

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  
4

As Engrossed: H3/20/97

## A Bill

ACT 1242 OF 1997  
HOUSE BILL 1706

5 By: Representative Courtway  
6  
7

### For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 24-10-602 TO EXTEND  
10 TEMPORARY ONE PERCENT (1%) BENEFIT UNDER THE LOCAL POLICE  
11 AND FIRE RETIREMENT SYSTEM TO DISABILITY RETIRANTS WHOSE  
12 AGE IS LESS THAN THE SOCIAL SECURITY MINIMUM AGE FOR  
13 RETIREMENT AND AGE SIXTY-TWO (62) YEARS; TO DECLARE AN  
14 EMERGENCY; AND FOR OTHER PURPOSES."  
15

### Subtitle

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17 "TO EXTEND TEMPORARY 1% BENEFIT UNDER  
18 THE LOCAL POLICE AND FIRE RETIREMENT  
19 SYSTEM TO DISABILITY RETIRANTS WHOSE AGE  
20 IS LESS THAN THE SOCIAL SECURITY MINIMUM  
21 AND AGE 62 YEARS."  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Subdivision (a)(1) of Arkansas Code § 24-10-602, regarding  
26 the Local Police and Fire Retirement System annuity programs, is amended to  
27 read as follows:

28 "(1) Benefit program 1.

29 (A)(i) For each year of paid service resulting from employment in  
30 a position not also covered by social security, two percent (2%) of his final  
31 average pay; plus

32 (ii) For each year of paid service resulting from  
33 employment in a position also covered by social security, one percent (1%) of  
34 his final average pay.

35 (B)(i) In addition, if the member is retiring, as provided in §  
36 24-10-604, § 24-10-605, ~~or~~ § 24-10-606, or § 24-10-607, and if the member's age

1 at retirement is less than social security's minimum age for an immediate  
 2 retirement benefit and age sixty-two (62) years, then the member shall receive  
 3 a temporary annuity equal to one percent (1%) of his final average pay for  
 4 each year of paid service resulting from employment in a position also covered  
 5 by social security. The provisions of this section that allow a member who  
 6 retires as provided in § 24-10-607, whose employment was also covered by  
 7 social security, and who is thereby eligible for a temporary annuity, shall be  
 8 applied retroactively to all persons who retired under those circumstances on  
 9 or after October 1, 1989.

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

- 12 (a) The member's death;
- 13 (b) His attainment of the social security minimum  
 14 age; or
- 15 (c) His attainment of age sixty-two (62) years; ~~and~~.

16 (iii) As a condition of awarding the temporary annuity for  
 17 members retiring under § 24-10-607, the board shall require the disabled  
 18 member to file any and all appropriate forms and pleadings with the Social  
 19 Security Administration, and pursue through the administrative process a  
 20 disability determination. The board shall condition the payment of the  
 21 temporary annuity that, in the event the disabled member is awarded disability  
 22 benefits under the federal Social Security Act, the temporary annuity shall  
 23 terminate and that the member shall reimburse the system an amount equal to  
 24 the after-tax benefits received from social security for the period the member  
 25 has received the temporary annuity. Provided, that the amount of any  
 26 reimbursement shall not exceed the total amount of the actual payments  
 27 received by the member prior to the award of the social security disability  
 28 benefits."

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30 SECTION 2. Subdivision (a)(2) of Arkansas Code § 24-10-602, regarding  
 31 the Local Police and Fire Retirement System annuity programs, is amended to  
 32 read as follows:

33 "(2) Benefit Program 2.

34 (A)(i) For each year of paid service resulting from employment in  
 35 a position not also covered by social security, two percent (2%) of his final  
 36 average pay; plus

1 (ii) For each year of paid service, rendered on or after  
2 the election date of Benefit Program 2, resulting from employment in a  
3 position also covered by social security, two percent (2%) of his final  
4 average pay.

5 (B) For each year of paid service, rendered before the election  
6 date of Benefit Program 2, resulting from employment in a position also  
7 covered by social security, one percent (1%) of his final average pay.

8 (C)(i) In addition, if the member is retiring, as provided in §  
9 24-10-604, § 24-10-605, ~~or~~ § 24-10-606, or § 24-10-607, and if the member's age  
10 at retirement is less than social security's minimum age for an immediate  
11 retirement benefit and age sixty-two (62) years, then the member shall receive  
12 a temporary annuity equal to one percent (1%) of his final average pay for  
13 each year of paid service, rendered before the election date of Benefit  
14 Program 2, resulting from employment in a position also covered by social  
15 security. The provisions of this section that allow a member who retires as  
16 provided in § 24-10-607, whose employment was also covered by social security,  
17 and who is thereby eligible for a temporary annuity, shall be applied  
18 retroactively to all persons who retired under those circumstances on or after  
19 October 1, 1989.

20 (ii) The temporary annuity shall terminate at the end of  
21 the calendar month in which the earliest of the following events occurs:

- 22 (a) The member's death;
- 23 (b) His attainment of the social security minimum  
24 age; or

- 25 (c) His attainment of age sixty-two (62) years.

26 (iii) As a condition of awarding the temporary annuity for  
27 members retiring under § 24-10-607, the board shall require the disabled  
28 member to file any and all appropriate forms and pleadings with the Social  
29 Security Administration, and pursue through the administrative process a  
30 disability determination. The board shall condition the payment of the  
31 temporary annuity that, in the event the disabled member is awarded disability  
32 benefits under the federal Social Security Act, the temporary annuity shall  
33 terminate and that the member shall reimburse the system an amount equal to  
34 the after-tax benefits received from social security for the period the member  
35 has received the temporary annuity. Provided, that the amount of any  
36 reimbursement shall not exceed the total amount of the actual payments

1 received by the member prior to the award of the social security disability  
2 benefits.

3 (D) A member who has paid service rendered before the election  
4 date of Benefit Program 2 resulting from employment in a position also covered  
5 by social security may have said paid service treated as though the paid  
6 service had been rendered after the election date of Benefit Program 2 by  
7 paying to the system, by a single contribution or by an increased rate of  
8 contributions, as approved by the board, the amounts which the member would  
9 have contributed under § 24-10-404 if said paid service had resulted from  
10 employment in a position not also covered by social security, together with  
11 regular interest to the date of payment;"

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13 SECTION 3. 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.

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17 SECTION 4. If any provisions of this act or the application thereof to  
18 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.

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

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26 SECTION 6. Emergency. It is hereby found and determined by the Eighty-  
27 First General Assembly of the State of Arkansas that the current Arkansas  
28 Local Police and Fire Retirement System law prevents disabled police and fire  
29 fighters from receiving the additional benefit of the social security benefits  
30 when they become disabled; that officers and firemen who earn eligibility for  
31 both of these benefits should be able to enjoy the coverage under both  
32 programs; and that the financial condition of some disabled police officers  
33 will be enhanced with this change in law becoming effective immediately.

34 Therefore, in order to aid the financial condition of disabled public

35 servants, an emergency is hereby declared to exist, and this act being

36 necessary for the immediate preservation of the public peace, health, and

1 safety, shall become effective on the date of its approval by the Governor.  
2 If the bill is neither approved or vetoed by the Governor, it shall become  
3 effective on the expiration of the period of time during which the Governor  
4 may veto the bill. If the bill is vetoed by the Governor and the veto is  
5 overridden, it shall become effective on the date the last house overrides the  
6 veto.

7 /s/Rep. Courtway

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9 APPROVED: 4-09-97

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