Stricken language would be deleted from and underlined language would be added to present law.

Act 332 of the Regular Session

State of Arkansas  As Engrossed:  S2/13/13
89th General Assembly
Regular Session, 2013

SENATE BILL 105

By: Senator J. Key

For An Act To Be Entitled

AN ACT TO AMEND STATE EMPLOYEE RETIREMENT LAW; TO
CLARIFY DEFINITIONS; TO REQUIRE THE TERMINATION OF
QUALIFIED EMPLOYMENT PRIOR TO THE PAYMENT OF AN
ANNUITY; TO REQUIRE EMPLOYERS PARTICIPATING IN THE
ARKANSAS PUBLIC EMPLOYEES’ RETIREMENT SYSTEM TO
PROVIDE INFORMATION; TO DETERMINE ELIGIBILITY
REQUIREMENTS OF AN EMPLOYEE TO RECEIVE DISABILITY
BENEFITS; TO CLARIFY THAT AN EMPLOYEE’S FAILURE TO
TERMINATE EMPLOYMENT DOES NOT REVOKE THE EMPLOYEE’S
RETIREMENT ELECTION; TO REPEAL THE LAW CONCERNING THE
CONVERSION OF AN EMPLOYEE FROM A CONTRIBUTORY TO A
NONCONTRIBUTORY MEMBER OF THE SYSTEM; TO DEFINE WHO
MAY BE A MEMBER OF THE SYSTEM; TO MAKE TECHNICAL
CORRECTIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.

Subtitle

TO DETERMINE DISABILITy BENEFITS; TO
CLARIFY WHO MAY BE A MEMBER; TO REPEAL
THE CONVERSION FROM CONTRIBUTORY TO
NONCONTRIBUTORY; AND TO DECLARE AN
EMERGENCY.

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

SECTION 1. Arkansas Code § 24-4-101(28)(A), concerning the definition
of normal retirement age, is amended to read as follows:
(A) Age sixty (60) and with twenty (20) or more years of actual service commencing before January 1, 1978, for a contributory member; or

SECTION 2. Arkansas Code § 24-4-101(34)(A), concerning the definition of a public safety member, is amended to read as follows:

(34)(A) “Public safety member” means, except public safety members covered under § 24-4-1004, a noncontributory member whose covered employment:

(i) is for personal services as a police officer or firefighter; and

(ii) his or her employment commenced prior to July 1, 1997, except as provided for public safety members covered under § 24-4-1004.

SECTION 3. Arkansas Code § 24-4-101(34)(B)(i) and (ii), concerning the definition of a police officer, is amended to read as follows:

(B)(i)(a) “Police officer” means any regular or a permanent employee whose primary duty is law enforcement of a municipal police department, a county sheriff’s office, or the Department of Arkansas State Police, including a probationary police officer.

(b) “Police officer” includes a wildlife officer of the Arkansas State Game and Fish Commission, a drug enforcement officer of a judicial drug taskforce, a civilian firefighters firefighter of the State Military Department covered under § 24-4-1004, and all officers and the Director Chief of the State Capitol Police within the office of the Secretary of State.

(c) "Police officer" does not include a person who has not satisfied the training requirements to be a police officer established by the Arkansas Commission on Law Enforcement Standards and Training under § 12-9-106.

(ii) A police officer who, although assigned to administrative duties, is still subject to call for service at patrol duty or duty in the field or is subject to call for duties in emergency situations requiring the officer to be armed with a firearm shall be considered to have the primary duty of law enforcement for the purpose of this subdivision.
(34)(B).

SECTION 4. Arkansas Code § 24-4-101(39), concerning the definition of a retirant, is amended to read as follows:

(39) "Retirant" means a person who: receiving a plan annuity by reason of having been a member of the Arkansas Public Employees' Retirement System;

(A) Is a vested member of the Arkansas Public Employees' Retirement System;

(B) Has filed an effective retirement application with the system that has not been cancelled; and

(C) Is entitled to a plan annuity upon properly terminating employment under § 24-4-520;

SECTION 5. Arkansas Code § 24-4-101(40)(B), concerning the definition of retirement, is repealed.

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

SECTION 6. Arkansas Code Title 24, Chapter 4, Subchapter 1, is amended to add an additional section to read as follows:

24-4-110. Failure to terminate — Commencement of annuity payments — Election to retire.

A retirant shall not begin receiving annuity payments until all requirements for terminating qualified employment are satisfied.

SECTION 7. Arkansas Code Title 24, Chapter 4, Subchapter 1, is amended to add an additional section to read as follows:

24-4-111. Failure to meet termination requirements — Member's retirement election.

The failure to meet termination requirements does not revoke a member's retirement election.

SECTION 8. Arkansas Code § 24-4-202, concerning a public employer's contribution to the Arkansas Public Employees' Retirement System, is amended to add an additional subsection to read as follows:
(g) A participating public employer shall promptly upon request by the
Arkansas Public Employees' Retirement System provide all information
requested concerning the status of an employee to the system.

SECTION 9. Arkansas Code § 24-4-511(a)(2), concerning the eligibility
requirements to receive disability benefits, is amended to read as follows:
(2) Upon filing the proper application and meeting the
requirements stated in this section, the disability annuity shall be
effective the first day of the calendar month next following the later of
either the member's termination of active membership or the onset date of the
qualifying disability Arkansas Public Employees' Retirement System's approval
of the disability application.

SECTION 10. Arkansas Code § 24-4-523 is repealed.
24-4-523. Conversion from contributory to noncontributory plan—
Extension of time.
Any person who, under § 24-3-101 et seq. (repealed), or any other act,
was authorized to convert from the contributory plan of the Arkansas Public
Employees' Retirement System to the noncontributory plan of the Arkansas
Public Employees' Retirement System prior to January 1, 1985, may convert
from the contributory plan to the noncontributory plan at any time.

SECTION 11. Arkansas Code § 24-4-749(a)(1), concerning the purchase of
out-of-state governmental service, is amended to read as follows:
(1) The member has at least-
(A) five (5) years of credited service at the
time of application; or
(B) two (2) years of actual service with the Arkansas
Public Employees' Retirement System, at least seven (7) years of actual
service credit with a retirement system outside of the State of Arkansas, and
is at least sixty-five (65) years of age;

SECTION 12. Arkansas Code § 24-4-1101 is amended to read as follows:
24-4-1101. Membership.
(a) All public employees A public employee, as defined in § 24-4-
101(17), first hired on or after July 1, 2005, are is subject to the benefit
provisions of this subchapter.

(b)(1)(A) All public employees a public employee hired prior to July 1, 2005, and who are remains an active member member of the Arkansas Public Employees’ Retirement System on July 1, 2009, shall have six (6) months from July 1, 2009, to may elect coverage under the benefit provisions of this subchapter.

(B) If the member elects contributory coverage, the effective date of the member’s contributory coverage shall be:

(i) The first payroll period that is paid and reported in January 2010 in the next month after the contributory election; and

(ii) Prospective only.

(2) No A conversion or purchase of noncontributory service into contributory service under this subchapter is not allowed.

(3) The election shall be made as directed by the Board of Trustees of the Arkansas Public Employees’ Retirement System and is irrevocable.

c)(1)(A) A public employee hired prior to July 1, 2005, and who is an active member of the Arkansas Public Employees’ Retirement System on July 1, 2011, shall have six (6) months from July 1, 2011, to elect coverage under the benefit provisions of this subchapter.

(B) If the member elects contributory coverage, the effective date of the member’s contributory coverage shall be:

(i) The first payroll period that is paid and reported in January 2012; and

(ii) Prospective only.

(2) Conversion or purchase of noncontributory service into contributory service under this subchapter is prohibited.

(3) The election shall be made as directed by the Board of Trustees of the Arkansas Public Employees’ Retirement System and is irrevocable.

d)(c) Noncontributory members who terminate covered service for a period of more than six (6) months and subsequently return to covered service will be subject to the provisions of this subchapter.

SECTION 13. EMERGENCY CLAUSE. It is found and determined by the
General Assembly of the State of Arkansas that it is vital that the Arkansas Public Employees' Retirement System be permitted to immediately implement policies regarding the termination of employment, eligibility of employees to receive benefits, availability of information, and when to pay interest on employee contributions; and to clarify the meaning of terms in the Arkansas Code of 1987 Annotated to avoid the undue consumption of the system's resources. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;
(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/J. Key

APPROVED: 03/14/2013