

Act 652 of the 1989 Regular Session.

Act 652

HB1534

By: Representative McGinnis

"AN ACT TO AMEND VARIOUS SUBCHAPTERS OF TITLE 24, CHAPTER 7, OF THE ARK. CODE OF 1987 TO CLARIFY THE DEFINITION OF "SALARY;" TO MAKE TECHNICAL CORRECTIONS FOR TEACHER'S RETIREMENT SYSTEM; TO PERMIT THE USE OF ASSETS FOR CONSTRUCTION OR PURCHASE OF AN OFFICE BUILDING FOR TEACHER'S RETIRMENT SYSTEM; TO CREDIT CERTAIN MILITARY SERVICE; AND FOR OTHER PURPOSES."

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

SECTION 1. Ark. Code 24-7-202(14) is hereby amended to read as follows:

"(14) 'Salary' means the recurring remuneration paid a teacher for personal services rendered by the teacher in a position covered by the system. Should a portion of a teacher's remuneration be paid other than in cash, the cash value of the remuneration shall be established by the system in an amount not to exceed the amount the teacher is required to report for federal income tax purposes. In determining salary, no consideration shall be given to any nonrecurring single sum payment paid by an employer, any employer contributions to any employee benefit plan, except cafeteria plans as defined in Ark. Code 21-5-901, or any other unusual or nonrecurring remuneration. Money which is in lieu of remuneration and which is used by an employer to purchase a qualified tax-sheltered annuity or a life insurance policy for a teacher shall be considered as salary for system purposes. A teacher who is receiving remuneration under both a regular contract and a purchased contract or under both a regular contract and a contract won through litigation shall have only the greater of the two (2) amounts considered as salary for system purposes. Should a teacher make a charitable donation, or return any part of his salary to his employer, the amount of his recurring remuneration otherwise usable as salary shall be reduced by such amount or amounts to arrive at his salary for system purposes. In case of any dispute concerning a teacher's salary for system purposes, the system shall have the power to settle the dispute."

"SECTION 2. Arkansas Code 24-7-403(a) is hereby amended to read as follows:

'(a) All assets of the system shall be held for the sole purpose of paying benefits and making disbursements in accordance with the provisions of this act and shall be used for no other purpose whatsoever, unless the assets are used to purchase or construct a building to be used for the permanent offices of the System upon approval of the Board of Trustees.'

SECTION 3. Arkansas Code 24-7-406(c) is hereby amended to read as follows:

'(c) (1) Each employer shall deduct the member contributions provided for in this section from the salary of each member on each and every payroll, for each and every payroll period, from the date of his entrance into the system until he retires, and the employer shall remit the contributions to the system; however, a member who is receiving remuneration under both a regular contract and a purchased contract, or under both a regular contract and a

contract won through litigation shall have only the greater of the two (2) amounts considered as salary for the purposes of the system. Should the employer fail at any time to report the salary of a member and remit the contributions to the system, the system shall have the right to collect from the employee and the employer the contributions due, if any, from each, together with regular interest beginning with the subsequent fiscal year; provided further, in no case shall a member be given credit for service rendered until any contributions and interest due from each are paid in full.

(2) The members' contributions provided for in this section shall be made notwithstanding that the minimum salary provided by law for any member shall be thereby changed.

(3) Each member shall be deemed to consent and agree to the deductions made and provided for in this section. Payment of his salary less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the member during the period covered by the payment, except as to benefits provided by the system.

(4) The members' contributions, so deducted from their salaries, shall be remitted to the system in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall prescribe from time to time.

(5) Money used by a school district to purchase a qualified tax-sheltered annuity for a member in lieu of salary shall be considered as salary for purposes of the system. Retainers, consultant's fees, lump sum payments for unused sick leave, and special payments not in the form of regular remuneration shall not be considered salary for the purposes of the system.'

SECTION 4. Arkansas Code 24-7-501 is hereby amended to read as follows:
'24-7-501. Generally.

(a) The membership of the system shall include the following persons:

(1) All teachers who last began teaching service before July 1, 1971, in accordance with provisions in force before July 1, 1971; and

(2) All teachers who last began teaching service on or after July 1, 1971, and whose teaching service is not covered by another retirement plan similar in purpose to the system, except social security.

(b)(1) Any part-time teacher or foreign exchange teacher, as defined by the board from time to time, may exclude himself from membership by filing with the employer a written exclusion on a form furnished by the board.

(2) The employer shall certify annually those employees who chose to exclude themselves from membership in the system during that year.

(3) A person who has excluded himself from membership as provided in this subsection may rescind the exclusion by filing with the employer a written recision on a form furnished by the board.

(4) The recision shall be effective July 1 of the fiscal year in which it is exercised.

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

(6) For the membership to be retroactive, the member must pay to the system both the member contributions and the employer contributions which would have been paid to the system had there been no exclusion, plus regular interest from the dates of the actual payment.

(c) In any case of question as to the system membership status of any person, the board shall have the final power to decide the question.

(d) Membership in the system shall be a condition of employment in accordance with subsections (a) through (c) of this section and shall not be subject to election by individual teachers except as provided in subdivisions

(b) (1) and (2) of this section.'

SECTION 5. Arkansas Code 24-7-502 is hereby amended to read as follows:
'24-7-502. Termination of active membership.

(a) (1) When a member is no longer employed by an employer in a position covered by the system, he shall thereupon cease to be an active member of the system. Unless he becomes a retirant or an inactive member as provided in this act, his credited service shall be forfeited by him upon termination of his active membership.

(2) If a former active member has not become a retirant and later becomes reemployed by an employer in a position covered by the system, he shall again become an active member upon reemployment.

(3) If he becomes reemployed from inactive member status, he shall immediately begin adding to his previous credited service; but if his teaching service during his last such reemployment is for less than one hundred twenty (120) days, he shall be considered to be an inactive member at the termination of such reemployed teaching service, and the only monthly benefits payable shall be those provided by 24-7-707.

(4) If he becomes reemployed from neither retirant nor inactive member status, after completing one hundred twenty (120) days of teaching service during his last such reemployment, the active member shall receive the indicated credited service for the credited service forfeited by him if he returns to the system the indicated amount, as follows:

(A) He shall receive his total forfeited credited service if he returns the amount he received therefrom, together with regular interest from the date of withdrawal to the date of repayment; or

(B) If a portion of his forfeited credited service has been credited him under the provisions of a publicly supported teacher retirement system of another state, he shall receive the portion of his forfeited credited service not so credited by the other system if he returns the amount he received from this system for that portion of his credited service not so credited by the other system, together with regular interest from the date of withdrawal to the date of repayment.

(5) In addition to the forfeited credited service, the active member shall receive credit for his other previous teaching service after July 1, 1937, upon his paying to the system the member contributions in effect during the previous teaching service together with regular interest from the dates of the service to the date of payment; for previous teaching service rendered before July 1, 1971, service credit shall be permitted for teaching service in a fiscal school year only if at least one hundred twenty (120) days of teaching service were rendered in the fiscal school year. To establish credit for previous service, a member must pay to the system both member and employer contributions, plus regular interest from the dates the contributions would normally have been received by the system to the date of actual payment.

(b) Upon a member's retirement, he shall cease to be a member and, except as otherwise provided in this act, he shall not again become a member of the system.

SECTION 6. Arkansas Code 24-7-601 is hereby amended to read as follows:
'24-7-601. Generally.

(a) By rules and regulations, the board shall fix and determine the number of years, and fraction thereof, of service to be credited each member for his employment as a teacher.

(b) In no case shall fewer than one hundred twenty (120) days of teaching service rendered in any fiscal school year be credited as one (1) year of service, nor shall more than one (1) year of service be credited any

member for all teaching service rendered by him in any one (1) fiscal school year, nor shall any credited service be given for service as a consultant.

(c) Days of absence from teaching service because of sickness shall be considered as teaching service if the days are paid sick leave; days of paid sick leave shall not be considered teaching service if the payment is for unused sick leave.

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

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

(2) In establishing eligibility for a benefit from the system, the credited service under all reciprocal systems shall be totaled and the total credited service shall be used in determining eligibility for a system benefit.

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

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

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

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

SECTION 7. Arkansas Code 24-7-602 is hereby amended to read as follows:
'24-7-602. Military service.

(a) In the event an active member enters the armed forces of the United States during any period of compulsory military service, the armed service actually required of him shall be credited him as service under this subchapter, but only if he again becomes a teacher within a period of two (2) years after he is relieved from military duty and only if he returns to the system the amount, if any, he may have received therefrom at the time he entered or while in the armed service, together with regular interest from the date of withdrawal to the date of repayment.

(b) During the period of armed service and until his return as a teacher, his contributions to the system shall be suspended, and any balance remaining to his credit in the members deposit account shall be accumulated at regular interest.

(c) A person who entered the armed forces and who was not an active member at the time of the entry shall have the armed service actually required of him credited as service under this subchapter if he satisfies all of the following conditions:

(1) He completes ten (10) years of credited service for teaching service in Arkansas; and

(2) The armed service is not credited as service under any other retirement plan except social security. Receipt of a disability pension from the federal military system shall not be considered as having service credit with another retirement plan.

(d) If mandated by federal law, armed service not otherwise creditable under the provisions of this section shall be creditable, provided the member pays the employee and employer contributions required by the system, plus regular interest from the date of discharge from active duty until paid in full.

(e) In no event shall a person be credited with a total of more than

five (5) years of armed service.

(f) In any case of doubt as to the period of the armed service to be credited a member, the board shall have the power to determine the period.'

SECTION 8. Arkansas Code 24-7-606 is hereby amended to read as follows:
'24-7-606. Service for leave of absence to obtain advanced degree.

(a) From and after June 28, 1985, any public school teacher or administrator who is a member of the system and takes a leave of absence from a school in order to obtain an advanced degree at an institution of higher learning shall be eligible, upon application, to receive credited service in the system for the time of actual enrollment in the institution.

(b) The service shall be credited in accordance with 24-7-601.

(c) Payment for the service shall be based on the highest annual salary earned at the time of purchase and the total of the member contribution percent in effect during that fiscal school year plus the employer contribution percent necessary to meet the financial objective of this section at that time, as determined by the actuary's most recent actuarial valuation, plus regular interest from the beginning of the fiscal year in which the leave is taken until payment is made in full.

(d) The payment shall be credited to the member's account in the members' deposit account but shall be in addition to regular member contributions to the account.'

SECTION 9. Arkansas Code 24-7-705(a)(8) is hereby amended to read as follows:

'(8)(A) For a member retiring with benefits to be computed on both contributory service under subdivision (5) of this subsection, and noncontributory service under subdivision (6) of this subsection, and free military service first credited after July 1, 1986, under 24-7-602, the amount of military service to be used in the computation of benefits under each subdivision shall be prorated on the ratio of membership service under each plan to his total membership service, notwithstanding the fact that some of the military service shall be credited as noncontributory service before July 1, 1986.

(B) All purchased military service, all out-of-state service credited under 24-7-603, and all overseas service credited under 24-7-604 shall be counted as contributory service, and benefits based on this service shall be computed under subdivision (5) of this subsection;'

SECTION 10. Arkansas Code 24-3-412 is hereby amended to read as follows:
'24-3-412. Investment authority and limitations - Loan of securities.

(a) In order to increase investment income with minimal risk, the boards of trustees of the respective retirement systems may loan bonds, stocks, or other securities, but only if, at the time the loan is executed, at least one hundred percent (100%) of the full market value of the security loaned shall be collateralized by cash or securities guaranteed by the United States Government or an agency thereof.

(b) At all times during the term of each loan, the collateral shall be equal to not less than ninety-five percent (95%) of the full market value calculated on the total value of all securities on loan.'

SECTION 11. Arkansas Code 24-7-703 is hereby repealed."

SECTION 12. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 13. All laws and parts of laws in conflict with this act are hereby repealed.

"SECTION 14. EMERGENCY. It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

APPROVED: March 17, 1989
