

ARKANSAS SENATE
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of Senate Bill No. 191

"TO MAKE TECHNICAL CORRECTIONS TO ARKANSAS CODE TITLE 24, CHAPTER 7."

Amendment No. 1 to Senate Bill No. 191.

Amend Senate Bill No. 191 as originally introduced:

Page 1, delete all the language after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 24-7-202(1)-(14), concerning definitions in the Arkansas Teacher Retirement System Act are amended to read as follows:

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

(2) "Active member" means any member rendering service to an employer that is covered by the Arkansas Teacher Retirement System;

(3) "Actual service" means service rendered in a position covered by the Arkansas Teacher Retirement System and does not include purchased or free credited service or reciprocal service;

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

(5) "Annuity" means an ~~annual~~ amount payable to a retirant each fiscal year by the Arkansas Teacher Retirement System in equal monthly installments ~~throughout the life of a person or for a temporary period;~~

(6) "Beneficiary" means any person who is receiving or is designated by a member to receive an Arkansas Teacher Retirement System benefit;

(7) "Benefit program" means a schedule of benefits or benefit formulas from which the amounts of Arkansas Teacher Retirement System benefits can be determined;

(8) "Board" means the Board of Trustees of the Arkansas Teacher Retirement System;

(9) "Child of a member" means either a natural child of the member, ~~or a child that~~ who 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 the time of the latter's death, which permanent care status shall be determined by evidence satisfactory to the board;~~

(10) "Credited service" means service which is creditable as



service by the Arkansas Teacher Retirement System;

(11) "Deferred member" means an inactive member who is eligible to receive benefits under § 24-7-707;

(12) "Employee" means any person employed by an employer covered by the Arkansas Teacher Retirement System;

(13) "Employer" means any public school, or other public educational agency, or other eligible employer participating in the Arkansas Teacher Retirement System;

(14) "Employment with a school" means, beginning July 1, 1993:

(A) Employment with any of the following institutions or agencies:

(i) Arkansas School for the Blind;

(ii) Arkansas School for the Deaf;

(iii) Arkansas Activities Association;

~~(iv) A local school board;~~

~~(v)-(iv)~~ State Board of Education;

~~(vi)-(v)~~ Regional education service cooperatives; and

~~(vii)-(vi)~~ Arkansas Teacher Retirement System;

(B) Employment in a position with any of the following organizations:

~~(i) Juvenile training schools;~~

~~(ii)-(i)~~ The Arkansas Educational Television

Commission; and

~~(iii)-(ii)~~ Area vocational-technical schools, except those employees of area vocational schools and the Department of Workforce Education who have elected to participate in an alternate retirement plan established by §§ 24-7-901 and 24-7-903 - 24-7-908;

(C) Employment by the Arkansas Rehabilitation Services of the Department of Workforce Education ~~or the Division of State Services for the Blind of the Department of Human Services~~, except those employees who have elected to participate in ~~the noncontributory plan of~~ the Arkansas Public Employees' Retirement System;

(D)(i) Employment in a position with an educationally related agency if the employee is or has been a member of the Arkansas Teacher Retirement System for a minimum of five (5) years and elects to become or remain a member of the Arkansas Teacher Retirement System. The employment shall be related to:

(a) Training public school employees or school board members;

(b) Teaching public school students; or

(c) Adult education programs.

(ii) The employment shall not be related in any manner to private schools.

(iii) Each educationally related agency shall be:

(a) Approved according to rules and regulations established by the board;

(b) Considered an employer under subdivision (13) of this section; and

(c) Responsible for all required employer contributions;

(E)(i) Employment in an enterprise privatized by a public school district.

(ii) If a public school district should privatize any of its services, any individual who is or was employed by the school district in one (1) of those services and who is or has been a member of the Arkansas Teacher Retirement System may elect to remain a member if:

(a) The board determines pursuant to rules ~~and regulations~~ adopted by the board that the participation of these employees in the Arkansas Teacher Retirement System will not in any way impair any legal status of the Arkansas Teacher Retirement System, including, ~~but not limited to~~ without limitation, its status as a governmental plan pursuant to the federal Internal Revenue Code and the Employee Retirement Income Security Act of 1974, or have a substantial adverse impact on the actuarial soundness of the Arkansas Teacher Retirement System; and

(b) The private provider assumes all responsibility for the required employer contributions and any fees for obtaining Internal Revenue rulings or Employee Retirement Income Security Act of 1974 opinions; and

(F)(i) Employment in positions with an educational nonprofit corporation licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services, if:

(a) The nonprofit corporation has elected to participate in the Arkansas Teacher Retirement System; and

(b) The board determines pursuant to rules ~~and regulations~~ adopted by the board that the participation of the educational nonprofit corporation will not in any way impair any legal status of the Arkansas Teacher Retirement System, including, ~~but not limited to~~ without limitation, its status as a governmental plan pursuant to the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974, or have a substantial adverse impact on the actuarial soundness of the Arkansas Teacher Retirement System.

(ii) The employment shall be related to:

(a) Training public school employees or school board members;

(b) Teaching public school students; or

(c) Adult education programs.

(iii) The employment shall not be related in any manner to private schools.

(iv) Each educational nonprofit corporation shall be:

(a) Approved according to rules and regulations established by the board;

(b) Considered an employer under subdivision (13) of this section; and

(c) Responsible for all required employer contributions and any fees for obtaining Internal Revenue rulings or Employee Retirement Income Security Act of 1974 opinions;

SECTION 2. Arkansas Code § 24-7-205 is amended to read as follows:

24-7-205. Adjustment of payment to correct error or recoup overpayment.

(a) Should any change or error in the records result in ~~any person's~~ a member, a retirant, an annuitant, a beneficiary or an alternate payee receiving benefits or other distributions from the Arkansas Teacher Retirement System more or less than he or she would have been entitled to

receive had the records been correct, the ~~Board of Trustees of the Arkansas Teacher Retirement System~~ system or its designee shall correct the error and, as far as practicable, shall adjust the benefit, annuity, or refund payable to the person, his or her beneficiary, or his or her estate in the manner that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid.

(b)(1) If a person who is a member, ~~former member, contributor, former contributor,~~ a retirant, an annuitant, a beneficiary, or an alternate payee under a qualified domestic relations order ~~pursuant to~~ under § 9-18-101 et seq. is paid any benefit or ~~payment~~ other distribution by the system to which the person is not entitled, the ~~board~~ system or its designee, ~~pursuant to~~ under rules adopted by the ~~board~~ Board of Trustees of the Arkansas Teacher Retirement System, may:

(A) Withhold the amount due from any benefit or payment due the person, his or her beneficiary, or his or her estate; or

(B) Collect the amount in any other manner provided by law.

(2) Withheld amounts shall be used to effect repayment until the total amount withheld equals all amounts payable by the person to the system.

(3)(A) ~~Prior to~~ Before making an adjustment of benefits or pursuing any other collection action under this section, the ~~board~~ system or its designee shall provide notice to the person who will receive the adjustment.

(B) The notice shall describe the process for disputing an adjustment of benefits.

(4) The board or its designee may waive adjustment or repayment if:

(A) The overpayment was not the result of the retirant's or the beneficiary's nondisclosure, fraud, misrepresentation, or other fault; and

(B) The board or its designee finds in his or her or its sole discretion that recovery of the overpayment could be a manifest injustice.

SECTION 3. Arkansas Code § 24-7-302 is amended to read as follows:
24-7-302. Term of office and vacancies.

(a)(1) The term of office of each ~~member and retirant~~ member-elected trustee elected after July 1, 1997, shall be six (6) years.

(2)(A)(i) A member trustee shall be ineligible to serve after becoming inactive or upon retiring.

(ii) A member trustee who participates in the Teacher Deferred Retirement Option Plan is considered active for purposes of this subsection.

(B) A retirant trustee ~~shall be~~ is ineligible to serve after becoming active.

(b)(1)(A) ~~In the event~~ If any member trustee fails to attend three (3) consecutive regular meetings of the Board of Trustees of the Arkansas Teacher Retirement System, unless in each case excused for cause by the remaining trustees attending the meetings, the member trustee shall be considered to have resigned from the board, and the board shall by resolution declare his or her office of trustee vacated.

(B) A regular meeting of the board shall include one (1)

or more days of official business to be considered by the board.

(2)(A) If a vacancy occurs in the office of ~~member or retirant~~ an elected trustee, the vacancy shall ~~may~~ be filled ~~during the next annual system election for board members~~ in a special election held in accordance with the rules adopted by the board for special elections.

(B) If the board does not hold a special election, a vacancy shall be filled in the next system election held upon the expiration of a trustee's term, utilizing approved election procedures and requirements for the position.

(c) The board shall adopt its own rules and regulations pertaining to attendance and vacancies as provided in subsection (b) of this section.

SECTION 4. Arkansas Code § 27-7-303 is amended to read as follows:

24-7-303. Board of Trustees – Officers – Committees ~~Professional and clerical services.~~

(a) The Board of Trustees of the Arkansas Teacher Retirement System shall select from its own number a ~~chairman~~ chair and a vice ~~chairman~~ chair.

(b) The trustees shall serve as trustees without compensation for their services as such, except that each trustee may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c) The board shall appoint the executive director of the system, and he or she shall serve as its chief executive officer. He or she shall perform, or cause to be performed, such duties as are required of him or her under this act and as the board shall delegate to him or her.

(d) The board shall appoint an actuary or a firm of actuaries to be technical advisor to the board on matters regarding the operation of the system on an actuarial basis. The actuary shall perform such duties as are required of him or her under this act and as are required of him or her by the board from time to time.

(e) (1) The board shall appoint a professional investment counsel to be investment advisor to the board.

(2)(A) No investment shall be made by the board until it has received the advice of its investment advisor.

(B) ~~Provided, however,~~ However, if the contemplated investment involves anything other than financial assets, as defined in § 4-8-102(a)(9), then in lieu of seeking advice from its investment advisor, the board shall seek and receive advice from a person having recognized expertise with respect to the type of investment contemplated.

(f) The board shall appoint a medical committee consisting of three (3) physicians to review applications for disability retirement.

(g) The executive director ~~shall have the authority to~~ may employ such other professional and clerical services and to purchase such equipment and supplies as are required for the proper operation of the system, subject to the approval of the board.

(h)(1) The compensation of the persons engaged by the board shall be consistent with the pay plan of the state.

(2)(A) All other expenses of the board necessary for the operation of the system shall be paid at such rates and in such amounts as the board shall approve.

(B) The board may create additional committees as necessary and appropriate to fulfill the duties and responsibilities of the board under this chapter.

SECTION 5. Arkansas Code § 24-7-401 is amended to read as follows:

24-7-401. ~~Effectuation of financial objective~~ Fund contributions – Fund rates.

(a)(1) The financial objective of the Arkansas Teacher Retirement System is to establish and receive contributions that expressed as percentages of active member payroll will remain approximately level from generation to generation of Arkansas citizens.

(2) Contributions received each year shall be sufficient:

(A) To fully cover the costs of benefit commitments being made to members for their service being rendered in that year; and

(B) To make a level payment that if paid annually over a reasonable period of future years will fully cover the unfunded costs of benefit commitments for service previously rendered.

(3) If the costs of benefit commitments for service previously rendered are overfunded, the plan may deduct a level payment that if deducted annually over a reasonable period of future years will fully liquidate the overfunded portion of the costs.

(b) An actuarial valuation of the entire system shall be made at least annually by the Board of Trustees of the Arkansas Teacher Retirement System's actuary.

(c)(1) ~~For the each fiscal years ending June 30, 2008, and June 30, 2009 year,~~ the Board of Trustees of the Arkansas Teacher Retirement System shall establish employer contribution rates for the system prospectively ~~each year and for each fiscal year thereafter.~~

(2) The employer contribution rates shall be based on the actuary's determination of the rate required to fund the plan in accordance with the objectives stated in subsection (a) of this section.

(3) The employer contribution rates shall be the rates determined by the board based on the annual actuarial valuation.

(4) For the fiscal years ending June 30, 2008, and June 30, 2009, and in each fiscal year thereafter, the employer contribution rate shall not exceed fourteen percent (14%).

(d) The employer contribution rate shall be such that the amortization period for all unfunded liability shall not exceed thirty (30) years, unless the required contribution rate would exceed fourteen percent (14%).

(e)(1) ~~The board shall annually notify the local school districts, the Department of Education, and other~~ participating employers of the employer contribution rate established by the board for the upcoming fiscal year.

(2) Local school districts shall pay the teacher retirement employment contribution for any eligible employee in accordance with rules established by the board.

(3) The Department of Education shall pay from the Public School Fund the teacher retirement employer contributions for eligible employees of participating employers as required by the department's biennial appropriations act and in accordance with rules established by the board.

(4) The annual employer contributions to be paid in each year for all other employees by each participating employer shall be the current state contribution percent multiplied by the total covered salaries of the employer's members in the fiscal year.

(5) The employers' contributions shall be remitted to the system in such manner and form and in such frequency and shall be accompanied by

such supporting data as the board shall prescribe from time to time.

(6) Timely payment of the contributions shall be a condition of continuance of participation in the system.

SECTION 6. Arkansas Code § 24-7-402(b), concerning the custodian of Arkansas Teacher Retirement System assets, is amended to read as follows:

(b)(1) The custodian of system assets shall be the Treasurer of State or other financial institutions or depositories as allowed under this subchapter.

(2) ~~who~~ When acting as custodian of system assets, the Treasurer of State shall act in accordance with the instructions of the board.

SECTION 7. Arkansas Code § 24-7-406(a)(1), concerning members' deposit accounts in the Arkansas Teacher Retirement System is amended to read as follows:

(a)(1) The members' deposit account ~~shall be~~ is the account: ~~in~~

(A) In which member contributions shall be ~~are~~ accumulated ~~at with~~ regular interest ~~the members' contributions to the Arkansas Teacher Retirement System and;~~

(B) ~~from~~ From which ~~shall be paid~~ member refunds of ~~accumulated~~ contributions are paid; and

(C) From which transfers are made as provided in this act.

(2) ~~However, employer~~ Employer contributions that are paid by an employee instead of an employer shall be:

(A) ~~credited~~ Credited to the members' deposit account; and

(B) ~~Those contributions shall be subject~~ Subject to refund under the same conditions that regular member contributions ~~are refundable~~ refunded.

SECTION 8. Arkansas Code § 24-7-406(c) and (d), concerning members' contributions to the Arkansas Teacher Retirement System generally, are amended to read as follows:

(c)(1)(A)(i) Each employer shall deduct the member contributions provided for in this section from the salary of each member on every payroll, for every payroll period, from the date of his or her entrance into the system until ~~he or she~~ the member retires or terminates, and the employer shall remit the contributions to the system.

(ii) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the system before the first plan year beginning after December 31, 1995.

(B) A member 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 the purposes of ~~the system~~ determining the final average salary of the member.

(C)(i) Should the employer fail at any time to report the salary of a member and remit the contributions to the system, the system

shall have the right to collect from the employee and the employer the contributions due, if any, from each, together with interest beginning with the subsequent fiscal year.

(ii) ~~In no case shall a~~ A member shall not be given credit for service rendered until ~~any~~ all contributions and interest due from each are paid in full.

(2) The member's contributions provided for in this section shall be made notwithstanding that the minimum salary provided by law for any member shall be thereby changed.

(3)(A) Each member shall be deemed to consent and agree to the deductions made and provided for in this section.

(B) Payment of his or her salary less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the member during the period covered by the payment, except as to benefits provided by the system.

(4) The members' contributions, so deducted from their salaries, shall be remitted to the system in such manner and form and ~~in~~ into such frequency and shall be accompanied by such supporting data as the board shall prescribe from time to time.

(d)(1) In addition to the contributions deducted from the salaries of a member, as provided in this section, a member may deposit ~~in~~ into the system, by a single contribution or by an increased rate of contributions as approved by the board, the amounts ~~he or she~~ the member may have received in a refund of contributions therefrom and not repaid ~~thereto~~, together with interest from the date of withdrawal to the date of repayment to reestablish credit for refunded service.

(2) ~~In no case shall a~~ A member shall not be given credit for service rendered ~~prior to~~ before the date ~~he or she~~ the member received a refund of contributions payments until ~~he or she~~ the member returns to the system all amounts due from ~~him or her~~ the member.

SECTION 9. Arkansas Code § 24-7-406(g)(1)(B), concerning employers' payment of members' contributions to the Arkansas Teacher Retirement System, is amended to read as follows:

(B) If a member elects to purchase past service credits under the system's purchase of service credit provisions ~~§ 24-7-501(b), § 24-7-502(b)(5), § 24-7-610, § 24-7-611, or §§ 24-7-602—24-7-607~~ through payroll deductions, the employer shall pay the amount required to purchase such past service credits from the employee's salary earned after the employee signs an irrevocable payroll authorization prescribed by the board, and those purchases shall then be treated as employer contributions in determining tax treatment under the ~~provisions of the~~ Internal Revenue Code and the Income Tax Act of 1929, § 26-51-101 et seq.

SECTION 10. Arkansas Code § 24-7-602(a)-(c), concerning credit in the Arkansas Teacher Retirement System for military service, is amended to read as follows:

(a)(1) ~~In the event~~ If an active member of the Arkansas Teacher Retirement System enters the armed forces of the United States during any period of compulsory military service, after receiving a refund of member contributions from the system, the ~~armed~~ compulsory military service ~~actually~~ required of ~~him~~ the member ~~shall~~ may be established as credited ~~him as~~

service under this subchapter, ~~but only if after discharge from the armed forces and before retirement he returns to the member repays to the Arkansas Teacher Retirement System system the amount, if any, he may have received therefrom the member was refunded at the time of termination he entered or while in the armed service,~~ together with interest from the date of ~~withdrawal~~ the refund to the date of repayment.

(2) In addition, an active member who entered the armed forces of the United States during any period of compulsory military service and who ~~returns as an employee becomes an active member within one (1) year upon of his or her return discharge from the armed service shall be~~ forces is eligible to receive military service credit for the time of his armed service, even if he does not complete a total of ten (10) years of credited service in Arkansas under this section, whether or not the member has five (5) or more years of credited service at the time of the reemployment.

(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~~ An inactive member who entered the armed forces and ~~who was not an active member at the time of entry~~ shall have the period of armed forces service actually required of him credited as service under this subchapter if he in the system without cost to the member if the member satisfies all of the following conditions:

(1) ~~He or she~~ completes five (5) or more years of actual service ~~for service in Arkansas in the system;~~ and

(2)(A) The armed forces service is not credited as service under any other retirement plan except social security.

(B) Receipt of a disability pension from the federal military retirement system paid solely for disability shall not be considered as having service credit with another retirement plan.

SECTION 11. Arkansas Code § 24-7-603 is amended to read as follows:
24-7-603. Out-of-state service.

(a) As used in this section, "out-of-state service" means service rendered in any state except Arkansas in a position ~~which that~~ would have been covered by the Arkansas Teacher Retirement System had the service been rendered in the State of Arkansas actual service covered by the system if rendered in the state.

(b) Out-of-state service purchased before July 1, 1987, shall be credited as service under this section in accordance with provisions in force before July 1, 1987.

(c) From and after July 1, 1987, an active member shall be eligible, ~~upon application,~~ to purchase out-of-state service to be credited as service under this subchapter in accordance with the following conditions:

(1)(A) The out-of-state service credit to be granted shall be limited to service for which no benefit could be paid by another system similar in purpose to this system, except social security, if the member had left on deposit his or her contributions to the other system.

(B) The credit under subdivision (c)(1)(A) of this section shall be is limited to fifteen (15) years;

(2)(A)(i) The member shall pay to the system for each year of service credit being granted:

(a) The product of the sum of the employee and employer contribution rates in effect at the time of purchase multiplied by the greater of:

(1) The annual salary received by the member for his or her first full year of credited service that precedes the fiscal year in which the service is purchased; or

(2) The average of the three (3) highest salaries earned at the time of purchase; plus

(b) Interest from the end of that year of credited service to the date of payment in full.

(ii) If the payment is not made in a single sum at the time of purchase, interest shall be added from the date of the initial payment to the date of payment in full.

(B) The payment shall be credited to the member's account in the members' deposit account and shall be in addition to regular member contributions thereto;

(3) The out-of-state service shall not become credited service under this system until:

(A) The member payments specified in subdivision (c)(2) of this section have been paid in full; and

(B)(i) The member has established five (5) or more years of actual service.

(ii) Should a member cease to be an active member before the out-of-state service has been established as system-credited service, the member payments contributed as specified in subdivision (c)(2) of this section shall be refundable, ~~together with regular interest thereon;~~

(4) The benefit program to be applied to each year of service credit being granted shall be the benefit program in effect at the time of retirement; and

(5) Such other rules and regulations consistent with this subchapter as the Board of Trustees of the Arkansas Teacher Retirement System may from time to time adopt.

(d) An active member may purchase a fraction of a year of out-of-state service to be credited as service under this subchapter in the same manner as provided for out-of-state service under subsection (c) of this section if the service meets the following requirements:

(1) The member has not less than thirty (30) days of out-of-state credited service in the fiscal year; and

(2) The fraction of a year of out-of-state service may be credited in keeping with policies of the board as provided by § 24-7-601.

(e) An active member shall be eligible, upon application, to purchase service rendered outside the state during a period of employment with an education coordinating council to be credited as out-of-state service under the provisions of this section, provided that the conditions of subsection (c) of this section are met.

SECTION 12. Arkansas Code § 24-7-607(b)(3)(B)(ii), concerning the refund of member payments under the Arkansas Teacher Retirement System, is amended to read as follows:

(ii) Should a member cease to be an active member before the private school service has been established as system-credited service, the member payments contributed as specified in subdivision (b)(2)

of this section shall be refundable, ~~together with regular interest thereon;~~

SECTION 13. Arkansas Code § 24-7-610(d), concerning the refund of member contributions for National Guard Service Credit, is amended to read as follows:

(d) If a member ceases to be an active member before the Arkansas National Guard service has been established as system-credited service, the member payments contributed as specified in subdivision (a)(1)(C) of this section shall be refundable, ~~together with regular interest.~~

SECTION 14. Arkansas Code § 24-7-611(b)(3)(B)(ii), concerning the refund of member payments under the Arkansas Teacher Retirement System for domestic federal service, is amended to read as follows:

(ii) Should a member cease to be an active member before the domestic federal service has been established as system-credited service, the member payments contributed as specified in subdivision (b)(2) of this section shall be refundable, ~~together with regular interest thereon;~~

SECTION 15. Arkansas Code § 24-7-701(a) and (b), concerning voluntary retirement under the Arkansas Teacher Retirement System, are amended to read as follows:

(a)(1) Except as provided under subdivision (a)(2) of this section, an active member who either attains ~~age sixty (60) years of age~~ and has five (5) or more years of actual and reciprocal service or who has twenty-eight (28) or more years of credited service regardless of age may voluntarily retire upon written application filed with the ~~Board of Trustees of the~~ Arkansas Teacher Retirement System.

(2)(A) A member shall terminate covered employment to be eligible for retirement ~~except if~~ unless the member has attained normal retirement age.

(B) A member shall not be terminated from employment for retirement purposes if the ~~person~~ member returns to employment in a position ~~that would otherwise be~~ covered by the Arkansas Teacher Retirement System within thirty (30) days of the ~~person's~~ member's effective date of retirement.

(C) A ~~person failing~~ member who fails to meet the termination of employment requirements of this subsection shall have his or her retirement benefits cancelled and forfeit ~~forfeits any~~ retirement benefits until the termination requirements are met.

(D)(i) A member who fails to meet the termination requirements of this section and has received retirement benefits from the system shall repay the benefits to the system before becoming eligible again for voluntary retirement.

(ii) The system may adjust and collect any benefits that have been overpaid to a member under § 24-7-205.

(E) A member who fails to meet the termination requirements of this section upon employment by a covered employer shall return to active member status under § 24-7-502.

(b) Upon ~~his or her~~ a member's retirement, he or she shall receive ~~an~~ a life annuity as provided for in § 24-7-705.

SECTION 16. Arkansas Code § 24-7-702(a), concerning early voluntary retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(a)(1) Except as provided under subdivision (a)(2) of this section, an active or inactive member who has twenty-five (25) or more years of credited service but has not attained ~~age sixty (60) years of age~~ and is not eligible for retirement under ~~the provisions of § 24-7-701~~ may voluntarily retire early upon written application filed with the Board of Trustees of the Arkansas Teacher Retirement System.

(2)(A) A member shall terminate covered employment to be eligible for retirement except if the member has attained normal retirement age.

(B) A member shall not be terminated from employment for retirement purposes if the ~~person returns to a position that would otherwise be~~ member returns to employment in a position covered by the Arkansas Teacher Retirement System within thirty (30) days of the ~~person's~~ member's effective date of retirement.

(C) A ~~person failing~~ member who fails to meet the termination of employment requirements of this subsection shall have his or her retirement benefits cancelled and forfeit ~~forfeits any~~ retirement benefits until the termination requirements are met.

(D)(i) A member who fails to meet the termination requirements of this section and has received retirement benefits from the system shall repay the benefits to the system before becoming eligible again for voluntary retirement.

(ii) The system may adjust and collect any benefits that have been overpaid to a member under § 24-7-205.

(E) A member who fails to meet the termination requirements of this section upon employment by a covered employer shall return to active member status under § 24-7-502.

SECTION 17. Arkansas Code § 24-7-704 is amended to read as follows:
24-7-704. Disability retirement.

(a)(1)(A) Except as provided under subdivision (a)(1)(B) of this section, ~~any an active~~ member in employer service with five (5) or more years of actual and reciprocal service who becomes totally and permanently physically or mentally incapacitated for his or her job duties as the result of a personal injury or disease may be retired by the Board of Trustees of the Arkansas Teacher Retirement System upon approval of a written application filed with the ~~board by or on behalf of the member~~ Arkansas Teacher Retirement System.

(B)(i) An active member who has met the eligibility requirement of subdivision (a)(1)(A) of this section shall terminate covered employment to be eligible for disability retirement benefits.

(ii) If a member returns to work in a position covered by the ~~Arkansas Teacher Retirement System~~ system within thirty (30) days of the person's effective date of disability retirement, then the member shall not be considered terminated from employment for retirement purposes and shall forfeit disability retirement benefits until the termination requirements are met.

(C) The member may be retired ~~only if after a medical examination review~~ of the ~~member made by or under the direction of~~ member's

application and accompanying documentation is conducted by the medical committee and the medical committee reports to the board by majority opinion in writing that:

- (i) The member is physically or mentally incapacitated;
- (ii) The member is unable to perform his or her current work duties;
- (iii) The incapacity will most likely be permanent;
- and
- (iv) The member should be retired.

(2) The disability retirement shall be effective ~~the first day of the calendar month next following the later of:~~

- ~~(A) The the member's termination of active membership; or~~
- ~~(B) Six (6) months before the date the written application is filed with the board.~~

(b) Upon disability retirement as provided in subsection (a) of this section, a member 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. His or her disability retirement shall be subject to the provisions of subsections (c) and (d) of this section and to the provisions of § 24-7-708.

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

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

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

(4) If upon the medical examination of the retirant the medical committee reports to the board that the retirant is physically and mentally able and capable of resuming his or her duty in the position held by him or her at the time of disability retirement, then his or her disability retirement shall terminate.

(5)(A) If a disability retirant returns to ~~full-time service as defined by rules determined by the board~~ covered employment prior to before attaining sixty (60) years of age, his or her disability retirement shall terminate.

(B) If a disability retirant returns to ~~full-time service as defined by rules promulgated by the board~~ covered employment after attaining sixty (60) years of age and is otherwise eligible for retirement under § 24-7-707, the retirant shall be treated as if he or she retired under § 24-7-701 and is subject to the limitations applicable to age and service retirants.

(6)(A) If a disability retirant under sixty (60) years of age returns to ~~full-time service~~ covered employment, he or she shall immediately again become an active member of the system, and his or her credited service at the time of his or her disability retirement shall be restored to his or her credit in the members' deposit account.

(B) The retirant's disability retirement and his or her

accumulated contributions shall be treated as if he or she had returned to service on the date of the full-time employment.

(7) ~~In no event shall a~~ A disability retirant shall not be given service credit for the period he or she was receiving a disability retirement annuity.

SECTION 18. Arkansas Code § 24-7-707(a), concerning deferred retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(a)(1)(A) ~~Should If~~ If an active member ~~cease to be an active member before attaining age sixty (60) other than by death or retirement but after completing,~~ becomes inactive before the member reaches sixty (60) years of age, upon completion of five (5) years of actual and reciprocal service, the member ~~shall become an inactive member and shall be~~ is entitled to a deferred annuity when the member becomes sixty (60) years of age as provided ~~for~~ in this section,.

(B) ~~but only~~ The member is eligible for deferred retirement if the member ~~does~~ has not ~~withdraw~~ withdrawn his or her accumulated contributions from the members' deposit account and is not employed in a position covered by another retirement plan that is supported wholly or in part by state contributions if the member's being vested is based on the other system service.

(2) ~~Following~~ Upon approval by the Arkansas Teacher Retirement System ~~of an application for deferred retirement,~~ the deferred annuity shall commence as of the first day of the calendar month ~~next~~ following the ~~later~~ of: date the written application is received by the system.

(A) ~~The month following the member's sixtieth birthday; or~~

(B) ~~The date the written application is received by the system.~~

(3) A member shall ~~have the right to~~ elect an option provided for in § 24-7-706 at the time of filing the written application.

SECTION 19. Arkansas Code § 24-7-709 is amended to read as follows:
24-7-709. Disposition of residue.

(a)(1)(A) If a retirant and his or her option annuitants, if any, dies die before receiving in annuity payments ~~a total amount~~ equal to the member's residue amount, then the residue amount ~~accumulated contributions standing to the retirant's credit in the members' deposit account at the time of his or her retirement and no option annuity becomes payable upon the retirant's death, the difference between the accumulated contributions and the total amount of annuities received by the retirant shall be paid to such persons as the retirant shall have nominated by written designation duly executed and filed with the Arkansas Teacher Retirement System.~~

(B) As used in this section, "residue" means the difference between the accumulated contributions and regular interest credited to the retirement reserve account as of the member's retirement effective date and the total amount of annuities paid.

(2) If a retirant and his or her option annuitants dies die and the member has failed to designate a beneficiary or if all designated beneficiaries have predeceased the retirant, ~~the difference between the accumulated contributions and the total amount of annuities received by the retirant~~ the residue shall be paid to the retirant's estate.

~~(b)(1) If a retirant dies and an option annuity becomes payable at the retirant's death but the last eligible option beneficiary dies before the retirant and the option beneficiary have received in annuity payments a total amount equal to the accumulated contributions standing to the retirant's credit in the member's deposit account at the time of the member's retirement, the remaining difference, if any, shall be paid to the beneficiary nominated by the member.~~

~~(2) If upon the termination of the option annuity, no surviving beneficiary designated by the member survives, and it is impracticable to make payment to the member's estate, the residue shall be forfeited to the trust assets of the system subject to any valid claim of the member's estate under § 24-7-734 the difference between the accumulated contributions and the total amount of annuities received by the retirant and option annuitant shall be paid to the last eligible option beneficiary's estate.~~

SECTION 20. Arkansas Code § 24-7-711 is amended to read as follows:

24-7-711. Disposition of accumulated contributions upon membership termination.

~~(a)(1) In the event a member ceases to be a member other than by death or retirement prior to satisfying the age and service requirements of either § 24-7-701 or § 24-7-702, he or she shall be paid, within six (6) months following the date his or her written application is filed with the Board of Trustees of the Arkansas Teacher Retirement System, his or her accumulated contributions standing to his or her credit in the members' deposit account. If a member discontinues covered employment, the member may elect to be paid a refund of his or her contributions and regular interest credited to the member's deposit account within six (6) months following the date the member's written application is filed with the system.~~

(2) Any contributions remaining on deposit shall accrue regular interest at the end of each fiscal year as provided by § 24-7-410(d).

~~(b)(1) In the event a If an active member dies and no a survivor annuity becomes, or can become, is not payable under § 24-7-710 by the Arkansas Teacher Retirement System on account of the member's death, the member's accumulated contributions standing to his or her credit in the member's deposit account at the time of the member's death, together with and regular interest thereon from the time of death to the time of payment, shall be paid to such persons as the member shall have nominated by a written designation duly that is executed by the member and filed with the ~~board~~ system.~~

~~(2)(A) If there are no designated persons surviving the member, the accumulated contributions shall be paid in the following statutory succession:~~

- ~~(i) Spouse; then~~
- ~~(ii) Children; then~~
- ~~(iii) Parents; then~~
- ~~(iv) Estate.~~

~~(B)(2) Effective for all members dying after June 30, 2006, if If there are no designated persons surviving the member, the accumulated contributions ~~shall be~~ are payable to the member's estate.~~

(3) If no annuity ~~can become~~ is payable to a dependent child on account of the member's death and if the sole beneficiary who ~~could~~ can receive the annuity is the member's surviving spouse, then the member's

surviving spouse may elect to receive a refund of accumulated contributions ~~in place of any benefits being and regular interest paid under the provisions of § 24-7-710~~ this subchapter.

SECTION 21. Arkansas Code § 24-7-713 is amended to read as follows:

~~24-7-713. Monthly benefits—Redetermination Retirement annuity – Simple cost of living adjustment and monthly benefit stipend.~~

~~(a)(1) Beginning with the July 1 which is at least twelve (12) full months after the effective date of a monthly benefit, the amount of the benefit shall be redetermined effective each July 1, and the redetermined amount shall be payable for the ensuing year July 1 of each year, retirants, survivors, and annuity beneficiaries who have been receiving monthly benefits for the previous twelve (12) months shall receive a simple cost of living adjustment.~~

~~(2) The redetermined amount shall be the base amount multiplied by the following percent: One hundred percent (100%) plus three percent (3%) for each full year, but excluding any fraction of a year, in the period from the effective date of the base amount to the current July 1. The cost of living adjustment under this section is calculated by multiplying one hundred percent (100%) of the member's base retirement annuity times three percent (3%).~~

~~(3) In no event shall the The redetermined amount shall not be less than the base amount.~~

~~(4) As used in this section,~~

~~(A) "The amount of the benefit otherwise payable" means the monthly amount of the benefit that would be payable disregarding the provisions of this section redetermining benefit amounts after retirement; and~~

~~(B)(i) "Base base amount" means the monthly amount of the benefit upon which benefit redeterminations after retirement are based, as provided in this section.~~

~~(ii) "Base amount" includes the amount of the benefit otherwise payable at retirement plus any one-time increase or increases granted by legislative change after the member's effective date of retirement benefits, excluding the simple cost of living adjustment under this section.~~

~~(iii) The effective date of the base amount shall be the effective date of the benefit or, if any, the effective date of the last increase in base amount, whichever is later.~~

~~(5) The redetermined amount under this subsection is not considered a benefit enhancement under the limitations under § 24-1-106.~~

~~(b)(1)(A) Effective July 1, 1999, subject to the minimum financial conditions set forth in § 24-7-718, retirees, survivors, and beneficiaries shall receive an increase in benefits of not less than fifty dollars (\$50.00) per month.~~

~~(B) However, the Board of Trustees of the Arkansas Teacher Retirement System may elect and is granted authority to increase the benefit to retirees in an amount determined by the board, except that the benefit increase shall not exceed seventy-five dollars (\$75.00) per month.~~

~~(2)(A) Members retiring after July 1, 1999, but before July 1, 2008, with five (5) or more years of actual service in the Arkansas Teacher Retirement System and their survivors and beneficiaries shall receive an~~

additional benefit of not less than fifty dollars (\$50.00) per month over and above their regular annuity.

(B) Members retiring on or after July 1, 2008, with ten (10) or more years of actual service in the Arkansas Teacher Retirement System and their survivors and beneficiaries shall receive an additional benefit of not less than fifty dollars (\$50.00) per month over and above their regular annuity.

(C) However, the ~~Board of Trustees~~ board may elect and is granted authority to increase the additional benefit to members retiring in an amount determined by the board, except that the additional benefit shall not exceed seventy-five dollars (\$75.00) per month.

(3) ~~In its discretion, the~~ The board may prorate the benefits provided under this subsection for all individuals retiring after June 30, 1999, if the individual is also eligible for an additional monthly benefit as a result of credited service under one (1) or more of the other reciprocal systems, as such systems are enumerated in § 24-2-401.

~~(4)(A) For the purpose of determining eligibility for the increase in benefits provided under this subsection, "actual service" means service rendered in a position covered by the Arkansas Teacher Retirement System.~~

~~(B) "Actual service" does not include purchased or free credited service or reciprocal service.~~

(c) Nothing contained in this section shall require the Arkansas Public Employees' Retirement System to pay any portion of the benefits provided for in this section.

SECTION 22. Arkansas Code § 24-7-718(a), concerning minimum financial conditions for benefit increases under the Arkansas Teacher Retirement System, is amended to read as follows:

(a) For an increase in benefit formulas to be effective, the regular annual actuarial valuation for the calendar year immediately preceding the effective date of the increase shall be based upon an investment rate assumption of no more than eight percent (8%) and shall indicate that up to and including a ~~twelve percent (12%)~~ fourteen percent (14%) of pay employer contribution rate is sufficient to amortize all unfunded actuarial accrued liabilities for members over a period of thirty (30) years or less unless the required contribution rate would exceed fourteen percent (14%).

SECTION 23. Arkansas Code § 24-7-719 is amended to read as follows:
24-7-719. Rollover of distributions.

(a) As used in this section:

(1) "Direct rollover" means the payment of ~~an eligible a~~ distribution from the Arkansas Teacher Retirement System directly to an individual retirement arrangement or another ~~employer~~ eligible benefit plan;

(2) "Eligible retirement plan" means an individual retirement account, ~~or~~ individual retirement annuity, ~~or~~ individual retirement arrangement, or another employer benefit plan that accepts direct rollovers; and

(3) "Eligible rollover distribution" means that portion of a distribution that may be rolled over to an individual retirement arrangement or to another employer benefit plan.

~~(b)(1) Beginning January 1, 1993, should a member, or spouse if the~~

~~member is deceased, elect to make a direct rollover other eligible beneficiary receiving a distribution from the Arkansas Teacher Retirement System to an eligible retirement plan of his or her system may elect a direct rollover of the distribution if the funds consist of an eligible rollover distribution, the.~~

(2) The amount under subdivision (b)(1) of this section shall be paid to the trustee of the eligible retirement plan.

(c) Subsection (b) of this section ~~shall apply~~ applies to distributions made under §§ 24-7-709 – 24-7-711, 24-7-716, 24-7-720, and 24-7-1308.

(d) This section does not require the system to authorize a direct rollover of a distribution if:

(1) The distribution is not eligible to be treated as a direct rollover under the Internal Revenue Code; or

(2) The depository institution receiving the distribution is not eligible to receive a direct rollover under the Internal Revenue Code.

SECTION 24. Arkansas Code §§ 24-7-721 through 724, are repealed because those sections are obsolete.

~~24-7-721. Increase in monthly benefits Acts 1997, No. 442.~~

~~On July 1, 1996, and thereafter, the monthly benefit payable to the retirants and the beneficiaries of retirants of the Arkansas Teacher Retirement System who retired before July 1, 1991, shall be increased by an amount equal to one percent (1%) of the benefit payable on June 30, 1996, for each year or portion of a year of retirement prior to July 1, 1991, up to a maximum benefit increase of fifteen percent (15%). Furthermore, the monthly benefit payable to retirants and beneficiaries of retirants who retired between June 30, 1996, and July 1, 1991, shall be increased an amount equal to one percent (1%) of the benefit payable on June 30, 1996. This benefit increase shall be a one-time adjustment and shall also be used to figure any additional benefit increases in the future.~~

~~24-7-722. Limitation on benefit enhancement of Acts 1997, No. 442. No benefit enhancement provided for by § 24-7-721 shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty-year amortization. No benefit enhancement provided for by § 24-7-721 shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.~~

~~24-7-723. Increase in monthly benefits — Acts 1997, No. 992. On and after April 1, 1997, the monthly benefit payable to the retirants and the beneficiaries of retirants of the Arkansas Teacher Retirement System who retired July 1, 1990, or later shall be increased by an amount equal to seven tenths percent (0.7%) of the benefit payable on March 31, 1997. This increase shall be a one time adjustment and shall also be used to calculate any additional benefit increases in the future. The benefit payable on July 1, 1997, shall become the base amount.~~

~~24-7-724. Limitation on benefit enhancement of Acts 1997, No. 992.~~

~~No benefit enhancement provided for by this act shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed a thirty year amortization. No benefit enhancement provided for by this act shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.~~

SECTION 25. Arkansas Code § 24-7-727 is amended to read as follows:
24-7-727. Compounded cost of living adjustments.

~~(a)(1) After July 1, 1999, beginning with the July 1 which is at least twelve (12) months after the effective date of a monthly benefit, the Board of Trustees of the Arkansas Teacher Retirement System may compound the cost of living adjustment for all retirants who have received a monthly retirement benefit for the prior twelve-month period.~~

~~(2) The amount of the benefit under this section shall be redetermined effective each July 1, and the redetermined amount shall be payable for the ensuing year.~~

~~(3) The simple cost of living adjustment is not payable in the year or years that the board implements the compounded cost of living adjustment.~~

~~(b)(1) The redetermined amount shall be the amount of the benefit payable as of the immediately preceding June 30 increased by three percent (3%).~~

~~(2) The redetermined amount shall become the base amount for determining all future cost of living adjustments.~~

~~(c) The benefit provisions provided in subsections (a) and (b) of this section shall be implemented according to rules and regulations of the Board of Trustees of the Arkansas Teacher Retirement System board as is actuarially appropriate for the Arkansas Teacher Retirement System.~~

~~(d) Prior to Before increasing a benefit as provided in under this section, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Interim Committee on Public Retirement and Social Security Programs.~~

SECTION 26. Arkansas Code Title 24, Chapter 7, Subchapter 12, that is inconsistent with the legislative mandate of the Arkansas Teacher Retirement System and has not been implemented, is repealed.

~~24-7-1201. Legislative intent.~~

~~It is the intent of the General Assembly to make available to the members of the Arkansas Teacher Retirement System a school employees' individual retirement account plan and any other tax deferral plan permitted by federal law, and to enable the members to conveniently and economically receive the fullest benefits offered by federal tax law as it relates to tax-deferred savings plans for school employees covered by a mandatory public retirement plan.~~

~~24-7-1202. School Employees' Individual Retirement Account Fund.~~

~~(a)(1) There is hereby created a fund or funds which shall be known collectively as the School Employees' Individual Retirement Account Fund.~~

~~(2) The fund shall be administered by the Board of Trustees of~~

~~the Arkansas Teacher Retirement System.~~

~~(b)(1) The board is hereby empowered and authorized to promulgate all necessary rules and regulations to implement the provisions of this subchapter and to define terms, words, and phrases to be used in implementing investment plans and accounts for the school employees, provided that the rules and regulations shall conform to the requirements of the Internal Revenue Code.~~

~~(2) The board may, in its discretion, adopt one (1) or more tax-deferred savings plans authorized by the federal government if it finds that doing so will offer substantial tax benefits to school employees covered under the provisions of this subchapter.~~

~~24-7-1203. Participation in the fund.~~

~~(a)(1) The School Employees' Individual Retirement Account Fund program shall be available to all employees in the State of Arkansas who are members of the Arkansas Teacher Retirement System.~~

~~(2) Participation in this fund shall be on a strictly voluntary basis under the rules and regulations which shall be adopted by the Board of Trustees of the Arkansas Teacher Retirement System and in accordance with the provisions contained in the Internal Revenue Code as it relates to individual retirement accounts for public employees.~~

~~(b)(1) Any person who shall become ineligible for participation in the fund due to the termination of his employment with an eligible employer may leave his contributions on account with the fund.~~

~~(2) However, no further contributions may be accepted on his or her account unless the person shall become reemployed by an eligible employer.~~

~~24-7-1204. Contributions to the fund.~~

~~Contributions to the School Employees' Individual Retirement Account Fund may be deducted from each participating employee's compensation and transmitted to the fund in accordance with any limitations imposed by federal tax law for any tax-deferred savings plan offered pursuant to the provisions of this subchapter and pursuant to the rules and regulations as shall be promulgated by the Board of Trustees of the Arkansas Teacher Retirement System.~~

~~24-7-1205. Investments.~~

~~All investments under the School Employees' Individual Retirement Account Fund program shall be made pursuant to the same authority and same restrictions that govern the investment of funds of the Arkansas Teacher Retirement System.~~

~~24-7-1206. Administrative costs.~~

~~(a) The administrative cost for the operation of the School Employees' Individual Retirement Account Fund shall be provided through investment earnings on contributions to the fund.~~

~~(b) No state funds shall be used to administer the provisions of this subchapter.~~

SECTION 27. Arkansas Code Title 24, Chapter 7, Subchapter 14 is repealed.

~~24-7-1401. Short title.~~

~~This subchapter may be known and shall be cited as the "Arkansas Teacher Retirement System Affordable Housing Investment Act".~~

~~24-7-1402. Legislative purpose.~~

~~The General Assembly of the State of Arkansas finds, determines, and declares that:~~

~~(1) There is an existing and immediate need to assure members that they will have adequate and affordable housing and living facilities and other basic needs available to them upon retirement from active service;~~

~~(2) Among these needs is the need for decent, safe, and affordable housing together with skilled and semiskilled medical personnel to assist with health problems not requiring acute care hospitalization for qualified occupants;~~

~~(3) While the power and authority of the Arkansas Teacher Retirement System to use the assets of the system to provide for such needs is probably implied, the statutes governing the system are not sufficiently clear so as to give administrators, financial institutions, governmental agencies, and others guidance needed to proceed with measures to make provisions for such needs; and~~

~~(4) The purpose and intent of this subchapter is to make clear that the system has the statutory authority to utilize assets of the system and other resources available to it so as to provide or assist in the provision for the housing and medical assistance alluded to in subdivisions (1) and (2) of this section, all as provided for, but subject to the limitations set forth in this subchapter.~~

~~24-7-1403. Definitions.~~

~~As used in this subchapter, unless the context otherwise requires:~~

~~(1) "Assisted living facility" means retirement housing at which minimal food, security, and medical assistance services are available for occupants;~~

~~(2) "Board" means the Board of Trustees of the Arkansas Teacher Retirement System;~~

~~(3) "Facilities" when used without elaboration means and refers to any or all the facilities referred to in this subchapter, including, but not limited to, retirement housing, assisted living facility, skilled nursing facility, nursing facility, or any combination thereof, built, owned, and operated for the exclusive use and benefit of qualified occupants;~~

~~(4) "Members" means any individual who is a member of the system;~~

~~(5) "Nursing facility" means a nursing home or a distinct part of another retirement housing facility not meeting the skilled nursing facility licensure regulations, but which provides on a more limited basis skilled nursing and supportive care;~~

~~(6) "Qualified occupant" means any member or the dependent of any member who is receiving or is designated by a member to receive any plan benefit from the system or any other person deemed by the board, by regulation promulgated by the board or otherwise, to be a suitable occupant of the facility;~~

~~(7) "Retirement housing" means residential housing facilities;~~

~~(8) "Skilled nursing facility" means a nursing home or a~~

~~distinct part of a retirement housing facility, which home or distinct part is licensed by the Office of Long Term Care of the Department of Human Services, or any similar successor agency, as meeting the skilled nursing facility licensure regulations and which provides skilled nursing care and supportive care on a twenty four hour basis to residents whose primary need is for availability of skilled nursing care on an extended basis; and~~

~~(9) "System" means the Arkansas Teacher Retirement System as established by § 24-7-201 et seq.~~

~~24-7-1404. Authority—Responsibility.~~

~~(a) Authorization. In addition to all of the other powers and authorities previously granted to the Arkansas Teacher Retirement System along with the other Arkansas retirement systems and specifically in addition to those powers set forth in § 24-3-410 [repealed], the system is authorized to construct, acquire by purchase, gift, or otherwise, and to own and operate facilities.~~

~~(b) Additional Authority. In furtherance of the authority granted in subsection (a) of this section and for the other purposes set forth in this subsection, the system, either directly or indirectly through a wholly owned subsidiary, is authorized and empowered to:~~

~~(1) Investigate and obtain information concerning members' present and projected needs for services such as those offered by the facilities;~~

~~(2) Construct and equip facilities or acquire by gift or purchase existing buildings and the sites upon which they are situated for use as or to be converted to facilities and held as investments of the system while providing additional benefits to members;~~

~~(3) Provide for the operation and management of the facilities so constructed or acquired and arrange for providing of benefits to members through the use of such facilities at a rent or charge to qualified occupants upon such terms and conditions as the respective board may determine;~~

~~(4) Execute contracts, including by way of example, but not limited to, leases (as lessor or lessee), purchase agreements, construction contracts, and management agreements, necessary to accomplish the purposes of this subchapter;~~

~~(5) Incur debt as necessary to accomplish the purposes of this subchapter;~~

~~(6) Apply for, receive, accept, and use any moneys and properties from the United States or any state or any department or agency thereof; from any public or private corporation of any nature; and from any individual or group;~~

~~(7) Establish and enforce minimum standards and criteria for the management, maintenance, and operation of all facilities authorized by this subchapter;~~

~~(8) Provide for the management, maintenance, and operation of the facilities as may be required by this subchapter or otherwise by law to be managed, maintained, or operated by the Board of Trustees of the Arkansas Teacher Retirement System;~~

~~(9) Cooperate with the Arkansas Development Finance Authority for the issuance of bonds pursuant to the Arkansas Development Finance Authority Act, § 15-5-101 et seq., to finance the acquisition, construction, leasing or equipping, or purchase of the facilities authorized by this~~

~~subchapter;~~

~~(10) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers, purposes, and authorities set forth in this subchapter and to carry out the intent of this chapter;~~

~~(11) To enter into lease purchase agreements, as lessee or lessor, to obtain the facilities;~~

~~(12) Create wholly owned subsidiary corporations, limited liability companies, and other legal entities to facilitate the financing of facilities and to own or operate facilities. Such subsidiary corporations or other legal entities may be a venture in a joint venture, a general or limited partner in a partnership, a member of a limited liability company, and may have such status in other legal entities composed of governmental agencies (federal or state), private individuals, partnerships, corporations, or other entities, as might be necessary or desirable to accomplish the purposes of this subchapter; and~~

~~(13)(A)(i) Guarantee, wholly or partially, debt obligations of any subsidiary corporation or other owned entity; enter into agreements to purchase or repurchase debt obligations of any subsidiary corporation or other owned entity; and to take such other measures as might be appropriate to enhance the credit and the ability of any of its subsidiary corporations or other owned entities to borrow money.~~

~~(ii) Provided, however, any instrument or agreement containing a guaranty of the system must prominently state that the guaranty is limited to the assets of the system and does not constitute a pledge of the full faith and credit of the system or of the State of Arkansas.~~

~~(iii) In addition to the limitations set forth in subdivision (b)(13)(A)(ii) of this section, the system shall not be authorized to enter into any kind of guaranty or credit enhancement arrangement if the amount of debt guaranteed or credit enhanced when added to all previous guaranty or enhancement arrangements still in effect would exceed three percent (3%) of the total assets of the system as reflected on its most recent balance sheet.~~

~~(B) If the system should enter into any guaranty or other credit enhancement arrangement for any subsidiary corporation or other owned entity, it shall be entitled to charge such subsidiary or other entity a fee for providing the credit enhancement. Such fee is not to exceed one percent (1%) of the principal amount of the credit enhanced, unless the board, with the advice of counsel, finds that the charging of such a fee could adversely affect the credit being enhanced by adversely affecting the availability or the cost of the credit or have any other adverse effect on such credit.~~

~~24-7-1405. Trust assets.~~

~~When investing and managing trust assets as a prudent investor, the Board of Trustees of the Arkansas Teacher Retirement System may consider the benefits members may obtain from investments which return more than a return on principal but also provide other benefits to the members, such as health care, housing, and entertainment, including, but not limited to, investment in the ownership or operation of facilities for the use and benefit of qualified occupants.~~

~~24-7-1406. Facilities.~~

~~The Board of Trustees of the Arkansas Teacher Retirement System shall~~

~~make the final determination regarding the location, design, purpose, construction, and operation of the facilities. All agreements and other matters concerning the buying, trading, selling, renting, renovating, or acquiring of any facility as authorized by this subchapter shall be matters of public record and available for public inspection.~~

~~24-7-1407. Scope.~~

~~Nothing in this subchapter shall be construed as to in any way limit or alleviate the obligation of the Board of Trustees of the Arkansas Teacher Retirement System to provide retirement benefits to the members of the Arkansas Teacher Retirement System.~~

~~24-7-1408. Appropriate investment of funds.~~

~~If made in compliance with the requirements and limitations of this subchapter and in compliance with the prudent investor rule set forth in §§ 24-3-417 — 24-3-426, investments made by the Arkansas Teacher Retirement System in facilities are hereby declared by the General Assembly to be an appropriate investment for funds of the system.~~

~~24-7-1409. Permit of approval.~~

~~Nothing in this subchapter exempts the Arkansas Teacher Retirement System, its subsidiaries, corporations, or other related legal entities from the requirement to acquire a permit of approval, as set forth in § 20-8-101 et seq., or any Office of Long Term Care licensure or certification requirement to own, operate, or manage a long term care facility.~~

SECTION 28. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act are in dire need of technical correction to bring them into conformance with the current public pension policy; that such technical correction is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Faris

LMG/BLA - 02-20-2009 11:16

LMG161

Secretary