

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Engrossed: S3/21/97

# A Bill

ACT 1137 OF 1997  
SENATE BILL 402

4  
5 By: Senator Hopkins  
6  
7

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 24-3-102 TO CHANGE THE  
10 DEFINITION OF FINAL AVERAGE PAY TO APPLY TO NOT LESS THAN  
11 THE HIGHEST THREE (3) YEARS NOR MORE THAN THE HIGHEST FOUR  
12 (4) YEARS OF COMPENSATION WITH THE PERS BOARD OF TRUSTEES  
13 DETERMINING THE EXACT PERIOD OF TIME; TO AMEND ARKANSAS  
14 CODE § 24-4-101 TO CHANGE THE DEFINITION OF AVERAGE  
15 COMPENSATION TO INCLUDE THE HIGHEST OF NOT LESS THAN THREE  
16 (3) YEARS NOR MORE THAN FOUR (4) YEARS OF COMPENSATION; TO  
17 AMEND ARKANSAS CODE § 24-7-202 TO CHANGE THE DEFINITION OF  
18 FINAL AVERAGE SALARY TO APPLY TO NOT LESS THAN THE HIGHEST  
19 THREE (3) YEARS NOR MORE THAN THE HIGHEST FOUR (4) YEARS  
20 OF COMPENSATION WITH THE TEACHER RETIREMENT BOARD OF  
21 TRUSTEES DETERMINING THE EXACT PERIOD OF TIME; TO ALLOW  
22 THE TEACHER RETIREMENT BOARD TO PROVIDE COMPARABLE  
23 BENEFITS TO RETIRANTS AND OTHER BENEFICIARIES; AND FOR  
24 OTHER PURPOSES."

## Subtitle

25  
26  
27 "TO CHANGE THE DEFINITIONS OF FINAL  
28 AVERAGE PAY AND FINAL AVERAGE SALARY TO  
29 APPLY TO NOT LESS THAN THE HIGHEST 3  
30 YEARS OF SALARY WITH THE PERS AND  
31 TEACHER RETIREMENT BOARDS OF TRUSTEES TO  
32 DETERMINE THE EXACT TIME."

33  
34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

35  
36 SECTION 1. Subdivision (8) of Arkansas Code § 24-3-103 is hereby

1 amended to read as follows:

2       "(8)(A)(i)(a) Final average pay for members of the Arkansas Public  
3 Employees' Retirement System means the average of the highest annual  
4 compensations paid a member during any period of not less than thirty-six (36)  
5 months nor more than forty-eight (48) calendar months of credited service with  
6 a public employer with the exact time period to be determined in accordance  
7 with the rules and regulations of the PERS Board of Trustees as is actuarially  
8 appropriate for the system. Prior to reducing the time period used to  
9 determining final average pay, the Board of Trustees shall file relevant  
10 information concerning the actuarial appropriateness of the action with the  
11 Joint Committee on Retirement and Social Security Programs and the action  
12 shall be reviewed by the committee

13                               (b) Should a member have less than ~~forty-eight (48)~~  
14 the minimum thirty-six (36) calendar months of credited service, final  
15 average pay means the monthly average of pay to him during his total years of  
16 credited service.

17                               (ii) Any other provision to the contrary notwithstanding,  
18 if a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1,  
19 then the member's final average pay shall not be less than his monthly rate  
20 of pay at the time of separation from covered employment.

21       (B)(i) Final average pay for members of the State Police  
22 Retirement System means the average of the highest annual compensations paid a  
23 member during any period of sixty (60) calendar months of credited service  
24 with the Department of Arkansas State Police.

25                               (ii) Should a member have less than sixty (60) calendar  
26 months of credited service, final average pay means the monthly average of  
27 pay to him during his total years of credited service;"

28

29       SECTION 2. Subdivision (17) of Arkansas Code § 24-4-101 is hereby  
30 amended to read as follows:

31       "(17)(A)(i) Average compensation means the average of the highest  
32 annual compensations paid a member during any period of not less than three  
33 (3) years nor more than four (4) years of credited service with a public  
34 employer with the exact time period to be determined in accordance with the  
35 rules and regulations of the PERS Board of Trustees as is actuarially  
36 appropriate for the system. Prior to reducing the time period used to

1 determining average compensation, the Board of Trustees shall file relevant  
2 information concerning the actuarial appropriateness of the action with the  
3 Joint Committee on Retirement and Social Security Programs and the action  
4 shall be reviewed by the committee.

5 ~~\_\_\_\_\_ (ii) Such four-year average shall be the greatest of the~~  
6 ~~following:~~

7 ~~\_\_\_\_\_ (a) One-fourth (1/4) of the following: The total of~~  
8 ~~highest compensations paid during the three (3) completed fiscal years when~~  
9 ~~added to the total fourth highest compensation paid during the completed~~  
10 ~~fiscal year; or~~

11 ~~\_\_\_\_\_ (b) One-fourth (1/4) of the following: The total of~~  
12 ~~highest compensations paid during the three (3) completed fiscal years added~~  
13 ~~to the total of the compensation paid for the months of credited service~~  
14 ~~within the incomplete fiscal year in which the member retires, provided there~~  
15 ~~are some, and the total fourth highest compensation paid during the completed~~  
16 ~~fiscal year which has been multiplied by the number of months remaining in the~~  
17 ~~fiscal year in which retirement occurs and divided by twelve (12);~~

18 ~~\_\_\_\_\_ (iii)(ii) Should said member have less than four (4) years~~  
19 ~~the minimum three (3) years of credited service, average compensation means~~  
20 ~~the annual average compensations to him during his total years of credited~~  
21 ~~service.~~

22 (B) Any other provision to the contrary notwithstanding:

23 (i) If a member's rate of pay is set by Arkansas  
24 Constitution, Amendment 70, § 1, then the member's average compensation shall  
25 not be less than his rate of pay at the time of separation from covered  
26 employment;

27 (ii) If a member's rate of pay is set by Arkansas  
28 Constitution, Amendment 70, § 1, then the member's average compensation shall  
29 not be less than the member's highest rate of such pay; or

30 (iii) If a member served at any time in an office whose  
31 rate of pay is set by Arkansas Constitution, Amendment 70, § 1, and that  
32 member was a member of the General Assembly on December 31, 1978, then the  
33 member's average compensation shall not be less than the rate of pay  
34 currently set for the highest legislative office the member held;"

35

36 SECTION 3. Subdivision (16) of Arkansas Code § 24-7-202 is amended to

1 read as follows:

2           "(16)(A) Final average salary means, for a member who retires after  
3 June 30, ~~1995~~ 1997, the average of the annual salaries paid him during the  
4 period of not less than three (3) years nor more than five (5) years of  
5 credited service producing the highest annual average with the exact time  
6 period to be determined in accordance with the rules and regulations of the  
7 Teacher Retirement System's Board of Trustees as is actuarially appropriate  
8 for the system, subject to the provisions of subdivision (14)(A) of this  
9 section. Prior to reducing the time period used to determining final average  
10 salary, the Board of Trustees shall file relevant information concerning the  
11 actuarial appropriateness of the action with the Joint Committee on Retirement  
12 and Social Security Programs and the action shall be reviewed by the  
13 committee.

14           (B) Should a member have less than ~~five (5) years~~ the minimum of  
15 three (3) years of credited service, final average salary means the annual  
16 average of salaries paid him during his total years of credited service,  
17 subject to the provisions of subdivision (14)(A) of this section;"

18

19           SECTION 4. Board of Trustees of the Arkansas Teacher Retirement System  
20 is authorized by this act to raise the level of benefits to the current  
21 retirants and other beneficiaries of the Teacher Retirement System to a  
22 comparable level increase to match the increase in benefits that would accrue  
23 to active members as result of any reduction of the calculation of final  
24 average salary to not less than a three (3) year period nor more than the  
25 five (5) year period in accordance with any rules and regulations of the Board  
26 might promulgate. The amount of any increase for retirants and other  
27 beneficiaries shall also be determined in accordance with the rules and  
28 regulations of the Teacher Retirement System's Board of Trustees as is  
29 actuarially appropriate for the system.

30

31           SECTION 5. No benefit enhancement provided for by this act shall be  
32 implemented if it would cause the publicly supported retirement systems  
33 unfunded actuarial accrued liabilities to exceed a thirty (30) year  
34 amortization. No benefit enhancement provided for by this act shall be  
35 implemented by any publicly supported system which has unfunded actuarial  
36 accrued liabilities being amortized over a period exceeding thirty (30) years

1 until the unfunded actuarial accrued liability is reduced to a level less than  
2 the standards prescribed by Arkansas Code §§ 24-1-101, et seq.

3

4 SECTION 6. All provisions of this act of general and permanent nature  
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
6 Revision Commission shall incorporate the same in the Code.

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8 SECTION 7. If any provisions of this act or the application thereof to  
9 any person or circumstance is held invalid, the invalidity shall not affect  
10 other provisions or applications of the act which can be given effect without  
11 the invalid provisions or application, and to this end the provisions of this  
12 act are declared to be severable.

13

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

16

17 SECTION 9. Emergency. It is hereby found and determined by the Eighty-  
18 First General Assembly of the State of Arkansas that the Arkansas Public  
19 Employees' Retirement System and the Teacher Retirement System were created to  
20 benefit the public employees and the employees of the public educational  
21 institutions and school districts of Arkansas; that increases in both the  
22 retirement system's asset values allow for increases in systems members'  
23 benefits; that most retirements under the Public Employees' Retirement System  
24 and the Teacher Retirement System are effective on July 1 and any delay in the  
25 effective date of this act beyond July 1, 1997 will cause an undue hardship in  
26 administering this act. Therefore, in order to promote the sound fiscal  
27 administration of State government, an emergency is hereby declared to exist,  
28 and this act being necessary for the immediate preservation of the public  
29 peace, health, and safety, shall become effective July 1, 1997.

30

/s/Hopkins

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APPROVED: 4-07-97

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