

Act 653 of the 1989 Regular Session.

Act 653

HB1487

By: Representative Maddox

"AN ACT TO AMEND ARKANSAS CODE ANNOTATED _24-7-202 TO INCLUDE IN THE MEMBERSHIP OF THE TEACHER RETIREMENT SYSTEM ANY PERSON EMPLOYED BY A SCHOOL DISTRICT ON OR AFTER JULY 1, 1989; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code Annotated 24-7-202 is amended to read as follows:

"24-7-202. Definitions. As used in this act, unless the context otherwise requires:

- (1) "System" means the Arkansas Teacher Retirement System;
- (2) "Board" means the board of trustees of the system;
- (3) "Trustee" means a member of the board;
- (4) "State" means the State of Arkansas;
- (5) "School" means any public school under the control of school authorities of the state and supported wholly or partially by state moneys;
- (6) "Employer" means any school or other educational agency participating in the system.
- (7) "Teacher" means, beginning July 1, 1989, any person employed by a school for the purpose of giving instructions and whose employment requires state certification. In any case of question as to who is a teacher, the board shall have the final power to decide the question.
- (8) "Employment with a school" means, beginning July 1, 1989:
 - (A) Employment with any of the following institutions or agencies: State School for the Blind; State School for the Deaf; Arkansas Activities Association; a local school board; chief county school officers; State Board of Education; regional educational cooperatives; State Surplus Property Program; and the Teacher Retirement System;
 - (B) Employment in a position with any of the following organizations: Juvenile training schools, Arkansas Educational Commission; and area vocational-technical schools, except those employees of area vocational schools and the Vocational and Technical Division of the Department of Education who have elected to participate in an alternate retirement plan established by __24-7-901--24-7-908; and
 - (C) Employment by the Arkansas Rehabilitation Service or the Rehabilitation Services for the Blind, except those employees who have elected to participate in the noncontributory plan of the Public Employees' Retirement System.
- (9) "Member" means any person included in the membership of the system;
- (10) "Active member" means any member rendering service which is covered by the system;
- (11) "Inactive member" means any former active member who is no longer rendering service which is covered by the system and who is not a retirant;
- (12) "Service" means employment rendered as an employee;
- (13) "Credited service" means service which is creditable as service by the system;
- (14) "Salary" means the recurring remuneration paid an employee for personal services rendered by the employee in a position covered by the

system. Should a portion of an employee's remuneration be paid other than in cash, the cash value of the remuneration shall be established by the system in an amount not to exceed the amount the employee is required to report for federal income tax purposes. In determining salary, no consideration shall be given to any nonrecurring single sum payment paid by an employer, any employer contributions to any employee benefit plan, except cafeteria plans as defined in A.C.A. 21-5-901, or any other unusual or nonrecurring remuneration. Money which is in lieu of remuneration and which is used by an employer to purchase a qualified tax-sheltered annuity or a life insurance policy for an employee shall be considered as salary for system purposes. An employee who is receiving remuneration under both a regular contract and a purchased contract or under both a regular contract and a contract won through litigation shall have only the greater of the two (2) amounts considered as salary for system purposes. Should an employee make a charitable donation, or return any part of his salary, to his employer, the amount of his recurring remuneration otherwise usable as salary shall be reduced by such amount or amounts to arrive at his salary for system purposes. In case of any dispute concerning an employee's salary for system purposes, the system shall have the power to settle the dispute;

(15) "Covered salary" means that portion, or all, of an employee's salary which is covered by the system;

(16) "Final average salary" means, for a member who retires after June 30, 1983, the average of the annual salaries paid him during the five (5) years of credited service producing the highest annual average. Should a member have less than five (5) years of credited service, "final average salary" means the annual average of salaries paid him during his total years of credited service;

(17) "Regular interest" means such rate or rates per annum, compounded annually, as the board shall adopt from time to time;

(18) "Accumulated contributions: means the total of all amounts contributed by a member and standing to his credit in his individual account in the members deposit account, together with regular interest credited thereon;

(19) "Benefit program" means a schedule of benefits or benefit formulas from which the amounts of system benefits can be determined;

(20) "Retirant" means a former member receiving a system annuity by reason of having been a member;

(21) "Beneficiary" means any person who is receiving or is designated to receive a system benefit by reason of the system membership of another person;

(22) "Child of a member" means either a natural child of the member, a child that has been made a child of the member by applicable court action before the death of the member, or a child under the permanent care of the member at time of the latter's death, which permanent care status shall be determined by evidence satisfactory to the board;

(23) "Annuity" means an annual amount payable by the system in equal monthly installments throughout the life of a person or for a temporary period;

(24) "Reserve" means the present value of all payments to be made on account of any system benefit based upon such reasonable tables of experience and regular interest as the board shall adopt from time to time;

(25) "Actuarial equivalent" means a benefit of equal reserve value;

(26) "Social security" means the federal social security old age, survivors and disability insurance program;

(27) "Retires" means the beginning of annuity payments to a retirant;

(28) "Employee" means any person employed by a school in a regular or special position;

(29) "Non-teacher" means any employee except a teacher."

SECTION 2. Arkansas Code Annotated _24-7-501 is amended to read as follows:

"24-7-501. Generally. (a) The membership of the system shall include the following persons:

(1) All teachers who last began service before July 1, 1971, in accordance with provisions in force before July 1, 1971; and

(2) All teachers who last began service on or after July 1, 1971, and whose service is not covered by another retirement plan similar in purpose to the system, except social security.

(3) All non-teachers who begin non-teaching service on or after July 1, 1989, and whose non-teaching service is not covered by another retirement plan similar in purpose to the system, except social security. All non-teachers who began non-teaching service before July 1, 1989, whose non-teaching service is covered or coverable by the Arkansas Public Employees Retirement System shall continue to be covered by the Arkansas Public Employees Retirement System for all non-teaching service, both past and future. These non-teachers who began service before July 1, 1989, shall be considered members of a closed system to be administered by the Arkansas Public Employees Retirement System. The employer contribution rate for this closed system shall be established at a rate necessary to fund all present and future liabilities until such time as there are no longer members, retirants or deferred annuitants.

(b) (1) Any part-time employee or foreign exchange teacher, as defined by the board from time to time, may exclude himself from membership by filing with the employer a written exclusion on a form furnished by the board.

(2) The employer shall certify annually those employees who chose to exclude themselves from membership in the system during that year.

(3) A person who has excluded himself from membership as provided in this subsection may rescind the exclusion by filing with the employer a written rescission on a form furnished by the board.

(4) The rescission shall be effective July 1 of the fiscal year in which it is exercised.

(5) At the direction of the person, the membership may be prospective only, or both prospective and retroactive.

(6) For the membership to be retroactive, the member must pay to the system both the member contributions and the employer contributions which would have been paid to the system had there been no exclusion, plus regular interest from the dates the contributions would normally have been received by the system to the date of actual payment.

(c) In any case of question as to the system membership status of any person, the board shall have the final power to decide the question.

(d) Membership in the system shall be a condition of employment in accordance with subsections (a) through (c) of this section and shall not be subject to election by individual employees except as provided in subdivisions (b) (1) and (2) of this section."

SECTION 3. Arkansas Code Annotated _24-7-601 is amended to read as follows:

"24-7-601. Generally. (a) By rules and regulations, the board shall fix and determine the number of years, and fraction thereof, of service to be credited each member for his employment as an employee.

(b) In no case shall fewer than one hundred twenty (120) days of service rendered in any fiscal school year be credited as one (1) year of service, nor shall more than one (1) year of service be credited any member for all service rendered by him in any one (1) fiscal school year, nor shall any credited service be given for service as a consultant.

(c) Days of absence from service because of sickness shall be considered as service if the days are paid sick leave; days of paid sick leave shall not be considered service if the payment is for unused sick leave.

(d) No credited service may be granted by the board for service rendered before July 1, 1937.

(e) (1) The system is a reciprocal system under the provisions of ___24-2-401 - 24-2-405.

(2) In establishing eligibility for a benefit from the system, the credited service under all reciprocal systems shall be totaled and the total credited service shall be used in determining eligibility for a system benefit.

(3) In determining the amount of a benefit from this system, there shall be used only the credited service under this system and the benefit formula of this system.

(4) The final average compensation used shall be that of the reciprocal system which furnishes the highest final salary at the time of retirement.

(5) Wherever this system provides a benefit amount which is not dependent on length of credited service, the benefit amount shall be reduced to the proportion that system credited service bears to total reciprocal system credited service.

(f) In any case of question as to the service credit of any person, the board shall have the final power to decide the question."

SECTION 4. Arkansas Code Annotated _24-7-602 is amended to read as follows:

"24-7-602. Military service. (a) In the event an active member enters the armed forces of the United States during any period of compulsory military service, the armed service actually required of him shall be credited him as service under this subchapter, but only if he again becomes an employee within a period of two (2) years after he is relieved from military duty and only if he returns to the system the amount, if any, he may have received therefrom at the time he entered or while in the armed service, together with regular interest from the date of withdrawal to the date of repayment.

(b) During the period of armed service and until his return as an employee, his contributions to the system shall be suspended, and any balance remaining to his credit in the members deposit account shall be accumulated at regular interest.

(c) A person who entered the armed forces and who was not an active member at the time of entry shall have the armed service actually required of him credited as service under this subchapter if he satisfies all of the following conditions:

(1) He completes ten (10) years of credited service for service in Arkansas; and

(2) The armed service is not credited as service under any other retirement plan except social security. Receipt of a disability pension from the federal military system shall not be considered as having service credit with another retirement plan.

(d) If mandated by federal law, armed service not otherwise creditable under the provisions of this section shall be creditable, provided the member pays both the employee and employer contributions required by the system, plus regular interest from the date of discharge from active duty until paid in full.

(e) In no event shall a person be credited with a total of more than five (5) years of armed service.

(f) In any case of doubt as to the period of the armed service to be credited a member, the board shall have the power to determine the period."

SECTION 5. Arkansas Code Annotated _24-7-605 is amended to read as follows:

"24-7-605. Service in General Assembly. (a)(1) Any member of the Senate or House of Representatives of the Arkansas General Assembly who is a member of the system shall be eligible, upon application, to receive credited service in the system for his full contract salary in the event that a cut in pay is required by the school district during his attendance at regular or extraordinary sessions of the General Assembly or during his attendance at meetings of regular or special committees of the General Assembly during the interim. These meetings shall include, but not be limited to, the Legislative Council, the Legislative Joint Auditing Committee, the Joint Interim Committees, and special legislative committees. The member shall receive credited service upon payment by him of the necessary member contribution and upon appropriation from the Public School Fund of the necessary employer contribution for the amount of the salary reduction during periods of attending regular or extraordinary sessions of the General Assembly or sessions of legislative committees.

(2) The amount of credited service shall not exceed the contract salary of the member for the school year contract period.

(3) Any member of the House of Representatives or the Senate currently serving in the General Assembly or the legislative committees for any year prior to July 6, 1977, not to exceed five (5) years, may make application for and receive credited service in the system for his full contract salary as an employee with respect to any reduction therein during attendance at regular or extraordinary sessions of the General Assembly or sessions of legislative committees in which he served. This shall be done only if he pays to the system the member contribution required by law, and if appropriation is made from the Public School Fund for the necessary employer contribution required by law for that portion of his contract salary for any period for which he suffered a reduction in pay during legislative service.

(b)(1) Any member of the Senate or House of Representatives of the Arkansas General Assembly who is an employee and is a member of the system shall be eligible, upon application, to receive credited service in the system for his full contract salary in the event that either the member of the school district decides it is in the best interest of the school district for the member to take a leave of absence for up to one (1) full calendar year at a time to attend to his duties as a General Assembly member.

(2) Service shall be credited upon payment by the member of the necessary member contribution and the necessary employer contribution for the amount of the member's contract salary during periods of attending regular or extraordinary sessions of the General Assembly or sessions of legislative committees.

(3) The amount of credited service shall not exceed the member's contract salary for the school year contract period."

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

SECTION 7. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: March 17, 1989
