

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative McGinnis**

A Bill

ACT 432 OF 1993
HOUSE BILL 1131

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 24, CHAPTERS 3
9 AND 4 OF THE ARKANSAS CODE OF 1987, ANNOTATED, TO CHANGE
10 CERTAIN ADMINISTRATIVE PROVISIONS OF THE PUBLIC EMPLOYEES_
11 RETIREMENT SYSTEM LAWS; AND FOR OTHER PURPOSES."

Subtitle

14 "AN ACT TO CHANGE CERTAIN ADMINISTRATIVE PROVISIONS OF THE
15 PUBLIC EMPLOYEES RETIREMENT SYSTEM LAWS."

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

19 SECTION 1. Subsection (e) of Arkansas Code § 24-3-201 is hereby amended
20 to read as follows:

21 "(e) (1) Upon a member's retirement, he shall receive an annuity for
22 life equal to the total of the following amounts: For each year of credited
23 service resulting from employment in a position covered at any time by social
24 security or another federal retirement plan supported wholly or in part by
25 employer contributions, one and fifty-five hundredths percent (1.55%) of his
26 final average pay plus, for each year of credited service resulting from
27 employment in a position never so covered, one and eight hundred seventy-two
28 thousandths percent (1.872%) of his final average pay. For a member of the
29 General Assembly, a monthly annuity equal to thirty-five dollars (\$35.00)
30 times the number of years of actual service as a member of the General
31 Assembly. For a member of the General Assembly who served as Speaker of the
32 House of Representatives or President Pro Tempore of the Senate, a monthly
33 annuity equal to forty dollars (\$40.00) times the total number of years of
34 actual service as a member of the General Assembly.

35 (2) In addition, if a member has credited service resulting from
36 employment in a position covered at any time by social security or another

1 federal retirement plan supported wholly or in part by employer contributions,
2 and if that member is retiring as provided in subsections (a)-(d) of this
3 section or § 24-3-207(a), and if that member's age at retirement is younger
4 than:

5 (A) Social security's minimum age for an immediate
6 retirement benefit; and

7 (B) Age sixty-two (62), then that member shall receive a
8 temporary annuity equal to three hundred twenty-two thousandths percent
9 (0.322%) of his final average pay for each year of such credited service.

10 (3) The temporary annuity shall terminate at the end of the
11 calendar month in which the earliest of the following events occurs:

12 (A) The member's death; or

13 (B) His attainment of the social security minimum age; or

14 (C) His attainment of age sixty-two (62).

15 (4) If no temporary annuity is payable as provided in this
16 subsection, or after such temporary annuity has terminated, and if such member
17 has at retirement any credited service for any period of time prior to July 1,
18 1991, then the future payments of such annuity for life shall not be less than
19 they would have been under the provisions of this subsection that were in
20 effect on July 1, 1990, plus four percent (4%).

21 (5) It is considered sound public policy that retirement pay not
22 exceed working pay, except for increases after retirement caused by inflation;
23 accordingly, at time of retirement, the total of named plan annuities
24 resulting from employment in a position also covered by social security shall
25 not exceed his final average pay."

26

27 SECTION 2. Subsection (a) of Arkansas Code § 24-3-206 is hereby amended
28 to read as follows:

29 "(a) (1) The member has ten (10) or more years of total credited service
30 with named plans or with reciprocal systems under the provisions of §§24-2-401
31 - 24-2-405 if, in establishing the minimum total credited service, periods of
32 credited service covering the same calendar time shall be counted only once.
33 However, both service in the Arkansas Public Employees' Retirement System as a
34 member of the General Assembly and service in another reciprocal system during
35 the same period of time may be counted to meet the service requirements for

1 benefits from the reciprocal systems subject to the following:

2 (A) The provisions of § 24-3-301 may not be used to meet
3 the service requirements;

4 (B) The benefit payable by a reciprocal system will be
5 based on the credited service in that system and on the final average pay
6 under that system; and

7 (C) If a member has less than five (5) actual years of
8 service credited in a reciprocal system, then final average pay means the
9 monthly average of pay to him during his total years of service in that
10 system.

11 (2) The member lives to his annuity starting date;

12 (3) The member makes written application for retirement and
13 payment of the annuity to the plan on or after the date which is ninety (90)
14 days before the date he attains his normal retirement age;

15 (4) The annuity starting date shall be the first day of the
16 calendar month next following the later of either the attainment of normal
17 retirement age or receipt of the application; and

18 (5) Upon termination of public safety service with all Arkansas
19 governmental units, a public safety employee whose public safety service was
20 covered at different times by the Arkansas Public Employees' Retirement System
21 and by the Arkansas Local Police and Fire Retirement System shall receive
22 retirement benefits based upon public safety service covered by either system
23 if all of the following conditions are satisfied:

24 (A) Public safety service covered by the Arkansas Public
25 Employees' Retirement System means service as a public safety member as
26 defined in § 24-3-102; and

27 (B) The total of public safety service credit in the
28 Arkansas Public Employees' Retirement System and the Arkansas Local Police and
29 Fire Retirement System is at least twenty (20) years, provided the provisions
30 of § 24-3-301(b) are not used to meet the service requirements; and

31 (C) The benefit payable by each system shall be based upon
32 the service credit with that system, the benefit program the system had in
33 effect at the time the member terminated service covered by the system, and
34 his service and pay covered by the system while the service was being
35 rendered."

1

2 SECTION 3. Subsection (d) of Arkansas Code § 24-3-209 is hereby amended
3 to read as follows:

4 "(d) (1) The member's dependent child or dependent children shall each
5 receive an annuity of the greater of either ten percent (10%) of the member's
6 covered compensation at the time of death or an equal share of one hundred
7 fifty dollars (\$150.00) monthly.

8 (2) If there are three (3) or more dependent children, each
9 dependent child shall receive as annuity an equal share of the greater of
10 either twenty-five percent (25%) of the member's covered compensation or one
11 hundred fifty dollars (\$150) monthly.

12 (3) A child shall be a dependent child until his death, his
13 marriage, or his attainment of age eighteen (18) years, whichever occurs
14 first; however, the age of eighteen (18) years maximum shall be extended as
15 long as the child continues uninterruptedly being a full-time student at an
16 accredited secondary school, college, or university, but in no event beyond
17 his attainment of the age of twenty-three (23) years; the age eighteen (18)
18 years maximum shall also be extended for any child who has been deemed
19 physically or mentally incompetent by an Arkansas court of competent
20 jurisdiction or by the board, for as long as the incompetency exists.

21 (4) Upon a child's ceasing to be a dependent child, his annuity
22 shall terminate and there shall be a redetermination of the amounts payable to
23 any remaining dependent children."

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25 SECTION 4. Subsection (e) of Arkansas Code § 24-3-209 is hereby amended
26 to read as follows:

27 "(e) If, at the time of the member's death, there is neither a spouse
28 nor a dependent child, each dependent parent shall receive an allowance of the
29 greater of either ten percent (10%) of the member's covered compensation or an
30 equal share of one-hundred fifty dollars (\$150.00) monthly, but only if the
31 board finds that the parent was dependent for at least fifty percent (50%) of
32 his financial support upon the member."

33

34 SECTION 5. Subsection (e) of Arkansas Code § 24-3-214 is hereby amended
35 to read as follows:

1 "(e) (1) The benefit provisions of this chapter shall be administered by
2 the Arkansas Public Employees' Retirement System for the benefit of all
3 employees making the option except state police, which shall be administered
4 by the Arkansas State Police Retirement System. Arkansas Public Employees_
5 Retirement System shall certify monthly the amount of benefits paid hereunder
6 and the Teacher Retirement System shall immediately transfer such amount from
7 their benefit account to the proper account designated by the Arkansas Public
8 Employees_ Retirement System.

9 (2) If an employee of the Department of Human Services who
10 becomes or has become a member of the Arkansas Public Employees' Retirement
11 System under the provisions of this section leaves employment with the
12 Department of Human Services and becomes employed in another position covered
13 by the Teacher Retirement System, his credited service, both before and after
14 his service under this chapter, shall be subject to the benefit provisions of
15 §§ 24-7-701 - 24-7-713, 24-7-715, and 24-7-716.

16 (3) The member shall be eligible to establish reciprocity under
17 the provisions of §§ 24-2-401 - 24-2-405.

18 (4) Members of the Arkansas Teacher Retirement System who have
19 not elected to pay contributions to that system on full salary shall not be
20 eligible to elect to become covered by the benefit provisions of this chapter
21 unless they first make written application with the Teacher Retirement System
22 for full salary coverage for all salaries received from July 1, 1969, until
23 the date of making the election to come under the provisions of this chapter
24 and paying to the system the amount of the additional contributions, plus
25 regular interest, for full salary credited service."

26

27 SECTION 6. Subdivision (7) of Arkansas Code § 24-4-101 is hereby
28 amended to read as follows:

29 "(7) (A) (i) _Employees_ means all officers and employees of any office,
30 agency, board, commission, or department of a public employer whose
31 compensations were, or are, payable from funds appropriated by the public
32 employer and all otherwise eligible employees whose compensations were, or
33 are, payable in whole or part from federal funds, as well as the official
34 court reporters and stenographers of the circuit and chancery courts of the
35 state and all of the prosecuting attorneys of the judicial districts of

1 Arkansas. In addition, the term employees shall, effective July 1, 1983,
2 include those persons who are eligible for benefits from the Teachers
3 Insurance and Annuity Association but who are otherwise eligible for
4 participation in the system due to employment with a public employer; however,
5 the term employees shall not include those persons who are receiving or who
6 begin receiving Teachers Insurance and Annuity Association benefits while
7 still participating in the system;

8 (ii) Any person who has heretofore been denied coverage
9 under the system due to the fact that the person was eligible for benefits
10 from a local firemen's or policemen's pension fund or the Teachers Insurance
11 and Annuity Association shall, from the dates of February 11, 1976, and July
12 1, 1983, respectively become a member of the system if in an otherwise
13 eligible position due to his employment with a public employer and may, at the
14 employee's option, receive credit for service rendered to a participating
15 public employer before that date, subject to the following conditions:

16 (a) The person is a participating employee covered
17 under the system at the time of the purchase; or, if not participating in the
18 system, the person shall be eligible to purchase the service if the person was
19 in an otherwise eligible position on July 1, 1982, and all contributions and
20 interest were received by the system before January 1, 1984; and

21 (b) The member pays, or causes to be paid, all
22 employer or employee contributions at the rate and based on the compensation
23 received by the persons during the period of time when the service was
24 rendered, together with interest of six percent (6%) per annum, compounded
25 annually from the date the service was rendered to the date payment is
26 received by the system. The member may purchase all of the service or any
27 portion thereof in multiples of one (1) year; and

28 (c) The payment of funds shall be made in one (1)
29 lump sum.

30 (iii) Any person who has heretofore been denied coverage
31 under the system due to the fact that the person was or is paid from a grant
32 instead of funds appropriated by the public employer, shall from July 1, 1991,
33 become a member of the system if in an otherwise eligible position due to his
34 being an employee of a public employer, and a member may at his option receive
35 credit for service rendered before that date as an employee paid from a grant,

1 subject to the following conditions:

2 (a) The member is a participating employee covered
3 under the system at the time of the purchase; and

4 (b) The member furnishes proof, in a form required by
5 the system, of the service and compensation received; and

6 (c) The member pays, or causes to be paid, all
7 employee and employer contributions at the rate and based on the compensation
8 received by the member during the period of time when the service was
9 rendered, together with interest of six percent (6%) per annum, compounded
10 annually from the date the service was rendered to the date payment is
11 received by the system. The member may purchase all of the service or any
12 portion thereof in multiples of one (1) year; and

13 (d) The payment of funds shall be made in one (1)
14 lump sum; and

15 (e) Any person who, prior to the effectiveness of
16 this provision, has been removed from membership in the Arkansas Public
17 Employees_ Retirement System because of eligibility for membership in a local
18 fireman_s pension fund as a volunteer fireman may restore the refunded service
19 and establish subsequent service by paying or causing to be paid to the
20 Arkansas Public Employees_ Retirement System the refunded contributions and
21 the legally required contributions for subsequent service.

22 (B) Excepting members of the General Assembly, those persons
23 eligible for, or receiving benefits from, a local firemen's or policemen's
24 pension fund, and those persons eligible for or participating in a local
25 firemen_s pension fund because of their status as a volunteer fireman, the
26 term _employees_ shall not include persons who are members of, or who are
27 eligible for benefits under or membership in, any other
28 retirement system, excepting federal social security, which retirement system
29 is supported by state funds or is authorized by the laws of the state;
30 In addition, the term _employees_ specifically shall not include the
31 following:

32 (i) Persons in the employ of the Arkansas State Police
33 Department who are members of, or who are eligible for benefits under or
34 membership in, the Arkansas State Police Retirement System, except as
35 otherwise provided by law;

1 (ii) Persons in the employ of the Department of Education
2 or the Arkansas Teacher Retirement System, except as otherwise provided by
3 law;

4 (iii) Persons in the employ of the University of Arkansas
5 or any other state-supported institution of higher learning, except as
6 otherwise provided by law;

7 (iv) Justices of the Supreme Court, judges of circuit
8 courts, or judges of chancery courts;

9 (v) Persons in the employ of the General Assembly who are
10 employed on less than a full-time regular annual salary basis, except that any
11 person who has served or who shall serve during at least six (6) legislative
12 sessions as Chief Clerk of the House of Representatives, and who has served in
13 the employ of the General Assembly during at least twelve (12) previous
14 legislative sessions, shall be eligible to receive credited service in the
15 Arkansas Public Employees' Retirement System for any period of employment with
16 the General Assembly since July 1, 1957, but only if the employee is, or was,
17 an active member of the system with at least ten (10) years of credited
18 service and only if the employee pays, or causes to be paid, all employee and
19 employer contributions that would have been paid had he been a member of the
20 system during those periods of time;

21 (vi) Persons who are in the employ of the Arkansas State
22 Highway and Transportation Department;

23 (vii) Persons employed with the intent of working less than
24 ninety (90) calendar days;

25 (viii) Persons employed in the state penitentiary, who are
26 members of, or who are eligible for benefits under, a state retirement system
27 or plan;

28 (ix) Persons who are first employed or those who are
29 reemployed as participants on or after July 1, 1979, under the Comprehensive
30 Employment and Training Act (CETA); however, those persons participating in
31 the program prior to July 1, 1979, shall continue to be members of the system
32 while employed by a participating public employer. In any case of doubt as to
33 who is an employee within the meaning of this act, the board shall have the
34 final power to decide the question;"

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1 SECTION 7. Subdivision (11) of Arkansas Code § 24-4-101 is hereby
2 amended to read as follows:

3 "(11) Municipal employees means all employees whose compensations are
4 payable, either directly or indirectly, by municipal participating public
5 employers, and includes employees of the municipal league, employees of the
6 water and sewer system of any city divided by a state line, and employees of
7 the Arkansas Local Police and Fire Retirement System. The term municipal
8 employees shall not include members of a municipal firemen's or policemen's
9 pension fund while the member is accruing credited service in that system,
10 excepting those members of a municipal firemen's pension fund who are members
11 solely because of their status as a volunteer fireman. In any case of doubt as
12 to who is a municipal employee within the meaning of this act, the board shall
13 have the final power to decide the question;"

14

15 SECTION 8. Subsection (c) of Arkansas Code § 24-4-207 is hereby amended
16 to read as follows:

17 "(c) (1) Should any change or error in the records of the system result
18 in any person's receiving more or less than he would have been entitled to
19 receive had the records been correct, the board shall correct the error and,
20 as far as is practicable, shall adjust the payment in such manner that the
21 actuarial equivalent of the benefit to which the person was correctly entitled
22 shall be paid. However, no monthly adjustment of *one dollar (\$1.00) or less*
23 shall be made.

24 (2) The board shall have the right to recover any overpayment
25 that any person may have received from funds of the system. In any action to
26 recover payment, the system shall have the same status as the State of
27 Arkansas with regard to any statute of limitations."

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29 SECTION 9. Subsection (d) of Arkansas Code § 24-4-608 is hereby amended
30 to read as follows:

31 "(d) (1) A member's dependent child or dependent children shall each
32 receive an annuity of the greater of either ten percent (10%) of the member's
33 covered compensation at the time of death or an equal share of one hundred
34 fifty dollars (\$150.00) monthly. Where there are three (3) or more dependent
35 children, each dependent child shall receive an annuity of equal share of the

1 greater of either twenty-five percent (25%) of the covered compensation or one
2 hundred fifty dollars (\$150.00) monthly.

3 (2) A child shall be a dependent child until his death, his
4 marriage, or his attainment of age eighteen (18) years, whichever occurs
5 first; however, the age eighteen (18) maximum shall be extended as long as the
6 child continues uninterruptedly being a full-time student at an accredited
7 secondary school, college, or university, but in no event beyond his
8 attainment of age twenty-three (23) years. In addition, the age eighteen (18)
9 years maximum shall be extended for any child who has been deemed physically
10 or mentally incompetent by an Arkansas court of competent jurisdiction, or by
11 the board, for as long as the incompetency exists.

12 (3) Upon a child's ceasing to be a dependent child, his annuity
13 shall terminate and there shall be a redetermination of the amounts payable to
14 any remaining dependent children."

15

16 SECTION 10. Subsection (e) of Arkansas Code § 24-4-608 is hereby
17 amended to read as follows:

18 "(e) If, at the time of the member's death, there is neither a spouse
19 nor a dependent child, each dependent parent shall receive an allowance of the
20 greater of ten percent (10%) of the covered compensation or an equal share of
21 one hundred fifty dollars (\$150.00) monthly, but only if the board finds that
22 the parent was dependent for at least fifty percent (50%) of his financial
23 support upon the member."

24

25 SECTION 11. Subsection (a) of Arkansas Code § 24-4-724 is hereby
26 amended to read as follows:

27 "(a) (1) Any member of the Arkansas Public Employees' Retirement System
28 who became, or becomes, a member after the date that his employer became, or
29 becomes, a public employer in the system shall receive current service for
30 employment with a public employer in the system, with the University of
31 Arkansas system, or a municipality in the State of Arkansas if the employee
32 was not eligible for coverage or does not participate in or *is not eligible to*
33 *receive a benefit from* a retirement plan authorized by the University of
34 Arkansas, or a municipality in the State of Arkansas, and by the laws of the
35 State of Arkansas during employment. He shall receive credit only if he has at

1 least five (5) years of current service credit since becoming a member of the
2 system and he pays, or causes to be paid, all employee and employer
3 contributions at the rate, and on the compensation, that would have been paid
4 had he been a member of the system during that time, together with interest at
5 six percent (6%) per annum, compounded annually from the date that his last
6 public employer entered the system to the date of payment or from the date the
7 service is rendered to the date of payment, whichever is later in time.

8 (a)(2) *As used in this subsection, employment by a municipality in the*
9 *state of Arkansas shall include the Mayor, City Attorney, City Treasurer, City*
10 *Clerk, Clerk Treasurer, Municipal Judge, Municipal Court Clerk, and any other*
11 *city employee."*

12

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

16

17 SECTION 13. If any provisions of this act or the application thereof
18 to any person or circumstance is held invalid, the invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provisions or application, and to this end the provisions of this
21 act are declared to be severable.

22

23 SECTION 14. All laws and parts of laws in conflict with this act are
24 hereby repealed.

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/s/Bob McGinnis

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APPROVED: 03/10/93

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