

1 State of Arkansas *As Engrossed: S2/5/13 S2/19/13*

2 89th General Assembly

# A Bill

3 Regular Session, 2013

SENATE BILL 232

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5 By: Senators J. Key, J. English, Rapert, B. Sample, R. Thompson

6 By: Representatives Carnine, Catlett, Kerr

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## For An Act To Be Entitled

10 AN ACT TO REQUIRE AUTOMATIC ENROLLMENT OF A NEW STATE  
11 EMPLOYEE IN A DEFERRED COMPENSATION PLAN; TO PROVIDE  
12 OPT-OUT PROVISIONS FOR A NEW STATE EMPLOYEE; AND FOR  
13 OTHER PURPOSES.

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## Subtitle

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TO REQUIRE AUTOMATIC ENROLLMENT OF A NEW  
18 STATE EMPLOYEE IN A DEFERRED COMPENSATION  
19 PLAN; AND TO PROVIDE OPT-OUT PROVISIONS  
20 FOR A NEW STATE EMPLOYEE.

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

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25 *SECTION 1. Arkansas Code § 21-5-504(a), regarding the requirement of*  
26 *an employee contract to defer compensation to a deferred compensation plan,*  
27 *is amended to read as follows:*

28 *(a)(1) The state or ~~any~~ a county, city, town, or other political*  
29 *subdivision may agree, by contract, with ~~any~~ an employee to defer, in whole*  
30 *or in part, ~~any~~ a portion of that employee's future compensation to a*  
31 *deferred compensation program.*

32 *(2)(A) The participation of an employee in the automatic*  
33 *enrollment in a deferred compensation plan under § 21-5-511 is a term of an*  
34 *employee's employment contract.*

35 *(B) A separate contract is not required to be executed for*  
36 *an employee to be enrolled in a deferred compensation plan under § 21-5-511.*



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*SECTION 2. Arkansas Code § 21-5-508 is amended to read as follows:  
21-5-508. Taxation of deferred income.*

*Any A sum deferred under the deferred compensation program ~~shall~~ is not  
be subject to income taxation until a distribution is ~~actually~~ made to the  
employee or beneficiary unless an employee has by contract directed that his  
or her contribution is to be deposited into a Roth deferred compensation  
plan.*

*SECTION 3. Arkansas Code Title 21, Chapter 5, Subchapter 5, is amended  
to add an additional section to read as follows:*

*21-5-511. Automatic enrollment in deferred compensation plan.*

*(a) As used in this section:*

*(1) "Deferred compensation plan" means the Arkansas Diamond  
Deferred Compensation Plan or subsequent deferred compensation plan  
administered by the Executive Director of the Employee Benefits Division of  
the Department of Finance and Administration under this subchapter; and*

*(2)(A) "Employee" means a person employed full time by the state  
and the state employer participates in the Arkansas Diamond Deferred  
Compensation Plan on or after January 1, 2014.*

*(B) "Employee" does not mean a person employed by a city,  
county, town, or other political subdivision that has adopted the Arkansas  
Diamond Deferred Compensation Plan.*

*(b)(1) An employee beginning employment or reemployment on or after  
January 1, 2014, shall be enrolled in the deferred compensation plan.*

*(2) However, an employee may elect not to participate in the  
deferred compensation plan.*

*(c)(1) The amount of the contribution for an employee participating in  
the deferred compensation plan under subdivision (b)(1) of this section is  
three percent (3%) of the employee's annual compensation.*

*(2) An employee may elect to contribute an amount greater than  
or less than the amount required under subdivision (c)(1) of this section; or*

*(d) If an employee elects not to participate in the deferred  
compensation plan within ninety (90) days of the employee's first  
contribution, the Executive Director of the Employee Benefits Division of the  
Department of Finance and Administration may refund to the employee the*

1 balance of the employee's deferred compensation plan account.

2 (e) The Executive Director of the Employee Benefits Division of the  
3 Department of Finance and Administration shall provide notice to each  
4 employee subject to this section:

5 (1) Within thirty (30) days of an employee's first contribution;  
6 and

7 (2) At the beginning of each plan year.

8 (f) The Director of the Department of Finance and Administration shall  
9 promulgate rules to:

10 (1) Implement this section; and

11 (2) Comply with federal law to:

12 (A) Maintain the deferred compensation plan's tax  
13 qualification status by the federal government to remain tax exempt and tax  
14 qualified; and

15 (B) Protect an employee's deferred compensation plan  
16 account.

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18 /s/J. Key

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