

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

SENATE BILL 48

5 By: Senator B. Sample  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE ARKANSAS TEACHER RETIREMENT  
9 SYSTEM DISABILITY RETIREMENT BENEFIT TO REQUIRE PROOF  
10 OF SOCIAL SECURITY DISABILITY WITHIN THREE YEARS; TO  
11 MAINTAIN THE INTEGRITY OF THE SYSTEM; TO ENSURE THE  
12 FAIRNESS OF THE DISABILITY DETERMINATION PROCESS; TO  
13 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
14

## Subtitle

15  
16 TO ENSURE COMPLIANCE WITH THE INTENT OF  
17 THE LAW CONCERNING A DISABILITY  
18 RETIREMENT BENEFIT PAID BY THE ARKANSAS  
19 TEACHER RETIREMENT SYSTEM; TO ALLOW FOR A  
20 SWIFT DISABILITY RETIREMENT; AND TO  
21 DECLARE AN EMERGENCY.  
22  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code § 24-7-704 is amended to read as follows:  
28 24-7-704. Disability retirement.

29 (a)(1)(A) An active member in employer service with five (5) or more  
30 years of actual service who becomes totally and permanently physically or  
31 mentally incapacitated for his or her job duties as the result of a personal  
32 injury or disease may be retired by the Board of Trustees of the Arkansas  
33 Teacher Retirement System upon a determination of disability consistent with  
34 this section and approval of a written application filed with the Arkansas  
35 Teacher Retirement System.

36 (B) An active member who is eligible for retirement under



1 § 24-7-701 is not eligible for disability retirement.

2 (C)(i) An active member who has met the eligibility  
3 requirement of subdivision (a)(1)(A) of this section shall meet the  
4 termination of covered employment requirements under § 24-7-502 to be  
5 eligible for disability retirement benefits.

6 (ii) For eligibility under this section, a member is  
7 considered active for an additional fiscal year following the last fiscal  
8 year that the member renders actual service to a covered employer and obtains  
9 at least one-fourth (1/4) year of service credit.

10 (iii) Service credit used in calculating any  
11 benefits paid under this section means days of service, including paid sick  
12 leave covered by the employer.

13 (D) The member is qualified to receive disability  
14 retirement benefits if by majority opinion the medical committee reports to  
15 the board in writing that its review of the member's application and  
16 accompanying documentation finds:

17 (i) The member is physically or mentally  
18 incapacitated;

19 (ii) The member exhibits symptoms of physical or  
20 mental incapacitation while the member is employed by a system employer as an  
21 active member;

22 (iii) The member is unable to perform his or her  
23 current work duties;

24 (iv) The incapacity will most likely be permanent;  
25 and

26 (v) The member should be retired.

27 (2) The disability retirement is effective from the date the  
28 written application is filed with the system and the member is no longer  
29 employed by an employer.

30 (3)(A) A member shall submit a complete disability application  
31 with the supporting documentation required by the system application within  
32 six (6) calendar months of the effective date of benefits.

33 (B) An application is void when a complete application and  
34 supporting documentation are not submitted to the system within six (6)  
35 calendar months of the effective date of benefits, unless an extension has  
36 been granted by the system.

~~(3)~~ (4) To receive disability retirement, a member shall not:

(A) Be employed by a system-covered employer; or

(B) Be indirectly employed by or through an independent contractor, limited liability company, partnership, corporation, or legal entity that is employed by a system-covered employer if the member has substantial control of the employer-employee relationship, including without limitation the ability to negotiate rates of pay with the system-covered employer or assign work and work hours to the member.

(b)(1) Upon disability retirement as provided in subsection (a) of this section, a ~~member~~ retirant shall receive an annuity provided for in § 24-7-705 and shall have the right to elect an option provided for in § 24-7-706.

(2) ~~His or her~~ In addition to the requirements of this subdivision (b), the member's disability retirement ~~shall be~~ is subject to the provisions of subsections (c) and (d) of this section. ~~and to the provisions of § 24-7-708.~~

(3)(A) A member or retirant may continue to receive a disability retirement benefit under this section when the member or retirant provides the system with a Social Security Administration determination letter finding the member or retirant is disabled within thirty-six (36) months from:

(i) July 1, 2015, when the member's or retirant's disability retirement effective date is before July 1, 2015; or

(ii) The effective date of disability retirement when the member's or retirant's disability retirement effective date is on or after July 1, 2015.

(B) The member or retirant may apply for an extension of the thirty-six (36) month deadline when:

(i) The member or retirant can demonstrate through an administrative or judicial confirmation of an active Social Security Administration disability claim that the claim is still under review and is a part of a continuous claim without voluntary dismissal or withdrawal; and

(ii) The Social Security Administration disability claim was filed and remained active for at least twenty-four (24) months prior to the thirty-six (36) month deadline under subdivision (a)(3)(B) of this section.

(C) The system will terminate disability retirement

1 benefits to a member or retirant when the member or retirant fails to:

2 (i) Provide a Social Security Administration  
3 determination letter finding that the member or retirant is disabled to the  
4 system within the thirty-six (36) month period under subdivision (a)(3)(A) of  
5 this section; or

6 (ii) Receive an extension of time under subdivision  
7 (a)(3)(B) of this section to provide the system with a letter from the Social  
8 Security Administration finding that the member or retirant is disabled.

9 (4) The requirements under subsection (b)(3) of this section  
10 shall not apply to a member or retirant who is fifty-seven (57) years of age  
11 or older before July 1, 2015.

12 (c)(1) At least one (1) time each year during the first five (5) years  
13 following a member's retirement on account of disability, and at least one  
14 (1) time in each three-year period thereafter, the board may require any  
15 disability retirant who has not attained sixty (60) years of age to undergo a  
16 medical examination to be made by or under the direction of the medical  
17 committee.

18 (2) If the retirant refuses to submit to the medical examination  
19 in any period, his or her disability annuity may be suspended by the board  
20 until his or her withdrawal of his or her refusal.

21 (3) If his or her refusal continues for one (1) year, all his or  
22 her rights in and to a disability-annuity may be revoked by the board.

23 (4) If the medical committee, upon the medical examination of  
24 the retirant, ~~the medical committee or the system staff on behalf of the~~  
25 medical committee, reports to the board with cause that the retirant is  
26 physically and mentally able and capable of resuming his or her duty in the  
27 position held by him or her at the time of disability retirement, then his or  
28 her disability retirement shall terminate.

29 (5)(A) If a disability retirant returns to covered employment  
30 before attaining sixty (60) years of age, his or her disability retirement  
31 shall terminate.

32 (B) If a disability retirant returns to covered employment  
33 after attaining sixty (60) years of age and is otherwise eligible for  
34 retirement under § 24-7-707, the retirant shall be treated as if he or she  
35 retired under § 24-7-701.

36 (6)(A) If a disability retirant under sixty (60) years of age

1 returns to covered employment, he or she shall immediately again become an  
2 active member of the system, and his or her credited service at the time of  
3 his or her disability retirement shall be restored to his or her credit in  
4 the members' deposit account.

5 (B) The retirant's disability retirement and his or her  
6 accumulated contributions shall be treated as if he or she had returned to  
7 service on the date of the full-time employment.

8 (7) A disability retirant shall not earn or be given service  
9 credit for the period he or she was receiving a disability retirement  
10 annuity.

11 (d)(1) A member has six (6) calendar months from the date of  
12 application for disability retirement to submit a completed application and  
13 accompanying documentation.

14 (2) If a member does not provide all the accompanying  
15 documentation requested by the system within the six (6) calendar months, the  
16 system will submit the application to the medical committee for review as  
17 complete or withdraw the application at the request of the member unless an  
18 extension is granted by the system.

19  
20 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
21 General Assembly of the State of Arkansas that certain provisions of the  
22 Arkansas Teacher Retirement System Act are in need of revising and updating  
23 to maintain the teacher retirement laws in conformance with sound public  
24 pension policy; that the Arkansas Teacher Retirement System, a state agency  
25 created by the General Assembly for the purpose of providing retirement  
26 benefits to school employees of the state, operates on a fiscal year of July  
27 1 to June 30; that having a July 1, 2015, effective date is necessary to  
28 allow the provisions within this act to begin on the first day of the fiscal  
29 year to provide proper administration of the procedures herein; that such  
30 revisions and updating are of great importance for actuarial purposes and to  
31 protect the benefits to members of the Arkansas Teacher Retirement System;  
32 and that this act is immediately necessary in order to maintain an orderly  
33 system of benefits for the members of the Arkansas Teacher Retirement System.  
34 Therefore, an emergency is declared to exist and this act being necessary for  
35 the preservation of the public peace, health, and safety shall become  
36 effective on July 1, 2015. APPROVED: 02/27/2015