

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: S2/8/11  
**A Bill**

SENATE BILL 172

5 By: Senator J. Key  
6

7 **For An Act To Be Entitled**

8 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE PUBLIC  
9 RETIREMENT SYSTEMS; TO BRING THE PUBLIC RETIREMENT  
10 SYSTEMS INTO COMPLIANCE WITH FEDERAL LAW; TO DECLARE  
11 AN EMERGENCY; AND FOR OTHER PURPOSES.  
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14 **Subtitle**

15 TO MAKE TECHNICAL CORRECTIONS TO THE  
16 PUBLIC RETIREMENT SYSTEMS; TO BRING THE  
17 PUBLIC RETIREMENT SYSTEMS INTO COMPLIANCE  
18 WITH FEDERAL LAW; AND TO DECLARE AN  
19 EMERGENCY.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code § 24-2-503(d)(1), concerning the Arkansas  
25 National Guard and armed forces reserve service credit, is amended to read as  
26 follows:

27 (d) The service in the Arkansas National Guard or in the armed forces  
28 reserve shall not become credited service under this system until the member:

29 (1) (A) Pays for the ~~year of~~ purchased service in the Arkansas  
30 National Guard or in the armed forces reserve ~~at one (1) time in a single~~  
31 ~~lump sum payment.~~

32 (B) Service may be purchased under this subdivision (d)(1)  
33 in one-month increments; and  
34

35 SECTION 2. Arkansas Code § 24-4-101(40), concerning the definition of  
36 "retirement", is amended to read as follows:



1           (40)(A) "Retirement" means a member's withdrawal from the  
2 service of a public employer, with an annuity payable from funds of the  
3 Arkansas Public Employees' Retirement System.

4           (B) Failure to meet termination requirements shall not  
5 operate to revoke a member's retirement election;

6  
7           SECTION 3. Arkansas Code § 24-4-207(c)(2)(A), concerning the one-year  
8 limitation on recovering overpayments, is amended to read as follows:

9           (2)(A) The board shall have the right to recover any overpayment  
10 that any person may have received from funds of the system, provided the  
11 overpayment is determined and the person is so notified within one (1) year  
12 of the date of the ~~first~~ last overpayment.

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

16           24-4-212. No waiver of sovereign immunity.

17           Nothing in this chapter shall be taken or interpreted as a waiver of  
18 the state's sovereign immunity.

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20           SECTION 5. Arkansas Title 24, Chapter 2, Subchapter 5 is amended to  
21 add a new section to read as follows:

22           24-2-505. Compliance with the Heroes Earnings Assistance and Relief  
23 Tax Act of 2008.

24           (a)(1) In the case of a member who dies while performing qualified  
25 military service on or after January 1, 2011, and who otherwise would have  
26 been entitled to reemployment rights under the federal Uniformed Services  
27 Employment and Reemployment Rights Act, 38 U.S.C. § 4301 et seq., as in  
28 effect on January 1, 2011, the survivors of that member are entitled to any  
29 additional benefits that would have been provided under the public employee  
30 retirement plan had the member resumed employment with a covered employer on  
31 the day preceding his or her death and then terminated employment on the  
32 actual date of death.

33           (2) Subdivision (a)(1) of this section does not apply to benefit  
34 accruals relating to the period of qualified military service.

35           (3) The member's qualified military service shall be counted for  
36 purposes of determining whether the individual in issue was vested with the

1 public employee retirement plan.

2 (b) In the case of a member who becomes disabled while performing  
3 qualified military service on or after January 1, 2011, and who otherwise  
4 would have been entitled to reemployment rights under the federal Uniformed  
5 Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301 et seq., as  
6 in effect on January 1, 2011, that member is considered to have resumed  
7 employment with a covered employer on the day preceding the onset of his or  
8 her disability and then terminated employment on the actual date he or she  
9 became disabled.

10 (c) A member who dies or becomes disabled while performing qualified  
11 military service is deemed to have made employee contributions for the  
12 purpose of determining benefits other than benefit accruals that are  
13 contingent on those contributions for the period of qualified military  
14 service.

15 (d) This section applies to each public retirement system unless the  
16 system has a specific provision regarding the Heroes Earnings Assistance and  
17 Relief Tax Act of 2008 already in its law.

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19 *SECTION 6. Arkansas Code § 24-4-507(a)(2)(B), concerning credited*  
20 *service, is amended to read as follows:*

21 *(B) For periods of time prior to July 1, 1991, in no case can*  
22 *less than nine (9) months of service rendered in any fiscal year be credited*  
23 *as a full year of service nor shall more than one (1) year of service be*  
24 *credited any member for all service rendered by him or her in a fiscal year.*

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26 *SECTION 7. Arkansas Code § 24-4-508, concerning a member's election of*  
27 *retirement, is amended to add an additional subsection to read as follows:*

28 *(d) A member's retirement election is irrevocable except under*  
29 *circumstances as may be permitted by the board by regulation.*

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31 *SECTION 8. Arkansas Code § 24-4-601(b)(2), concerning straight life*  
32 *annuity, is amended to read as follows:*

33 *(2) For each year of credited service in the system rendered after*  
34 *June 30, 2007, resulting from employment in a position covered at any time by*  
35 *social security or another federal retirement plan supported wholly or in*  
36 *part by employer contributions, a member shall receive one and seventy-two*

1 hundredths percent (1.72%) of the member's final average compensation plus,  
2 for each year of credited service in the system rendered after June 30, 2007,  
3 resulting from employment in a position never so covered, a member shall  
4 receive two and seven hundredths percent (2.07%) of the member's final  
5 average compensation. In no event shall service as a district judge in the  
6 state division receive less than three percent (3%) of the member's final  
7 average compensation.

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9 SECTION 9. Arkansas Code § 24-4-804(c), concerning cessation of  
10 participation in the deferred retirement option plan, is amended to add an  
11 additional subsection to read as follows:

12 (c) When a member's participation in the Arkansas Public Employees'  
13 Retirement System Deferred Retirement Option Plan ceases, that member is not  
14 eligible for employment in any position covered by the plans identified in §  
15 24-2-401(3), except as provided for in § 24-4-520.

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17 SECTION 10. Arkansas Code Title 24, Chapter 6, Subchapter 1 is amended  
18 to add a new section to read as follows:

19 24-6-103. No waiver of sovereign immunity.

20 Nothing in this chapter shall be taken or interpreted as a waiver of  
21 the state's sovereign immunity.

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23 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the  
24 General Assembly of the State of Arkansas that the public retirement systems  
25 provide economic security for eligible citizens of Arkansas; that the  
26 statutes need amending to update and clarify existing law; and that these  
27 changes need to be made immediately. Therefore, an emergency is declared to  
28 exist and this act being immediately necessary for the preservation of the  
29 public peace, health, and safety shall become effective on:

30 (1) The date of its approval by the Governor;

31 (2) If the bill is neither approved nor vetoed by the Governor,  
32 the expiration of the period of time during which the Governor may veto the  
33 bill; or

34 (3) If the bill is vetoed by the Governor and the veto is  
35 overridden, the date the last house overrides the veto.

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*/s/J. Key*

**APPROVED: 02/16/2011**