

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative McGinnis**

A Bill ACT 43 OF 1991

HOUSE BILL 1145

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SUBCHAPTERS OF TITLE 24, CHAPTER
9 7, OF THE ARKANSAS CODE OF 1987 TO CLARIFY INTEREST
10 CHARGES FOR PURCHASED OVERSEAS SERVICE; MAKE TECHNICAL
11 CORRECTIONS FOR THE TEACHER RETIREMENT SYSTEM; AND FOR
12 OTHER PURPOSES."

13
14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. Arkansas Code 24-7-302(b) (2) is hereby amended to read as
17 follows:

18 "(2) If a vacancy occurs in the office of member or retirant trustee,
19 the remaining trustees shall fill the vacancy for the remainder of the
20 unexpired term."

21
22 SECTION 2. Arkansas Code 24-7-406(c) is hereby amended to read as
23 follows:

24 "24-7-406(c) (1) Each employer shall deduct the member contributions
25 provided for in this section from the salary of each member on each and every
26 payroll, for each and every payroll period, from the date of his entrance into
27 the system until he retires, and the employer shall remit the contributions to
28 the system; however, a member who is receiving remuneration under both a
29 regular contract and a purchased contract, or under both a regular contract
30 and a contract won through litigation, shall have only the greater of the two
31 (2) amounts considered as salary for the purposes of the system. Should the
32 employer fail at any time to report the salary of a member and remit the
33 contributions to the system, the system shall have the right to collect from
34 the employee and the employer the contributions due, if any, from each,
35 together with regular interest beginning with the subsequent fiscal year;

1 provided further, in no case shall a member be given credit for service
2 rendered until any contributions and interest due from each are paid in full.

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

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

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

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

22

23 SECTION 3. Arkansas Code 24-7-501 is hereby amended to read as follows:

24 "24-7-501. Generally.

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

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

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

32 (3) (A) All nonteachers who begin nonteaching service on or after
33 July 1, 1989, and whose nonteaching service is not covered by another
34 retirement plan similar in purpose to the system, except social security.

35 (B) All nonteachers who began nonteaching service before

1 July 1, 1989, whose nonteaching service is covered or coverable by the
2 Arkansas Public Employees' Retirement System shall continue to be covered by
3 the Arkansas Public Employees' Retirement System for all nonteaching service,
4 both past and future.

5 (C) These nonteachers who began service before July 1,
6 1989, shall be considered members of a closed system to be administered by the
7 Arkansas Public Employees' Retirement System.

8 (D) The employer contribution rate for this closed system
9 shall be established at a rate necessary to fund all present and future
10 liabilities until such time as there are no longer members, retirants or
11 deferred annuitants.

12 (b)(1) A person who has excluded himself from membership
13 before July 1, 1991, may rescind the exclusion by filing with the system a
14 Membership Data Form.

15 (2) The rescission shall be effective July 1 of the fiscal year
16 in which it is exercised.

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

19 (4) For the membership to be retroactive, the member must pay to
20 the system both the member contributions and the employer contributions which
21 would have been paid to the system had there been no exclusion, plus regular
22 interest from the dates the contributions would normally have been received by
23 the system to the date of actual payment.

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

26 (d) Membership in the system shall be a condition of employment in
27 accordance with subsections (a) through (c) of this section and shall not be
28 subject to election by individual employees."

29

30 SECTION 4. Arkansas Code 24-7-601 is hereby amended to read as follows:

31 "24-7-601. Generally.

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

35 (b) In no case, other than specifically provided otherwise in this

1 subchapter, shall fewer than one hundred twenty (120) days of teaching service
2 rendered in any fiscal school year be credited as one (1) year of service, nor
3 shall more than one (1) year of service be credited any member for all
4 teaching service rendered by him in any one (1) fiscal school year.

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

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

10 (e) (1) The system is a reciprocal system under the provisions of
11 24-2-401 - 24-2-405.

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

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

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

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

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

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29 SECTION 5. Arkansas Code 24-7-602 is hereby amended to read as follows:

30 "24-7-602. Military service.

31 (a) In the event an active member enters the armed forces of the United
32 States during any period of compulsory military service, the armed service
33 actually required of him shall be credited him as service under this
34 subchapter, but only if he returns to the system the amount, if any, he may
35 have received therefrom at the time he entered or while in the armed service,

1 together with regular interest from the date of withdrawal to the date of
2 repayment.

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

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

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

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

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

22 (e) In no event shall a person be credited with a total of more than
23 five (5) years of armed service.

24 (f) In any case of doubt as to the period of the armed service to be
25 credited a member, the board shall have the power to determine the period."
26

27 SECTION 6. Arkansas Code 24-7-604 is hereby amended to read as follows:

28 "24-7-604. Overseas service.

29 (a) As used in this section, "overseas service" means service in an
30 American-type overseas school, sponsored and approved by either the United
31 States Department of State or the Department of Defense.

32 (b) A member of the system may receive membership service credit for
33 service in an overseas school subject to the following conditions:

34 (1) To be eligible for overseas service credit, a member must
35 have a minimum of ten (10) years of membership service in a position covered

1 by the system;

2 (2) The overseas service credit to be granted shall be limited to
3 service for which no benefit could be paid by another system similar in
4 purpose to this system, except social security. The maximum overseas service
5 credited to any member shall be ten (10) years;

6 (3) To be eligible for a year of overseas service credit, a
7 member must have rendered at least one hundred twenty (120) days of service.
8 Fractions of years of service may be credited in keeping with board policies
9 as provided by 24-7-601;

10 (4) Contributions must be paid on the member's salary in the
11 overseas school. The member shall pay the member contribution rate. For each
12 year of the member's service overseas, employer contributions shall be based
13 upon the employer contribution rate in effect for that year. Employer
14 contributions may be paid either by the employer or by the member. If
15 contributions were not paid to the system promptly, as service was rendered,
16 regular interest shall be added to the delayed contributions from the date of
17 service to the date of payment in full."

18

19 SECTION 7. Arkansas Code 24-7-708(b) is hereby amended to read as
20 follows:

21 "24-7-708. Conditions subjecting annuities to limitations.

22 (b) For each year ending June 30, the social security retirement test
23 to be considered shall be the test in effect for the calendar year beginning
24 the January 1 immediately preceding June 30. The retirant's earnings shall be
25 his remuneration for such employment for the year ending June 30."

26

27 SECTION 8. All provisions of this act of a general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.

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31 SECTION 9. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

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SECTION 10. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 11. 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, 1991.

APPROVED: 2-7-91