

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

A Bill

ACT 460 OF 1995
HOUSE BILL 1161

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 24-7-202 AND 24-7-406 TO
9 INCORPORATE THE ANNUAL COMPENSATION LIMITS OF SECTION
10 401(a)(17) OF THE INTERNAL REVENUE CODE IN DETERMINING
11 TEACHER RETIREMENT SYSTEM BENEFITS FOR MEMBERS HIRED ON OR
12 AFTER JULY 1, 1996; TO DECLARE AN EMERGENCY; AND FOR OTHER
13 PURPOSES."

Subtitle

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15 "TO INCORPORATE THE COMPENSATION LIMITS
16 OF THE FEDERAL INCOME TAX LAW IN
17 DETERMINING TEACHER RETIREMENT SYSTEM
18 BENEFITS FOR MEMBERS AFTER JULY 1,
19 1996."

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

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24 SECTION 1. Arkansas Code § 24-7-202(14) is amended to read as follows:
25 "(14)(A) Salary means the recurring remuneration paid an employee for
26 personal services rendered by the employee in a position covered by the
27 system. Provided, however, compensation in excess of the limitations set
28 forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded.
29 The limitation on compensation for 'eligible employees' shall not be less than
30 the amount which was allowed to be taken into account under the system as in
31 effect on July 1, 1993. For this purpose, an 'eligible employee' is an
32 individual who was a member of the system before the first plan year beginning
33 after December 31, 1995.

34 (B) Should a portion of an employee's remuneration be paid other
35 than in cash, the cash value of the remuneration shall be established by the
36 system in an amount not to exceed the amount the employee is required to

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1 report for federal income tax purposes.

2 (C) In determining salary, no consideration shall be given to any
3 nonrecurring single-sum payment paid by an employer, any employer
4 contributions to any employee benefit plan, except cafeteria plans as defined
5 in § 21-5-901, or any other unusual or nonrecurring remuneration or stipends
6 paid by an employer or other educational agency which are six hundred dollars
7 (\$600) or less in amount. For salary purposes, the amounts shall not be
8 cumulative.

9 (D) Money which is in lieu of remuneration and which is used by
10 an employer to purchase a qualified tax-sheltered annuity or a life insurance
11 policy for an employee shall be considered as salary for system purposes.

12 (E) An employee who is receiving remuneration under both a
13 regular contract and a purchased contract or under both a regular contract and
14 a contract won through litigation shall have only the greater of the two (2)
15 amounts considered as salary for system purposes.

16 (F) Should an employee make a charitable donation or return any
17 part of his salary to his employer, the amount of his recurring remuneration
18 otherwise usable as salary shall be reduced by such amount or amounts to
19 arrive at his salary for system purposes.

20 (G) In case of any dispute concerning an employee's salary for
21 system purposes, the system shall have the power to settle the dispute;"

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

24 "(c) (1) Each employer shall deduct the member contributions provided
25 for in this section from the salary of each member on each and every payroll,
26 for each and every payroll period, from the date of his entrance into the
27 system until he retires, and the employer shall remit the contributions to the
28 system; provided, however, compensation in excess of the limitations set forth
29 in Section 401(a) (17) of the Internal Revenue Code shall be disregarded. The
30 limitation on compensation for 'eligible employees' shall not be less than the
31 amount which was allowed to be taken into account under the system as in
32 effect on July 1, 1993. For this purpose, an 'eligible employee' is an
33 individual who was a member of the system before the first plan year beginning
34 after December 31, 1995. Provided further, that a member who is receiving
35 remuneration under both a regular contract and a purchased contract, or under

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

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

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

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

23 (5) Money used by an employer to purchase a qualified tax-
24 sheltered annuity or a life insurance policy for a member in lieu of salary
25 shall be considered as salary for purposes of the system. Retainers,
26 consultant's fees, lump sum payments for unused sick leave, special payments
27 not in the form of regular remuneration, and stipends paid by an employer or
28 other educational agency which are six hundred dollars (\$600) or less in
29 amount shall not be considered salary for the purposes of the system.
30 Further, stipend amounts shall not be cumulative."

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32 SECTION 3. All provisions of this act of general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

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1 SECTION 4. If any provisions of this act or the application thereof to
2 any person or circumstance is held invalid, the invalidity shall not affect
3 other provisions or applications of the act which can be given effect without
4 the invalid provisions or application, and to this end the provisions of this
5 act are declared to be severable.

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7 SECTION 5. All laws and parts of laws in conflict with this act are
8 hereby repealed.

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10 SECTION 6. Emergency. It is hereby found and determined by the
11 Eightieth General Assembly of the State of Arkansas that current language in
12 the federal Internal Revenue Code makes it imperative that changes be made in
13 laws concerning the Teacher Retirement System; that those changes need to be
14 made at the beginning of the state fiscal year on July 1st; and that these
15 changes are essential to the continued efficient and effective operation of
16 the Teacher Retirement System. Therefore, in order to maintain an effective
17 administration of the System, an emergency is hereby declared to exist, and
18 this act being necessary for the immediate preservation of the public peace,
19 health, and safety, shall be in full force and effect from and after July 1,
20 1995.

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22 APPROVED: 2-27-95

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