for that fiscal school year, in no event
21 shall the annuity begin earlier than the July 1 next following that fiscal
22 school year.

23 (2) If a member has signed an employment contract for a fiscal
24 school year and if that contract is not completed, the member shall receive
25 credit for service within the current fiscal year as provided in this
26 section.

27 ~~(g) The benefits provided by this section shall also be available to~~
28 ~~an inactive member with twenty-eight (28) or more years of credited service.~~

29
30 SECTION 11. Arkansas Code § 24-7-702 is amended to read as follows:
31 24-7-702. Early voluntary retirement.

32 (a)(1) Except as provided under subdivision (a)(2) of this section, an
33 active or inactive member who has twenty-five (25) or more years of credited
34 service but has not attained age sixty (60) and is not eligible for
35 retirement under the provisions of § 24-7-701 may voluntarily retire early
36 upon written application filed with the Board of Trustees of the Arkansas

1 Teacher Retirement System.

2 (2)(A) A member shall terminate covered employment to be
3 eligible for retirement except if the member has attained normal retirement
4 age.

5 (B) A member shall not be terminated from employment for
6 retirement purposes if the person returns to a position that would otherwise
7 be covered by the Arkansas Teacher Retirement System within thirty (30) days
8 of the person's effective date of retirement.

9 (C) A person failing to meet the termination of employment
10 requirements of this subsection shall forfeit retirement benefits until the
11 requirements are met.

12 (b)(1) Upon an active or inactive member's retirement as provided in
13 this section, the member shall receive, in lieu of any other system benefit,
14 an early annuity which shall be a certain percent of an annuity provided for
15 in § 24-7-705.

16 (2) The percent shall be one hundred percent (100%) reduced by
17 five-twelfths percent (5/12%) multiplied by the number of months by which the
18 time of early retirement precedes the earlier of either completion of twenty-
19 eight (28) years of credited service or attainment of sixty (60) years of
20 age.

21 (3)(A) Effective July 1, 1997, the annuities of those members
22 who chose early retirement when the years of service required for an
23 unreduced annuity was thirty-five (35) or more years shall be adjusted to
24 reflect the amount for which they would have been entitled had the number of
25 years to retire with an unreduced annuity been thirty (30) years on the
26 effective date of their retirement.

27 (B) The annuities of those members who chose early
28 retirement from July 1, 1995, through June 30, 1999, who received an early
29 annuity as provided in § 24-7-702 which was in effect at the time of their
30 retirement, shall be adjusted effective July 1, 1999, to reflect a percent of
31 the annuity as provided in subdivision (b)(2) of this section.

32 (C) Effective July 1, 2001, the annuities of those members
33 who chose early retirement when the years of service required for an
34 unreduced annuity was thirty (30) or more years shall be adjusted to reflect
35 the amount for which they would have been entitled had the number of years to
36 retire with an unreduced annuity been twenty-eight (28) years on the

1 effective date of their retirement, and the annuities of those members shall
2 be adjusted effective July 1, 2001, to reflect a percent of the annuity as
3 provided in subdivision (b)(2) of this section which was in effect July 1,
4 1999.

5 (4) The adjustments described in subdivision (b)(3) of this
6 section shall not be retroactive to the effective date of the member's
7 retirement.

8 (c) ~~Except for an inactive member~~ For an active member, the annuity
9 shall begin the first day of the calendar month next following the latest of:

10 (1) One (1) month after the date the written application is
11 filed with the board;

12 (2) The member's termination of active membership; or

13 (3) The member's completion of the required credited service.

14 (d) For an inactive member, the annuity shall begin the first day of
15 the calendar month after the date his or her written application is received
16 by the board.

17 ~~(e) If a member is retiring with an effective date other than July 1,~~
18 ~~the member may retire effective the first day of a calendar quarter within~~
19 ~~that fiscal year, subject to the following limitations:~~

20 ~~(1) No salary for service within that fiscal year shall be~~
21 ~~considered in determining final average salary; and~~

22 ~~(2) Credited service for service within that fiscal year shall~~
23 ~~not exceed one-quarter (1/4) year for each full calendar quarter elapsed~~
24 ~~since the beginning of that fiscal year.~~

25 ~~(f)~~(e) If a member is retiring with an effective date other than July
26 1 or the first day of a calendar quarter within the fiscal year, the
27 following limitations shall apply:

28 (1) No salary for service within the fiscal year shall be
29 considered in determining final average salary;

30 (2) Credited service for service within the fiscal year shall
31 not exceed one-quarter (1/4) year for each full calendar quarter elapsed
32 since the beginning of the fiscal year; and

33 (3) Service credit to be used in the computation of benefits
34 shall be computed only on the full calendar quarter completed and shall not
35 include service credit for a partial calendar quarter worked.

36 ~~(g)~~(f)(1) If a member has signed an employment contract for a fiscal

1 school year and been paid in full for that fiscal year, in no event shall the
2 annuity begin earlier than the July 1 next following that fiscal school year.

3 (2) If a member has signed an employment contract for a fiscal
4 school year and that contract is not completed, the member shall receive
5 credit for service within the current fiscal year as provided in subsection
6 (e) of this section.

7 ~~(h) The benefits provided by this section shall also be available to~~
8 ~~an inactive member with twenty-eight (28) or more years of credited service.~~

9
10 SECTION 12. Arkansas Code § 24-7-706 is amended to read as follows:
11 24-7-706. Annuity options.

12 (a)(1) Before the date the first payment of his or her annuity becomes
13 due, but not thereafter, a member may elect to receive his or her annuity as
14 a straight life annuity, or he or she may elect to receive the actuarial
15 equivalent, at that time, of his or her straight life annuity in a reduced
16 annuity payable throughout his or her life.

17 (2) The member may nominate a beneficiary, in accordance with
18 the provisions of one (1) of the following options:

19 (A) Option A - 100% Survivor Annuity.

20 (i) Under Option A, upon the death of a retirant,
21 his or her reduced annuity shall be continued throughout the life of and paid
22 to such person as he or she shall have nominated by written designation duly
23 executed and filed with the board before the date the first payment of his or
24 her annuity becomes due.

25 (ii)(a) The person must be either his or her spouse
26 for not less than one (1) year immediately preceding the first payment due
27 date, or another person forty (40) years of age or older receiving more than
28 one-half (1/2) support from the retirant for not less than one (1) year
29 immediately preceding the first payment due date.

30 (b) However, the age-forty requirement shall
31 not exclude the designation as beneficiary of a dependent child who has been
32 ~~ruled~~ adjudged physically or mentally incapacitated ~~either by an Arkansas a~~
33 ~~court of competent jurisdiction or by the Board of Trustees of the Arkansas~~
34 ~~Teacher Retirement System;~~

35 (B) Option B - 50% Survivor Annuity.

36 (i) Under Option B, upon the death of a retirant,

1 one-half (1/2) of his or her reduced annuity shall be continued throughout
2 the life of and paid to such person as he or she shall have nominated by
3 written designation duly executed and filed with the board before the date
4 the first payment of his or her annuity becomes due.

5 (ii)(a) The person must be either his or her spouse
6 for not less than one (1) year immediately preceding the first payment due
7 date, or another person forty (40) years of age or older receiving more than
8 one-half (1/2) support from the retirant for not less than one (1) year
9 immediately preceding the first payment due date.

10 (b) However, the age-forty requirement shall
11 not exclude the designation as beneficiary of a dependent child who has been
12 ~~ruled~~ adjudged physically or mentally incapacitated ~~either by an Arkansas a~~
13 court of competent jurisdiction ~~or by the board;~~

14 (C) Option C - Annuity for Ten (10) Years Certain and Life
15 Thereafter.

16 (i) Under Option C, a retirant shall receive a
17 reduced annuity payable throughout his or her life with the provision that if
18 he or she dies before he or she has received one hundred twenty (120) monthly
19 annuity payments, the payments will be continued for the remainder of the
20 period of one hundred twenty (120) months and paid to such persons in equal
21 shares as the retirant shall have nominated by written designation duly
22 executed and filed with the board.

23 (ii) If the designated beneficiaries predecease the
24 retirant, the retirant may nominate successor beneficiaries or may elect to
25 return to his or her single lifetime benefit equivalent by written
26 designation duly executed and filed with the board to be effective the month
27 following receipt of his or her election by the Arkansas Teacher Retirement
28 System.

29 (iii) If no designated beneficiary survives him or
30 her, the annuity reserve for the remainder of the annuity payments shall be
31 paid to the retirant's estate.

32 (iv) If the last designated beneficiary receiving
33 annuity payments dies before all annuity payments are made, the annuity
34 reserve for the remainder of the annuity payments shall be paid to the
35 beneficiary's estate.

36 (v) Effective the month following completion of the

1 one-hundred-twenty-month period, the retirant's annuity shall return to his
2 or her single lifetime benefit equivalent.

3 (b)(1) At the written election of the retirant, the death of the
4 beneficiary or divorce or other marriage dissolution after retirement from a
5 spouse designated as beneficiary shall cancel any optional plan elected at
6 retirement and shall return the retirant to his or her single lifetime
7 benefit equivalent, to be effective the month following receipt of his or her
8 election by the system.

9 (2)(A) A retirant who is receiving a single lifetime benefit and
10 who marries after retirement may elect to cancel his or her single lifetime
11 benefit and may elect Option B - 50% Survivor Annuity providing continuing
12 lifetime benefits to his or her spouse, but only if the election is on a form
13 approved by the system and is received by the system ~~not earlier than the~~
14 ~~date of the marriage and not later than six (6) months thereafter~~ within six
15 (6) months after the date of marriage.

16 (B) The election shall be effective the first day of the
17 month following its receipt.

18 (c) If a member fails to elect an option, his or her annuity shall be
19 paid to him or her as a straight life annuity.

20 (d)(1) Notwithstanding anything contained in this section to the
21 contrary, the residue beneficiary under § 24-7-709 may elect to cancel the
22 form of annuity in effect and elect Option A - 100% Survivor Annuity upon the
23 death of a retirant on or after July 1, 1989, if:

24 (A) The retirant died within one (1) year following the
25 effective date of retirement; ~~and~~

26 (B) The retirant was receiving a straight life annuity;
27 and

28 (C) The residue beneficiary otherwise qualifies for an
29 Option A - 100% Survivor Annuity.

30 (2) The election to change may be made only one (1) time and
31 shall be on a form approved by the system.

32 (3) The election form must be received by the system within
33 ~~thirty (30) days after February 7, 1991, or within ninety (90) days~~ one
34 hundred twenty (120) days of the death of the retiree, ~~whichever is later.~~

35 (e)(1) Notwithstanding anything in this section to the contrary, a
36 retirant who retired on or after July 1, 1994, may elect to cancel his or her

1 election made at retirement for receiving an annuity and elect another
2 option, provided that he or she:

3 (A) Does so within one (1) year after July 1, 1995, or
4 within one (1) year of retirement;

5 (B) Files with the system a new election form approved by
6 the system; and

7 (C)(i) Repays to the system the difference between the
8 amount of the annuity received when he or she retired and the new annuity due
9 as a result of the election change, plus ~~regular~~ interest from July 1, 1994,
10 or his or her retirement date, whichever is later, to the date of payment in
11 full.

12 (ii) The difference shall be calculated
13 retroactively to July 1, 1994, or his or her retirement date, whichever is
14 later.

15 (2) The election to change shall be made only one (1) time.

16 (3) The election change shall be effective retroactively to the
17 effective date of his or her annuity.

18

19 SECTION 13. Arkansas Code § 24-7-707 is amended to read as follows:
20 24-7-707. Deferred annuity.

21 (a)(1) Should an active member cease to be an active member before
22 attaining age sixty (60), other than by death or retirement, but after
23 completing five (5) years of actual and reciprocal service, ~~he the member~~
24 shall become an inactive member and shall be entitled to a deferred annuity
25 as provided for in this section, but only if ~~he the member~~ does not withdraw
26 his accumulated contributions from the members' deposit account and is not
27 employed in a position covered by another retirement plan which is supported
28 wholly or in part by state contributions.

29 (2) ~~The~~ Following approval by the Arkansas Teacher Retirement
30 System of an application for deferred retirement, the deferred annuity shall
31 commence as of the first day of the calendar month next following the later
32 of:

33 (A) ~~His deferred annuity age~~ The month following the
34 member's sixtieth birthday; or

35 (B) The date ~~his~~ the written application is received by
36 the ~~Board of Trustees of the Arkansas Teacher Retirement System~~ system.

1 ~~(3) Deferred annuity age is age sixty (60) for all members~~
 2 ~~eligible for a deferred annuity and who do not have twenty five (25) or more~~
 3 ~~years of credited service.~~

4 ~~(4)~~(3) A member shall have the right to elect an option provided
 5 for in § 24-7-706 at the time of filing the written application.

6 (b) An inactive member's deferred annuity shall be a life annuity as
 7 provided for in § 24-7-705 ~~if his annuity deferment age is sixty (60) or~~
 8 ~~over, or as provided for in § 24-7-702 if his annuity deferment age is under~~
 9 ~~age sixty (60).~~

10 ~~(c)(1) An inactive member otherwise entitled to a deferred annuity~~
 11 ~~shall be entitled to a deferred annuity only if he lives to his annuity~~
 12 ~~deferment age and if written application for a deferred annuity is received~~
 13 ~~from him by the board.~~

14 ~~(2) In the event the inactive member does not so live, or in the~~
 15 ~~event the written application is not received by the board~~ dies before
 16 qualifying for deferred retirement, no benefits whatsoever shall be paid
 17 except under the provisions of § 24-7-711.

18
 19 SECTION 14. Arkansas Code § 24-7-708(f)(5), concerning waivers of the
 20 Arkansas Teacher Retirement System earnings limitation, is amended to read as
 21 follows:

22 (5) Beginning July 1, 2005, for any retired member employed in a
 23 position covered by the system pursuant to a waiver, an amount equal to the
 24 combined employer and employee contribution rate or rates to the system on
 25 behalf of the member shall recommence at the rate in effect at the time of
 26 the employment and shall be remitted by the employer.

27
 28 SECTION 15. Arkansas Code § 24-7-709 is amended to read as follows:

29 24-7-709. Disposition of residue.

30 ~~(a)(1) If a retirant and his or her eligible beneficiary, if any, both~~
 31 ~~dies~~ dies before ~~they have received~~ receiving in annuity payments a total
 32 amount equal to the accumulated contributions standing to the retirant's
 33 credit in the members' deposit account at the time of his or her retirement,
 34 and no option annuity becomes payable upon the retirant's death, the
 35 difference between the accumulated contributions and the total amount of
 36 annuities received by ~~them~~ the retirant shall be paid to such ~~person~~ persons

1 as the retirant shall have nominated by written designation duly executed and
2 filed with the ~~Board of Trustees of the~~ Arkansas Teacher Retirement System.

3 (2) If a retirant dies and has failed to designate a beneficiary
4 or if all designated beneficiaries have predeceased the retirant, the
5 difference between the accumulated contributions and the total amount of
6 annuities received by the retirant shall be paid to the retirant's estate.

7 (b)(1) If a retirant dies and an option annuity becomes payable at the
8 retirant's death but the last eligible option beneficiary dies before the
9 retirant and the option beneficiary and the retirant have received in annuity
10 payments a total amount equal to the accumulated contributions standing to
11 the retirant's credit in the member's deposit account at the time of the
12 member's retirement, the remaining difference, if any, shall be paid to the
13 beneficiary's estate beneficiary nominated by the member.

14 (2) If upon the termination of the option annuity, no surviving
15 beneficiary designated by the member survives, the difference between the
16 accumulated contributions and the total amount of annuities received by the
17 retirant and option annuitant shall be paid to the last eligible option
18 beneficiary's estate.

19 ~~(c) If no eligible beneficiary or designated person survives the~~
20 ~~retirant, the difference, if any, between the total amount of annuity~~
21 ~~payments received by the retirant and the retirant and the accumulated~~
22 ~~contributions standing to the retirant's credit in the member's deposit~~
23 ~~account at the time of his or her retirement shall be paid to the retirant's~~
24 ~~estate.~~

25
26 SECTION 16. Arkansas Code § 24-7-710 is amended to read as follows:

27 24-7-710. Survivor benefits.

28 (a) If an active member with five (5) or more years of ~~credited~~ actual
29 and reciprocal service, including credited service for the year immediately
30 preceding his or her death, dies in employer service before retirement, then
31 the applicable benefits provided in this section shall be paid.

32 (b)(1) The member's surviving spouse, who was married to the member
33 for at least the two (2) years immediately preceding ~~his or her~~ the member's
34 death, shall receive an annuity computed in the same manner in all respects
35 as if the member had:

36 (A) Retired the date of his or her death with entitlement

1 to an annuity provided for in § 24-7-705, notwithstanding that he or she
2 might not have attained age sixty (60) or acquired five (5) years of actual
3 service;

4 (B) Elected Option A - One hundred percent (100%) survivor
5 annuity, as provided for in § 24-7-706; and

6 (C) Nominated his or her spouse as ~~joint~~ an option
7 beneficiary.

8 ~~(2) If at the time of the member's death there are no dependent~~
9 ~~children and the surviving spouse who would otherwise receive the annuity~~
10 ~~under this subsection has filed with the Arkansas Teacher Retirement System a~~
11 ~~signed written waiver of his or her right to the annuity and that waiver was~~
12 ~~in effect at the time of the member's death, a lump sum distribution of the~~
13 ~~deceased member's accumulated contributions plus regular interest may be made~~
14 ~~to any beneficiary or beneficiaries so designated by the member before death.~~

15 ~~(3)(A) The spouse annuity shall commence at the later of age~~
16 ~~sixty two (62) or the spouse's age at his or her death and be payable until~~
17 ~~the earlier of the spouse's remarriage or death.~~

18 ~~(B) However, if the member had:~~

19 ~~(i) Satisfied the age and service requirements~~
20 ~~provided for in § 24-7-701 or had acquired twenty (20) years of credited~~
21 ~~service, the spouse annuity shall commence immediately and be payable for the~~
22 ~~spouse's life; or~~

23 ~~(ii) Acquired fifteen (15) years of credited service~~
24 ~~but had not attained age sixty (60), then the spouse annuity shall commence~~
25 ~~at the later of age fifty (50) or the spouse's age at his or her death and be~~
26 ~~payable until the earlier of the spouse's remarriage or death.~~

27 ~~(4)(3) The spouse annuity shall not be less than the greater of~~
28 ~~ten percent (10%) of the deceased member's covered salary at the time of~~
29 ~~death or fifty dollars (\$50.00) monthly, plus the benefits applicable under §~~
30 ~~24-7-713. These amounts shall apply if the member had no member~~
31 ~~noncontributory service of the type specified in § 24-7-705 However, if the~~
32 ~~spouse annuity payable under subsection (b)(1) is less than the amount~~
33 ~~payable to a dependent child under subsection (c)(1)(A) of this section, the~~
34 ~~spouse annuity shall be the amount payable under subsection (c)(1)(A).~~

35 ~~(5) If the member had:~~

36 ~~(A) Only the noncontributory credited service, then the~~

1 amounts shall be six percent (6%), instead of ten percent (10%), and thirty-
2 one dollars (\$31.00), plus the benefits applicable under § 24-7-713, instead
3 of fifty dollars (\$50.00); or

4 ~~(B) A mixture of credited service, the minimum amount~~
5 ~~shall be prorated between the all-contributory minimum amount and the all-~~
6 ~~noncontributory minimum amount according to the relationship between his or~~
7 ~~her noncontributory credited service and his or her total credited service,~~
8 ~~plus the benefits applicable under § 24-7-713.~~

9 (4)(A) The spouse annuity shall begin when the surviving spouse
10 reaches age sixty-two (62) and is payable until the spouse remarries or dies.

11 (B) However, if the member had:

12 (i) Satisfied the age and service requirements provided for
13 in § 24-7-701 or had acquired twenty (20) years of credited service, the
14 spouse annuity shall begin immediately and be payable for the spouse's life;
15 or

16 (ii) Acquired fifteen (15) years of credited service but
17 had not attained age sixty (60), then the spouse annuity shall begin when the
18 surviving spouse reaches age fifty (50) and is payable until the spouse
19 remarries or dies.

20 (5) If at the time of the member's death there are no dependent
21 children and the surviving spouse who is eligible to receive the annuity
22 under this subsection files with the Arkansas Teacher Retirement System a
23 written waiver of his or her right to the spouse annuity, a lump sum
24 distribution of the deceased member's accumulated contributions plus regular
25 interest may be made to the beneficiary or beneficiaries by the member before
26 death.

27 ~~(6)(A) In any event, as long as~~ If the surviving spouse is not
28 eligible to receive a spouse annuity under subsection (b) of this section but
29 has in his or her care any of the deceased ~~custody~~ a member's dependent
30 ~~children~~ child receiving a benefit as provided for in subsection (c) of this
31 section, there shall be payable to the spouse a spouse annuity shall be paid
32 to the spouse of not less than the minimum in an amount equal to the amount
33 payable to the dependent children determined according to ~~under~~ subdivision
34 ~~(b)(4)~~ (c)(1) of this section.

35 (B) The surviving spouse is eligible to receive the
36 annuity until all dependent child annuities terminate or the spouse no longer

1 maintains custody of any of the dependent children.

2 (c)(1)(A) The member's dependent children shall each receive an
3 annuity ~~of the greater of~~ in an amount equal to the following:

4 (i) If the member had only contributory service, the
5 greater of ten percent (10%) of the member's ~~covered~~ salary for the fiscal
6 year at the time of death or fifty dollars (\$50.00) monthly, plus the
7 benefits applicable under § 24-7-713;

8 (ii) If the member had noncontributory credited service,
9 the greater of six percent (6%) of the member's salary for the fiscal year at
10 the time of death or thirty-one dollars (\$31.00) monthly, plus the benefits
11 applicable under § 24-7-713; or

12 (iii) If the member had a combination of both contributory
13 and noncontributory credited service, the greater of the prorated amount
14 between the member's noncontributory credited service and total credited
15 service, or the prorated minimum amount, plus the benefits applicable under §
16 24-7-713.

17 (B) However, if there are three (3) or more dependent
18 children, each dependent child shall receive ~~an~~ a dependent child annuity of
19 an equal share ~~of the greater of~~ of the total amount payable according to the
20 following:

21 (i) If the member had only contributory credited
22 service, the greater of twenty-five percent (25%) of the member's ~~covered~~
23 salary for the fiscal year at the time of death or one hundred twenty-five
24 dollars (\$125) monthly, plus the benefits applicable under § 24-7-713;

25 (ii) If the member had a combination of both
26 contributory and noncontributory credited service, the greater of sixteen
27 percent (16%) of the member's salary for the fiscal year at the time of death
28 or seventy-nine dollars (\$79.00) monthly, plus the benefits applicable under
29 § 24-7-713; or

30 (iii) If the member had a combination of both
31 contributory and noncontributory credited service, the greater of the
32 prorated amount between the member's noncontributory credited service and
33 total credited service, or the prorated minimum amount, plus the benefits
34 applicable under § 24-7-713.

35 ~~(C) These amounts shall apply if the member had no member~~
36 ~~noncontributory credited service of the type specified in § 24-7-705.~~

1 ~~(2) If the member had:~~

2 ~~(A) Only the noncontributory credited service, then the~~
 3 ~~amounts shall be six percent (6%) instead of ten percent (10%), and thirty-~~
 4 ~~one dollars (\$31.00) instead of fifty dollars (\$50.00), and sixteen percent~~
 5 ~~(16%) instead of twenty five percent (25%), and seventy nine dollars (\$79.00)~~
 6 ~~instead of one hundred twenty five dollars (\$125), plus the benefits~~
 7 ~~applicable under § 24-7-713; or~~

8 ~~(B) A mixture of credited service, the amounts payable~~
 9 ~~shall be prorated between the all-contributory amounts and the all-~~
 10 ~~noncontributory amounts according to the relationship between his or her~~
 11 ~~noncontributory credited service and his or her total credited service, plus~~
 12 ~~the benefits applicable under § 24-7-713.~~

13 (3)(A) A child shall be considered a dependent child until his
 14 ~~or her death, his or her marriage, he or she marries or reaches his or her~~
 15 ~~attainment of eighteen (18) years of age, whichever comes first.~~

16 (B)(i) However, the eligibility for the dependent child
 17 annuity shall continue after the child reaches age eighteen (18) if maximum
 18 shall be extended as long as the child continues uninterruptedly
 19 consecutively being a as a full-time student at an accredited secondary
 20 school, college, or university, but in no any event, not beyond his or her
 21 attainment of the age of twenty-three (23) years of age.

22 (ii) ~~The age eighteen (18) maximum shall also be~~
 23 ~~extended for any Any child who has been deemed physically or mentally~~
 24 ~~incapacitated either by an Arkansas a court of competent jurisdiction or by~~
 25 ~~the Board of Trustees of the Arkansas Teacher Retirement System, is eligible~~
 26 to receive a dependent child annuity for as long as the incapacity exists,
 27 regardless of age.

28 (4) ~~Upon a child's ceasing~~ When a dependent child ceases to be a
 29 ~~dependent child or dies,~~ his or her annuity shall terminate, and there shall
 30 be a redetermination of the amounts payable to any remaining dependent
 31 children.

32 (d)(1)(A) If at the time of the member's death there is neither a
 33 spouse nor a dependent child, each dependent parent shall receive ~~an~~
 34 ~~allowance of the greater of ten percent (10%) of the member's covered salary~~
 35 ~~or fifty dollars (\$50.00) monthly, plus the benefits applicable under § 24-7-~~
 36 713, a dependent parent annuity equal to the amount provided for dependent

1 children under subsection (c) of this section.

2 (B) To qualify as a dependent parent, but only if the
3 ~~board finds that~~ the parent shall be the natural or adoptive parent of the
4 member and have been receiving was dependent for at least fifty percent (50%)
5 of his or her financial support from upon the member at the time of the
6 member's death.

7 ~~(B) These amounts shall apply if the member had no member~~
8 ~~noncontributory service of the type specified in § 24-7-705.~~

9 ~~(2) If the member had:~~

10 ~~(A) Only the noncontributory credited service, then the~~
11 ~~amounts shall be six percent (6%) instead of ten percent (10%), and thirty-~~
12 ~~one dollars (\$31.00), plus the benefits applicable under § 24-7-713, instead~~
13 ~~of fifty dollars (\$50.00); or~~

14 ~~(B) A mixture of credited service, the amount shall be~~
15 ~~prorated between the all-contributory amount and the all-noncontributory~~
16 ~~amount according to the relationship between his or her noncontributory~~
17 ~~credited service and his or her total credited service, plus the benefits~~
18 ~~applicable under § 24-7-713.~~

19 (e)(1) If a member dies in employer service before retirement, the
20 member's accumulated contributions standing to his or her credit in the
21 member's deposit account at the time of the member's death, together with
22 regular interest until the date of death, shall be paid as if the member
23 retired as of the date of his or her death in accordance with the provisions
24 applicable to the disposition of residue under § 24-7-709.

25 (2) For the purposes of § 24-7-709 related to the disposition of
26 residue, In the event all the annuities provided for in this section payable
27 on account of the death of a member terminate, any amounts received from the
28 member's deposit account in the form of a survivor annuity under this section
29 shall be considered annuity payments received by the member or his or her
30 designated beneficiary and shall offset any disposition of residue payable
31 the provisions of under § 24-7-709 shall apply.

32 ~~(2)(A) If there are no designated persons surviving at~~
33 ~~termination, the difference shall be payable in the following statutory~~
34 ~~succession:~~

35 ~~(i) Spouse; then~~

36 ~~(ii) Children; then~~

1 ~~(iii) Parents; then~~

2 ~~(iv) Estate.~~

3 ~~(B) Effective for all members dying after June 30, 2006,~~
4 ~~if there are no designated persons surviving the member at termination, the~~
5 ~~difference shall be payable to the member's estate.~~

6 (f) Annuities payable under the provisions of this section shall
7 commence the first day of the calendar month ~~next~~ following ~~the later of the~~
8 ~~date of the member's death or a later date specified for commencement of the~~
9 date the survivor annuity payments is payable as provided in this section.

10 (g) In the event the member had previously received benefits from the
11 system and has not repaid in full all amounts payable by him or her to the
12 system, the annuity amounts otherwise provided by this section shall be
13 withheld and used to effect repayment until the total of the withholdings
14 repays in full all amounts payable by him or her to the system.

15

16 SECTION 17. Arkansas Code § 24-7-711(a)(2), concerning disposition of
17 accumulated contributions upon retirement termination, is amended to read as
18 follows:

19 (2) Any contributions remaining on deposit shall accrue regular
20 interest at the end of each fiscal year as provided by § 24-7-410(d).

21

22 SECTION 18. Arkansas Code § 24-7-719 is amended to read as follows:

23 24-7-719. Rollover of distributions.

24 (a) As used in this section:

25 (1) "Direct rollover" means the payment of an eligible
26 distribution to an individual retirement arrangement or another employer
27 benefit plan;

28 (2) "Eligible rollover distribution" means that portion of a
29 distribution which may be rolled over to an individual retirement arrangement
30 or to another employer benefit plan; and

31 (3) "Eligible retirement plan" means an individual retirement
32 account or individual retirement annuity or individual retirement arrangement
33 or another employer benefit plan which accepts direct rollovers.

34 (b) Beginning January 1, 1993, should a member, or spouse, if the
35 member is deceased, elect to make a direct rollover of a distribution from
36 the Arkansas Teacher Retirement System to an eligible retirement plan of ~~all~~

1 ~~or part of~~ his eligible rollover distribution, the amount shall be paid to
2 the trustee of the eligible retirement plan.

3 (c) Subsection (b) of this section shall apply to distributions made
4 under §§ 24-7-709 - 24-7-711, ~~and~~ 24-7-716, 24-7-720, and 24-7-1308.

5
6 SECTION 19. EMERGENCY CLAUSE. It is found and determined by the General
7 Assembly of the State of Arkansas that the current laws applicable to the
8 Arkansas Teacher Retirement System require technical revisions; that
9 revisions are necessary to ensure the effective and efficient operation of
10 the system; and that the most effective time to make changes to the
11 retirement system is at the beginning of the state's fiscal year. Therefore,
12 an emergency is declared to exist and this act being immediately necessary
13 for the preservation of the public peace, health, and safety shall become
14 effective on July 1, 2007.

15
16 /s/ J. Jeffress

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18 APPROVED: 2/13/2007
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