

As Engrossed: 4/6/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative B. Wood**

A Bill

ACT 1266 OF 1995
HOUSE BILL 1561

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 24, CHAPTER 11,
9 OF THE ARKANSAS CODE OF 1987, ANNOTATED, TO CREATE A
10 GUARANTEE FUND FOR UNDERFUNDED ARKANSAS MUNICIPAL FIRE AND
11 POLICE RELIEF AND PENSION FUNDS; TO PRESCRIBE AN EFFECTIVE
12 DATE; AND FOR OTHER PURPOSES."

Subtitle

15 "TO CREATE A GUARANTEE FUND FOR
16 UNDERFUNDED MUNICIPAL FIRE AND POLICE
17 RELIEF AND PENSION FUNDS"

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

21 SECTION 1. Arkansas Code § 24-11-203(a) is amended to read as follows:

22 "(a) The purpose of this section, which creates and establishes the
23 Arkansas Fire and Police Pension Review Board, is to establish a state pension
24 review board for all municipal fire and police pension funds established under
25 Acts 1921, No. 491 and Acts 1937, No. 250, which shall oversee all requests
26 for benefit increases and review the annual accountant_s reports and biennial
27 actuarial valuations required by this subchapter, and which shall oversee,
28 invest, and administer the Arkansas Fire and Police Pension Guarantee Fund as
29 established by law."

31 SECTION 2. Title 24, Chapter 11, Subchapter 2 of the Arkansas Code of
32 1987, Annotated, is hereby amended to add a new § 24-11-208 to read as
33 follows:

34 "24-11-208. Administration of Underfunded Plans.

35 (a) Some of the municipal fire and police pension funds established
36 under Acts 1921, No. 491 and Acts 1937, No. 250 may run out of funds before

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1 all of the promised benefits have been paid to their members, retirants, and
2 beneficiaries. The purpose of this section is to provide a method for the
3 funding of benefits in certain underfunded plans.

4 (b) Biennially, in conjunction with the actuarial valuations required by
5 § 24-11-205, the Arkansas Fire and Police Pension Review Board shall identify
6 those plans which are projected to deplete their assets within ten (10) years
7 after the valuation date. A plan so identified shall be declared a projected
8 insolvent fund.

9 (c) The Arkansas Fire and Police Pension Review Board shall notify the
10 board of trustees of each projected insolvent fund of its funded status and
11 the options that are available to the fund to protect the benefits of its
12 members, retirants, and beneficiaries."

13

14 SECTION 3. Title 24, Chapter 11, Subchapter 2 of the Arkansas Code of
15 1987, Annotated, is hereby amended to add a new § 24-11-209 to read as
16 follows:

17 "24-11-209. Arkansas Fire and Police Guarantee Fund.

18 (a) On and after January 1, 1995, the Arkansas Fire and Police Pension
19 Guarantee Fund shall be created and established for the purpose of providing a
20 state fund to provide financial assistance to certain municipal fire and
21 police pension funds established under Act 1921, No. 491 and Act 1937,
22 No. 250.

23 (b) Some of the municipal fire and police pension funds established
24 under Acts 1921, No. 491 and Acts 1937, No. 250 may run out of funds before
25 all of the promised benefits have been paid to their members, retirants, and
26 beneficiaries. The Arkansas Fire and Police Pension Guarantee Fund may assist
27 the municipal fund, in accordance with the following:

28 (1) A municipal fire or police pension fund may receive financial
29 assistance from the Arkansas Fire and Police Pension Guarantee Fund if the
30 assistance is approved by the Arkansas Fire and Police Pension Review Board
31 and if the fund complies with subdivision (b)(2) of this section:

32 (2) If a municipal fire or police pension fund is to receive
33 financial assistance from the Arkansas Fire and Police Pension Guarantee Fund
34 then:

35 (A) The municipal fire or police pension fund must apply,

1 in writing, for financial assistance to the Arkansas Fire and Police Pension
2 Guarantee Fund.

3 (B) Upon receipt of the application the Arkansas Fire and
4 Police Pension Review Board shall notify the board of trustees of the fund, in
5 writing that the fund will receive financial assistance from the Arkansas Fire
6 and Police Pension Guarantee Fund if all of the provisions of this section are
7 met.

8 (C) In order to receive any financial assistance from the
9 Arkansas Fire and Police Pension Guarantee Fund, the local fund must be
10 receiving a dedicated millage of one (1) mill.

11 (D) Any benefits (including refunds of active member
12 contributions to terminating members) due after the date the local fund is
13 receiving assistance from the Arkansas Fire and Police Pension Guarantee Fund,
14 shall not exceed the minimum amount provided by law.

15 (E) The Arkansas Fire and Police Pension Review Board may
16 review the medical condition of all persons receiving a disability pension
17 from the local fund. If the Arkansas Fire and Police Pension Review Board
18 finds that a person receiving a disability pension from the local fund is no
19 longer disabled, and as a result is no longer entitled to a disability
20 pension, the person shall no longer receive a benefit from the local fund.

21 (c) (1) On and after January 1, 1995, the Arkansas Fire and Police
22 Pension Guarantee Fund shall receive a portion of the taxes levied on insurers
23 for the support of fire and police retirement programs by §§ 23-60-101 et
24 seq., and §§ 24-11-301 - 24-11-303, 24-11-801 - 24-11-807, 24-11-809,
25 24-11-810, 24-11-813, 24-11-818 - 24-11-821, 26-57-601 - 26-57-605, 26-57-607,
26 or any other state fund designated for support of fire and police retirement
27 programs in political subdivisions. The amount received by the Arkansas Fire
28 and Police Pension Guarantee Fund shall be based upon the taxes that are
29 levied on insurers but are not allocated to cities, towns, or fire protection
30 districts qualified to participate in the distribution of the taxes, and shall
31 be the amount so provided in § 24-11-302 and 24-11-809.

32 (2) If a fire or police retirement program, or the political
33 subdivision supporting a retirement program, does not receive a portion of the
34 taxes levied on insurers for the support of fire and police retirement
35 programs, due to § 24-11-202, the taxes shall be paid into the Arkansas Fire

1 and Police Pension Guarantee Fund.

2 (3) The Arkansas Fire and Police Pension Review Board shall
3 report to the General Assembly on the condition of the Arkansas Fire and
4 Police Pension Guarantee Fund. The report shall be due by December 31 of each
5 even numbered year. The report shall include the amount of financial
6 assistance provided during the last two (2) years and the expected tax
7 allocation for the next two (2) years.

8 (d) The maximum financial assistance that an eligible municipal fire or
9 police pension fund can receive in any year from the Arkansas Fire and Police
10 Pension Guarantee Fund is the remainder, if any, of the amount of the item in
11 subdivision (d)(1) of this section after subtracting the amount equal to the
12 sum of all the items of subdivision (d)(2) of this section as follows:

13 (1) is the actuarially recommended contribution for the year
14 determined as if the fund were providing the minimum benefits required by law;
15 and

16 (2)(A) twelve percent (12%) of the covered salaries [or one
17 dollar (\$1.00) per month for each volunteer firefighter];

18 (B) the dollar amount of the millage that would be produced
19 if one (1) mill was contributed to the plan;

20 (C) for police pension funds only, ten percent (10%) of
21 fines and forfeitures under § 24-11-413(a)(5) in the prior year; and

22 (D) the amount of state insurance turnback funds allocated
23 to the fund in the prior year.

24 (e) The Arkansas Fire and Police Pension Review Board shall annually
25 *recommend to the Chief Fiscal Officer of the State* which pension funds shall
26 receive financial assistance from the Arkansas Fire and Police Pension
27 Guarantee Fund and the amount of the assistance. The Arkansas Fire and Police
28 Pension Review Board shall take into consideration the amount of income
29 expected by the Arkansas Fire and Police Pension Guarantee Fund when
30 determining the amount of financial assistance available to the local funds,
31 *and considering whether the local fund would be better served by consolidating*
32 *into the Arkansas Local Police and Fire Retirement System (LOPFI).* The
33 Arkansas Fire and Police Pension Review Board shall *recommend* financial
34 assistance from the Arkansas Fire and Police Pension Guarantee Fund according
35 to the following priorities:

- 1 (1) projected insolvent funds which are not expected to have
2 enough funds to provide benefits for the current year;
- 3 (2) projected insolvent funds which are expected to deplete their
4 funds within the next three (3) years;
- 5 (3) projected insolvent funds which are expected to deplete their
6 funds within the next ten (10) years;
- 7 (4) funds that are determined to be actuarially unsound by the
8 Arkansas Fire and Police Pension Review Board; and
- 9 (5) other pension funds covering municipal police officers and
10 firefighters in Arkansas, without regard to subsection (d) of this section, or
11 without regard to subsection (b) (2) (C) of this section for funds administered
12 by the Arkansas Local Police and Fire Retirement System.
- 13 (f) The executive director and staff of the Arkansas Fire and Police
14 Pension Review Board shall serve as the executive director and staff of the
15 Arkansas Fire and Police Pension Guarantee Fund. Any expenses required to
16 administer the Arkansas Fire and Police Pension Guarantee Fund shall be
17 determined and paid by the Arkansas Fire and Police Pension Review Board out
18 of the Arkansas Fire and Police Pension Guarantee Fund."

19

20 SECTION 4. Arkansas Code § 24-11-301 is amended to read as follows:

21 "24-11-301. Appropriation of tax revenues from foreign insurers.

22 (a) Sixty-six and two-thirds percent (66 2/3%) of the total tax
23 revenues derived from premium taxes paid to the State of Arkansas by alien and
24 foreign insurance companies upon premiums collected by the insurance companies
25 upon insurance contracts written on motor vehicles, the licensed address of
26 which is a qualified city or town wherein the motor vehicles are insured
27 against the perils of physical damage or the owner or operators of the motor
28 vehicles are insured against legal liability arising out of the use,
29 ownership, or operation of the motor vehicles, is appropriated and set aside
30 for the use and benefit of all duly qualified police officers_ pension and
31 relief funds and for the administrative and actuarial expenses of the Arkansas
32 Fire and Police Pension Review Board and for the Arkansas Fire and Police
33 Pension Guarantee Fund.

34 (b) The amount of the tax revenues attributable to the fire peril of
35 physical damage insurance shall not be included.

1 (c) The payment for the administrative and actuarial expenses of the
2 Arkansas Fire and Police Pension Review Board shall be made prior to the
3 disbursements to the eligible political subdivisions."
4

5 SECTION 5. Arkansas Code § 24-11-302 is amended to read as follows:
6 "24-11-302. Cities and towns qualified to participate - Reports.

7 (a) Each city or town having a police officers_ pension and relief fund
8 which is organized pursuant to any existing statute of this state and each
9 city or town which covers its police department under the Arkansas Local
10 Police and Fire Retirement System shall be qualified to participate in the
11 distribution of the funds described and appropriated by this subchapter.

12 (b) The Arkansas Fire and Police Pension Review Board, created by
13 § 24-11-203, is directed, and it shall be its duty, to identify those cities
14 and towns to certify them to the Insurance Commissioner on or before
15 December 15, 1985, indicating that they are qualified to participate in the
16 distribution of those funds described and appropriated by this subchapter.

17 (c) The eligibility of these subdivisions shall be continuous without
18 recertification unless otherwise directed by the pension review board.

19 (d) (1) For each city or town which covers its entire police department
20 under the Arkansas Local Police and Fire Retirement System, the board of
21 trustees shall provide certification to the Insurance Commissioner on or
22 before December 15 of the calendar year in which coverage began.

23 (2) The eligibility of the cities or towns shall be continuous
24 without recertification unless otherwise directed by the board of trustees.

25 (e) Each city and town qualified by either the Arkansas Fire and Police
26 Pension Review Board or the Board of Trustees of the Arkansas Local Police and
27 Fire Retirement System shall then be entitled to receive that portion of the
28 tax as described and appropriated by this subchapter that is collected during
29 the forthcoming calendar year, arising from such insurance as shall be written
30 upon every motor vehicle principally garaged in that qualified city or town.

31 (f) The Insurance Commissioner shall advise all companies subject to
32 the tax of the name of each qualified city or town.

33 (g) The companies shall report to the Insurance Commissioner, at the
34 time of filing their respective annual statements, those premiums from motor
35 vehicle owners for insurance against the perils described in this subchapter

1 and shall identify that qualified city or town in which the subject of the
2 insurance is principally garaged.

3 (h) All taxes that are levied on insurers but are not allocated to
4 cities or towns qualified to participate in the distribution of the taxes, may
5 be allocated to the Arkansas Fire and Police Pension Guarantee Fund. Funds
6 may be distributed by the Chief Fiscal officer of the State upon the
7 recommendation of the Arkansas Fire and Police Pension Review Board."

8

9 SECTION 6. Arkansas Code § 24-11-809 is amended to read as follows:

10 "24-11-809. Appropriations of insurance premium tax generally.

11 (a) There is appropriated and set aside for the use and benefit of duly
12 constituted firemen_s relief and pension funds and for the administrative and
13 actuarial expenses of the Arkansas Fire and Police Pension Review Board and
14 the Arkansas Fire and Police Pension Guarantee Fund the annual taxes of two
15 and one-half percent (2 1/2%) on all foreign and alien premiums collected by
16 all insurance companies, corporations, or associations incorporated under the
17 laws of any state or nation and doing business in the State of Arkansas, after
18 all cancellations and dividends to policyholders are deducted as provided by
19 §§ 23-60-102, 24-11-809, 26-57-601 - 26-57-605, and 26-57-607, upon real and
20 personal property insured against the perils of fire and extended coverage,
21 tornado, windstorm, cyclone, and hail, except upon growing crops, and located
22 in or at cities, towns, and fire protection districts in the State of Arkansas
23 coming within the provisions of this act.

24 (b) In the case of multiperil policies with a single premium for both
25 the property and casualty coverages, the portion of the taxable premium shall
26 be as follows:

27 (1) In the case of commercial multiperil policies, seventy
28 percent (70%);

29 (2) In the case of homeowners_ policies, forty-five percent
30 (45%);

31 (3) In the case of auto physical damage policies, nine percent
32 (9%); and

33 (4) In the case of inland marine policies, fifteen percent (15%).

34 (c) (1) The Insurance Commissioner is directed, and it shall be his
35 duty, to embody in his annual statement the names of all cities, towns, and

1 fire protection districts entitled to receive the tax paid by the insurance
2 companies. He shall require the companies to report at the time of making his
3 annual statements the amount of premiums received and the amount of taxes paid
4 by the companies during the year ending December 31, upon real and personal
5 property insured against the perils recited, in each and all of the several
6 cities, towns, and fire protection districts named in his report.

7 (2) Thereafter, and before April 1 in each calendar year, the
8 Insurance Commissioner shall certify to the Auditor of State the names of the
9 towns, cities, and fire protection districts having organized fire departments
10 which qualify for participation in the taxes distributed for firemen's relief
11 and pension funds, and the amount of taxes paid in the preceding year by the
12 companies described in this section upon the premiums described in this
13 section.

14 (3) All taxes that are levied on insurers but are not allocated
15 to cities, towns, and fire protection districts qualified to participate in
16 the distribution of the taxes, may be allocated to the Arkansas Fire and
17 Police Pension Guarantee Fund. *Funds may be distributed by the Chief Fiscal*
18 *Officer of the State upon the recommendation of the Arkansas Fire and Police*
19 *Pension Review Board.*

20 (4) The payment for the administrative and actuarial expenses of
21 the Arkansas Fire and Police Pension Review Board shall be made prior to the
22 disbursements to the eligible political subdivisions."
23

24 SECTION 7. This act shall be effective on and after and retroactive to
25 January 1, 1995.
26

27 SECTION 8. All provisions of this act of 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.
30

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

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

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/s/Rep. B. Wood

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APPROVED: 4-13-95