

1 State of Arkansas As Engrossed: H3/2/21 H3/16/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1274

4

5 By: Representative S. Smith

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For An Act To Be Entitled

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AN ACT CONCERNING THE MEMBERSHIP OF VOLUNTEER

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FIREFIGHTERS AND VOLUNTEER POLICE OFFICERS IN THE

10

ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AND FOR

11

OTHER PURPOSES.

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Subtitle

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CONCERNING THE MEMBERSHIP OF VOLUNTEER

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FIREFIGHTERS AND VOLUNTEER POLICE

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OFFICERS IN THE ARKANSAS PUBLIC

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EMPLOYEES' RETIREMENT SYSTEM.

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

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23 SECTION 1. Arkansas Code § 24-4-101(17)(B), concerning the definition
24 of "employees" as applicable to the Arkansas Public Employees' Retirement
25 System, is amended to read as follows:

26 (B) Excepting members of the General Assembly and those persons
27 participating in a local firemen's relief and pension fund because of their
28 status as volunteer firefighters, those persons who otherwise meet the
29 definition of employees in positions covered by the Arkansas Public
30 Employees' Retirement System while also serving as volunteer firefighters or
31 volunteer police officers in a separate position covered by the Arkansas
32 Local Police and Fire Retirement System, and those persons who have dual
33 full-time employment in separate positions covered by the Arkansas Public
34 Employees' Retirement System and the Arkansas Local Police and Fire
35 Retirement System respectively, the term "employees" shall not include
36 persons who are members of any other retirement system, excepting Social



1 Security, which retirement system is supported by state funds or is
2 authorized by the laws of the state. In addition, the term "employees"
3 specifically shall not include the following:

4 (i) Persons in the employ of the Division of
5 Arkansas State Police who are members of the State Police Retirement System;

6 (ii) Persons in the employ of the Department of
7 Education or the Arkansas Teacher Retirement System, except as otherwise
8 provided by law;

9 (iii) Persons in the employ of the University of
10 Arkansas or any other state-supported institution of higher learning, except
11 as otherwise provided by law;

12 (iv) Justices of the Supreme Court, judges of
13 circuit courts, or judges of chancery courts;

14 (v) Persons in the employ of the General Assembly
15 who are employed on a less than full-time regular annual salary basis, except
16 that any person who has served or who shall serve during at least six (6)
17 legislative sessions as Chief Clerk of the House of Representatives and who
18 has served in the employ of the General Assembly during at least twelve (12)
19 previous legislative sessions shall be eligible to receive credited service
20 in the Arkansas Public Employees' Retirement System for any period of
21 employment with the General Assembly since July 1, 1957, but only if the
22 employee is, or was, an active member of the system with at least ten (10)
23 years of credited service and only if the employee pays or causes to be paid
24 all employee contributions at the rate and on the compensation that would
25 have been paid had he or she been a member of the system during those periods
26 of time, all employer contributions based on the employer normal cost from
27 the most recently completed regular annual actuarial valuation and the
28 compensation that would have been paid had he or she been a member during
29 those periods of time, and regular interest on the employee and employer
30 contributions computed from the date of service to the date the payment is
31 received by the system;

32 (vi) Persons who are in the employ of the Arkansas
33 Department of Transportation;

34 (vii) Persons employed with the intent of working
35 less than ninety (90) calendar days;

36 (viii) Persons who are employed for a period of more

1 than ninety (90) consecutive calendar days but who do not qualify as full-
2 time employees shall be excluded from membership. A person shall be
3 considered a full-time employee if that person works at least eighty (80)
4 hours per month during a period of ninety (90) consecutive calendar days;

5 (ix)(a)(1) Persons whose rate of pay does not
6 constitute employment that is substantially gainful shall be excluded from
7 membership.

8 (2) A rate of pay less than the federal
9 minimum wage for the year shall not be considered employment that is
10 substantially gainful.

11 (b) A tipped food service employee of the
12 Department of Parks, Heritage, and Tourism who is guaranteed the prevailing
13 minimum wage by the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et
14 seq., as it existed on January 1, 2009, is in employment that is
15 substantially gainful.

16 (c) The employee and employer contributions
17 for a tipped food service employee of the Department of Parks, Heritage, and
18 Tourism is computed based on the tipped food service employee's hourly rate
19 of pay;

20 (x) Persons who are first employed or those who are
21 reemployed as participants on or after July 1, 1979, under the Comprehensive
22 Employment and Training Act [repealed]. However, those persons participating
23 in the program prior to July 1, 1979, shall continue to be members of the
24 Arkansas Public Employees' Retirement System while employed by a
25 participating public employer;

26 (xi) Any person previously denied coverage by the
27 Arkansas Public Employees' Retirement System because that person was eligible
28 for membership in but did not participate in another retirement system that
29 is supported by state funds or that is authorized by the laws of the state,
30 shall become a member of the Arkansas Public Employees' Retirement System
31 from the date of July 1, 1999, if in an otherwise eligible position due to
32 employment with a participating employer. Any person previously denied
33 coverage by the Arkansas Public Employees' Retirement System because that
34 person was eligible for or receiving benefits from another retirement system
35 supported by state funds or that is authorized by the laws of the state shall
36 become a member of the Arkansas Public Employees' Retirement System from the

1 date of July 1, 1999, if in an otherwise eligible position due to employment
2 with a participating employer. That person may receive, at the employee's
3 option, credit for service rendered to a participating public employer before
4 that date, subject to the following conditions:

5 (a) The member is a participating employee
6 covered under the Arkansas Public Employees' Retirement System at the time of
7 the purchase;

8 (b) The member furnishes proof in a form
9 required by the Arkansas Public Employees' Retirement System of the service
10 and compensation received;

11 (c) The member pays or causes to be paid all
12 employee contributions at the rate and on the compensation that would have
13 been paid had he or she been a member during that time, all employer
14 contributions based on the employer normal cost from the most recently
15 completed regular annual actuarial valuation and the compensation that would
16 have been paid had he or she been a member during that time, and regular
17 interest on the employee and employer contributions. The interest shall be
18 computed from the date the service was rendered to the date the payment is
19 received by the Arkansas Public Employees' Retirement System. The member may
20 purchase all of the service or any portion thereof in multiples of one (1)
21 year; and

22 (d) The payment of funds shall be made in one
23 (1) lump sum;

24 (xii) The surviving spouse of any person deemed
25 erroneously enrolled due to receipt of a benefit from another retirement
26 system supported by state funds or that is authorized by the laws of the
27 state but whose service had not been refunded at or before the date of death
28 shall be eligible to receive a benefit under the provisions of § 24-4-608,
29 provided that the person was an employee of the participating employer on the
30 date of death. The monthly annuity shall be payable on the first day of the
31 month following the month of application and shall be retroactive to the date
32 the benefit would have been otherwise payable as provided for in § 24-4-608;
33 and

34 (xiii) Any person previously denied coverage by the
35 Arkansas Public Employees' Retirement System because that person was employed
36 in dual full-time positions covered by the Arkansas Public Employees'

1 Retirement System and the Arkansas Local Police and Fire Retirement System,
2 respectively, shall become a member of both systems from and after the date
3 of July 1, 2001, if in otherwise eligible positions with participating
4 employers. The person may receive at the employee's option credit for service
5 rendered to a participating public employer before that date, subject to the
6 following conditions:

7 (a) The member is a participating employee
8 covered under the Arkansas Public Employees' Retirement System at the time of
9 the purchase;

10 (b) The member furnishes proof in a form
11 required by the Arkansas Public Employees' Retirement System of the service
12 and compensation received;

13 (c) The member pays or causes to be paid all
14 employee contributions at the rate and on the compensation that would have
15 been paid had the person been a member during that time, all employer
16 contributions based on the employer normal cost from the most recently
17 completed regular annual actuarial valuation and the compensation that would
18 have been paid had the person been a member during that time, and regular
19 interest on the employee and employer contributions. The interest shall be
20 computed from the date the service was rendered to the date the payment is
21 received by the Arkansas Public Employees' Retirement System. The member may
22 purchase all of the service or any portion thereof in multiples of one (1)
23 year; and

24 (d) The payment of funds shall be made in one
25 (1) lump sum.

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27 /s/S. Smith
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30 **APPROVED: 4/13/21**
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