

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 1242 of the Regular Session

As Engrossed: S3/19/09 S3/25/09

A Bill

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

SENATE BILL 138

4
5 By: Senator Faris
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7

8 **For An Act To Be Entitled**

9 AN ACT TO COMBINE THE STATE POLICE RETIREMENT
10 SYSTEM WITH THE ARKANSAS PUBLIC EMPLOYEES'
11 RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.
12

13 **Subtitle**

14 TO COMBINE THE STATE POLICE RETIREMENT
15 SYSTEM WITH THE ARKANSAS PUBLIC
16 EMPLOYEES' RETIREMENT SYSTEM.
17
18

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

21 *SECTION 1. DO NOT CODIFY. Legislative history, findings, and intent.*

22 *(a) It is found and determined by the General Assembly that the*
23 *Department of Arkansas State Police has had ongoing financial difficulty for*
24 *over twelve (12) years. The State Police Retirement System has sustained*
25 *investment losses of approximately one hundred million dollars (\$100,000,000)*
26 *within the last two (2) years, and so needs a larger investment pool to help*
27 *reduce risk and enhance returns. The Arkansas Public Employees' Retirement*
28 *System has the size and expertise to effectively reduce the volatility of*
29 *returns, enhance relative returns, and best protect the State Police*
30 *Retirement System.*

31 *(b) This act represents a negotiated alternative to a proposal that*
32 *would have eliminated the State Police Retirement System and would have made*
33 *it a division of the Arkansas Public Employees' Retirement System.*

34 *(c) This act maintains the autonomy over State Police Retirement*
35 *System benefits but ensures funds are invested in a larger, more diversified*



1 pool of assets.

2 (d) It is contemplated that at such time as the State Police
3 Retirement System attains a funding level in which assets are eighty percent
4 (80%) or more of actuarially accrued liabilities, the Board of Trustees of
5 the State Police Retirement System may consider certain enhancements to the
6 Tier II Deferred Retirement Option Plan.

7
8 SECTION 2. Arkansas Code Title 24, Chapter 4, Subchapter 7 is amended
9 to add an additional section to read as follows:

10 24-4-752. State Police Trust Fund.

11 (a) All assets of the State Police Retirement System are transferred
12 to the Arkansas Public Employees' Retirement System to hold in trust for the
13 State Police Retirement System.

14 (b) There is created under the Arkansas Public Employees' Retirement
15 System a division that shall be known as the "State Police Trust Fund".

16 (c)(1) The State Police Trust Fund shall not be treated as segregated
17 funds, but shall be commingled with the assets of the Arkansas Public
18 Employees' Retirement System strictly for investment purposes.

19 (2) The assets shall be managed solely for the benefit of the
20 retirees and beneficiaries of the State Police Retirement System and shall
21 not be divested from the Arkansas Public Employees' Retirement System unless
22 it can clearly be demonstrated it would be actuarially and fiscally prudent
23 to do so.

24 (d)(1) As employer, the Department of Arkansas State Police shall make
25 contributions to the Arkansas Public Employees' Retirement System – State
26 Police Trust Fund based on a percentage of each active state police officer's
27 salary at the rate established to fund the State Police Retirement System's
28 benefit program before the effective date of this act.

29 (2) All other sources of revenue commonly accruing to the State
30 Police Retirement System shall be payable to the Arkansas Public Employees'
31 Retirement System – State Police Trust Fund.

32 (e) The Arkansas State Police Retirement System Board of Trustees,
33 Arkansas Public Employees' Retirement System Board of Trustees and
34 administrative staff shall be immune from any suit or action based in whole
35 or in part on the transfer of assets contemplated by this act.

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1 SECTION 3. Arkansas Code § 24-6-204 is amended to read as follows:
2 24-6-204. Board of trustees.

3 (a)(1) The Board of Trustees of the State Police Retirement System is
4 created.

5 (2)(A) The board shall consist of ~~twelve (12)~~ seven (7)
6 trustees, as follows:

7 (i) One (1) active member enrolled in the Tier I
8 benefits program;

9 (ii) One (1) active vested member enrolled in the
10 Tier II benefits program;

11 (iii) One (1) State Police Commissioner who shall be
12 appointed by the Governor;

13 (iv) The Chief Fiscal Officer of the State or his
14 designee; and

15 (v)(a) Three (3) citizens at large who shall be
16 appointed by the Governor.

17 (b) The citizens at large shall have no
18 interest, direct or indirect, in the Arkansas State Police.

19 ~~(i) The Chair of the Arkansas State Police~~
20 ~~Commission, who shall serve as trustee by virtue of his or her position;~~

21 ~~(ii) The Director of the Department of Arkansas~~
22 ~~State Police, who shall serve as trustee by virtue of his or her position;~~

23 ~~(iii) The Director of the Department of Finance and~~
24 ~~Administration or the director's designee from that department;~~

25 ~~(iv) Five (5) members of the State Police Retirement~~
26 ~~System to be elected by the members of the system with at least two (2)~~
27 ~~member trustees holding the rank of trooper, trooper first class, or~~
28 ~~corporal, at least one (1) member trustee holding a rank higher than the rank~~
29 ~~of corporal, and at least one (1) member trustee whose retirement eligibility~~
30 ~~is covered under § 24-6-401 et seq.;~~

31 ~~(v) One (1) retired member of the system to be~~
32 ~~elected by the members of the Retired Members Association;~~

33 ~~(vi) The highest ranking administrative officer of the system in charge of~~
34 ~~employee benefits or that officer's designee, who shall serve as a nonvoting~~
35 ~~member by virtue of his or her position; and~~

36 ~~(vii) The Vice Chair of the Arkansas State Police~~

1 ~~Commission and the Secretary of the Arkansas State Police Commission, who~~
 2 ~~shall serve as nonvoting members by virtue of their positions.~~

3 (B) The elections of member trustees shall be held under
 4 rules as the board shall from time to time adopt to govern the elections.

5 (C) The regular term of office of a member trustee shall
 6 be ~~three (3)~~ seven (7) years.

7 (D) The elections of the board's officer members shall be
 8 held under rules as the board shall from time to time adopt to govern
 9 elections.

10 (E) At the board's first regular meeting following the
 11 effective date of this act, the members who are on the board shall draw lots
 12 to determine the length of terms.

13 (F) The terms shall be staggered in the following manner:

14 (i) One (1) member's term shall expire July 1, 2010;

15 (ii) One (1) member's term shall expire July 1,

16 2011;

17 (iii) One (1) member's term shall expire July 1,

18 2012;

19 (iv) One (1) member's term shall expire July 1,

20 2013;

21 (v) One member's term shall expire July 1, 2014;

22 (vi) One (1) member's term shall expire July 1,

23 2015; and

24 (vii) One (1) member's term shall expire July 1,

25 2016.

26 (b)(1) In the event any trustee provided for in ~~subdivisions~~
 27 ~~(a)(2)(A)((iv) and (v))~~ subsection (a) of this section:

28 (A) Ceases to be a state police officer; or

29 (B) Fails to attend scheduled meetings of the board for
 30 three (3) consecutive meetings unless, in each case, he or she is excused by
 31 the remaining trustees attending the meetings, the board by resolution shall
 32 declare his or her office of trustee vacated as of the date of adoption of
 33 the resolution.

34 (2) If a vacancy occurs in the office of trustee, the vacancy
 35 shall be filled for the unexpired term in the same manner as the office was
 36 previously filled.

1 (c)(1) The administration, management, and control of the system shall
2 be vested in the board.

3 (2)(A) The executive director and administrative staff of the
4 Arkansas Public Employees' Retirement System shall be the executive secretary
5 and the administrative staff of the State Police Retirement System.

6 (B) All administrative records of the State Police
7 Retirement System shall be maintained within the administrative offices of
8 the Arkansas Public Employees' Retirement System.

9 (3)(A) The executive secretary shall be the disbursing agent of
10 all appropriations made by the General Assembly out of the State Police
11 Retirement Fund.

12 (B) The executive secretary shall furnish and file with
13 the Auditor of State a bond with a corporate guaranty or indemnity surety
14 thereon in the penal sum of two thousand dollars (\$2,000), the premium on
15 which shall be paid from appropriations made available to the Department of
16 Arkansas State Police.

17 ~~(d) The Chair of the Arkansas State Police Commission shall be the~~
18 ~~chair of the board.~~

19 ~~(e) The Treasurer of State shall serve as treasurer of the system and~~
20 ~~shall be the legal custodian of its funds.~~

21 ~~(f)~~(d) The Attorney General shall serve as legal advisor to the board.

22 ~~(g)~~(1)(e)(1) The board shall hold meetings regularly, at least one (1)
23 in each quarter year, and shall designate the time and place of the meetings.

24 (2) Special meetings may be held in accordance with rules as the
25 board shall adopt.

26 (3) ~~Five (5) voting trustees~~ Four (4) board members, including
27 one (1) officer member shall constitute a quorum at any meeting of the board,
28 and at least ~~five (5)~~ four (4) concurring votes shall be necessary for a
29 decision by the board at any of its meetings.

30 (4) The board shall adopt its own rules or procedures and shall
31 keep a record of its proceedings, which shall be open to public inspection.

32 ~~(h)~~(f) In addition to other duties that are imposed upon the board by
33 this subchapter, the board shall:

34 (1) Make all rules and regulations from time to time as it shall
35 deem necessary in the transaction of its business and in administering the
36 system;

1 (2) Provide for the administrative direction and control of the
2 executive secretary in the performance of his or her duties as executive
3 secretary of the ~~system~~ State Police Retirement System;

4 (3) Provide for an actuarial valuation of the assets and
5 liabilities of the ~~system~~ State Police Retirement System or the retirement
6 reserve account at least one (1) time in each four-year period from and after
7 December 31, 1958;

8 (4) Adopt mortality and other tables of experience and rates of
9 regular interest that are required for the proper operation of the ~~system~~
10 State Police Retirement System;

11 ~~(5) Exercise discretionary power and authority in the~~
12 ~~investments and disbursements of the funds of the system, subject to the~~
13 ~~provisions of this subchapter;~~

14 ~~(6)~~(5) Perform the duties of trustee without additional
15 compensation. However, trustees may receive expense reimbursement in
16 accordance with § 25-16-901 et seq.; and

17 ~~(7)~~(6)(A) Do all things necessary for the proper administration
18 of the ~~system~~ State Police Retirement System and for carrying out and making
19 effective the provisions of this subchapter.

20 (B) However, no recommendations for benefit enhancements
21 shall be made that would cause the actuarially accrued unfunded liabilities
22 of the State Police Retirement System to exceed thirty (30) years.

23
24 SECTION 4. Arkansas Code Title 24, Chapter 6 is amended to add an
25 additional subchapter to read as follows:

26 24-6-501. Arkansas State Police Officers' Tier Two Deferred Retirement
27 Option Plan -- Creation.

28 The Arkansas State Police Officers' Tier Two Deferred Retirement Option
29 Plan is created in conformance with this subchapter.

30
31 24-6-502. Election to participate in Arkansas State Police Officers'
32 Tier Two Deferred Retirement Option Plan.

33 In lieu of terminating employment and accepting a service retirement
34 pension, a state police officer may elect to participate in the Arkansas
35 State Police Officers' Tier Two Deferred Retirement Option Plan and defer the
36 receipt of benefits in accordance with this subchapter if:

1 (1) The state police officer:

2 (A) Is a member of the State Police Retirement System's
3 Tier Two Benefit Plan under § 24-6-401 et seq.;

4 (B) Has at least thirty (30) years of actual service as a
5 member of the State Police Retirement System's Tier Two Benefit Plan under §
6 24-6-401 et seq.; and

7 (C) Is eligible to receive a service retirement pension;
8 and

9 (2) The Board of Trustees of the State Police Retirement System
10 approves the participation in the Arkansas State Police Officers' Tier Two
11 Deferred Retirement Option Plan.

12
13 24-6-503. Limitation on credited service.

14 For purposes of this subchapter, "actual service" includes:

15 (1) The service credit a member earns after April 3, 1997, as a
16 member of the State Police Retirement System's Tier Two Benefit Plan under §
17 24-6-401 et seq.; and

18 (2) The member's service credit from any reciprocal retirement
19 system under § 24-2-401.

20
21 24-6-504. Employer contributions.

22 When an employee who is a member of the State Police Retirement
23 System's Tier Two Benefit Plan begins participation in the Arkansas State
24 Police Officers' Tier Two Deferred Retirement Option Plan:

25 (1) The employer contributions shall continue to be paid;

26 (2) State contributions for the employee shall be credited to
27 the system; and

28 (3) Seventy-two percent (72%) of the monthly retirement benefits
29 that would have been payable had the employee elected to cease employment and
30 receive a service retirement shall be paid into the Arkansas State Police
31 Officers' Tier Two Deferred Retirement Option Plan account.

32
33 24-6-505. Benefits -- Rate of return.

34 A participant in the Arkansas State Police Officers' Tier Two Deferred
35 Retirement Option Plan:

36 (1) Shall not have a change in his or her monthly retirement

1 benefit unless the plan receives a benefit increase; and

2 (2)(A) Shall earn interest at a rate set by the Board of
3 Trustees of the State Police Retirement System that shall not be greater than
4 five percent (5%) nor less than one percent (1%) per annum as determined by
5 the board from time to time as promulgated by rule.

6 (B) The interest shall be credited to the individual plan
7 account balance of the participant on an annual basis.

8
9 24-6-506. Method of collection.

10 A participant in the Arkansas State Police Officers' Tier Two Deferred
11 Retirement Option Plan shall receive, at the option of the participant:

12 (1) A lump-sum payment from the plan account equal to the
13 payments to the plan account;

14 (2) A true annuity based upon the plan account of the
15 participant; or

16 (3) Any other method of payment if approved by the Board of
17 Trustees of the State Police Retirement System.

18
19 24-6-507. Duration.

20 (a) The duration of participation in the Arkansas State Police
21 Officers' Tier Two Deferred Retirement Option Plan for an active state police
22 officer shall not exceed seven (7) years.

23 (b) At the conclusion of a state police officer's participation in the
24 plan, the state police officer shall:

25 (1) Terminate employment with the Department of Arkansas State
26 Police; and

27 (2) Start receiving his or her accrued monthly retirement
28 benefit from the State Police Retirement System.

29
30 24-6-508. Death of participant.

31 If a participant in the State Police Officers' Tier Two Deferred
32 Retirement Option Plan dies during the period of participation in the plan, a
33 lump-sum payment equal to the plan account balance of the participant shall
34 be paid to the participant's designated beneficiary.

35
36

1 SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY. *Interim committee and*
2 *advisory board.*

3 *(a) A joint interim committee of the Joint Committee on Public*
4 *Retirement and Social Security Programs and the Senate Committee on State*
5 *Agencies and Governmental Affairs and the House Committee on State Agencies*
6 *and Governmental Affairs shall conduct a comprehensive study of the*
7 *intermediate and long-term funding issues of the State Police Retirement*
8 *System and shall report to the state by October 1, 2010, the study results*
9 *and such recommendations as may be developed to address these recurring*
10 *problems.*

11 *(b)(1) The Governor shall convene an advisory board of individuals to*
12 *provide detailed input to the interim committee so that a sustainable*
13 *solution might be reached.*

14 *(2) The advisory board shall consist of three (3) members as*
15 *follows:*

16 *(A) The Executive Director of the Arkansas Public*
17 *Employees' Retirement System, or his or her designee;*

18 *(B) The Executive Director of the Arkansas Teacher*
19 *Retirement System, or his or her designee; and*

20 *(C) A member of the State Police Commission who shall be*
21 *appointed by the Governor.*

22 *(3) The advisory board shall remain in existence until the*
23 *earlier of the presentation of results to the joint interim committee, or its*
24 *dismissal by the Governor.*

25
26 SECTION 6. EMERGENCY CLAUSE. *It is found and determined by the*
27 *General Assembly of the State of Arkansas that the Department of Arkansas*
28 *State Police has had ongoing financial difficulty for over twelve (12) years;*
29 *that the State Police Retirement System has sustained investment losses of*
30 *approximately one hundred million dollars (\$100,000,000) within the last two*
31 *(2) years; that a larger investment pool is needed to help reduce risk and*
32 *enhance returns; that the Arkansas Public Employees' Retirement System has*
33 *the size and expertise to effectively reduce the volatility of returns,*
34 *enhance relative returns, and best protect the State Police Retirement*
35 *System; and that this act is immediately necessary to protect the members and*
36 *beneficiaries of the State Police Retirement System. Therefore, an emergency*

1 is declared to exist and this act being necessary for the preservation of the
2 public peace, health, and safety shall become effective on July 1, 2009.

3
4 /s/ Faris

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6 **APPROVED: 4/8/2009**
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