

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

# A Bill

HOUSE BILL 1172

5 By: Representative Greenberg  
6  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING POLICE PENSION AND RELIEF FUNDS  
10 OF CITIES OF THE FIRST CLASS; AND FOR OTHER  
11 PURPOSES.  
12

## Subtitle

14 CONCERNING POLICE PENSION AND RELIEF  
15 FUNDS OF CITIES OF THE FIRST CLASS.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code § 24-11-405 is amended to read as follows:  
21 24-11-405. Board of trustees.

22 (a) The board of trustees of the policemen's pension and relief fund  
23 shall consist of seven (7) members as follows:

24 (1) The chief executive officer of the city, who shall be chair  
25 of the board;

26 (2) The city treasurer, who shall be treasurer of the fund;

27 (3)(A)(i) Five (5) active or retired members of the pension  
28 fund.

29 (ii)(a) The active pension fund members shall elect  
30 the active members by secret written ballot in May of each year, with the  
31 member or members to be chosen in alternating years.

32 (b) The retired member or members shall be  
33 chosen in May of each year by a method to be determined by the board, with  
34 the member or members to be chosen in alternating years.

35 (c) All member trustees shall serve two-year  
36 terms.



1 (d) In the event of a vacancy in a board  
2 position, the board of trustees shall appoint a replacement to serve the  
3 remainder of the unexpired term.

4 (iii) If there are no active members of the pension  
5 fund, all five (5) employee members shall be elected from and by the retired  
6 membership of the pension fund and the surviving spouses of deceased members  
7 currently receiving benefits.

8 (B) The board shall select one (1) of the police members  
9 as secretary of the board to serve for a period of two (2) years or until his  
10 or her successor is elected and qualified.

11 (C) However, if no retirant is available to serve on the  
12 board, all five (5) employee positions shall be held by active members of the  
13 pension fund and shall be elected by secret ballot by the active members of  
14 the pension fund for two-year terms as provided in subdivision (a)(3)(A) of  
15 this section.

16 (D) The board shall have the power to make all rules ~~and~~  
17 ~~regulations~~ needful for its guidance to implement the provisions regarding  
18 board composition; and

19 (4) The number of active members or retired members to serve on  
20 the board shall be determined by the proportionate number of active members  
21 to retired members as follows:

22 (A) When the number of active members equals seventy-five  
23 percent (75%) of the total of retired members and active members, the board  
24 shall be composed of four (4) active members and one (1) retired member;

25 (B) When the number of active members equals fifty percent  
26 (50%) of the total of retired members and active members, the board shall be  
27 composed of three (3) active members and two (2) retired members; and

28 (C) When the number of retired members equals seventy-five  
29 percent (75%) of the total of retired members and active members, the board  
30 shall be composed of one (1) active member and four (4) retired members.

31 (b) The police officer members ~~and the physician representative~~ of the  
32 board shall serve for a period of two (2) years or until their successors are  
33 elected and qualified.

34 (c) The board shall have the absolute control and management of the  
35 funds provided for in this subchapter and of all moneys donated, paid, or  
36 assessed for the relief or pension of disabled, superannuated, and retired

1 members of the police department, their surviving spouses and minor children,  
 2 or dependent parents solely dependent upon members for their support.

3 (d)(1) The board shall make all necessary rules ~~and regulations~~ for  
 4 its government and the discharge of its duties and shall hear and decide all  
 5 applications for relief or pension under this subchapter.

6 (2) All decisions upon applications shall be final and  
 7 conclusive and not subject to review or reversal except by the board.

8 (3) The board shall ~~cause to be kept~~ keep a record of all its  
 9 meetings and proceedings.

10 (e)(1) Each member of the board of trustees of the policemen's pension  
 11 and relief fund who receives gifts or other compensation, including, but not  
 12 limited to, trips and meals, from current or potential investment advisors or  
 13 managers of the policemen's pension and relief fund shall prepare an annual  
 14 statement listing:

- 15 (A) Each item received;
- 16 (B) The estimated value of each item; and
- 17 (C) From whom each item was received.

18 (2)(A) Each member of the board of trustees of the policemen's  
 19 pension and relief fund shall attest by written affidavit that the member's  
 20 annual statement is true and current to the best of his or her knowledge.

21 (B)(i) An annual statement and affidavit from each member  
 22 of the board of trustees of the policemen's pension and relief fund shall be  
 23 collected by the board of trustees of the policemen's pension and relief fund  
 24 or the municipal treasurer.

25 (ii) One (1) copy of the statement and affidavit  
 26 shall be filed with the Secretary of State.

27 (iii) A second copy of each statement and affidavit  
 28 shall be retained on file by the board of trustees of the policemen's pension  
 29 and relief fund or the municipal treasurer and shall be available for review  
 30 by any plan participant.

31 (C)(i) As part of the annual report to the Arkansas Fire  
 32 and Police Pension Review Board, the chair of each board of trustees of the  
 33 policemen's pension and relief fund for each plan shall certify that the  
 34 statements and affidavits as described in this subsection have been completed  
 35 and appropriately filed.

36 (ii) Each plan's annual report shall not be

1 considered complete without this certification.

2  
 3 SECTION 2. Arkansas Code § 24-11-425(a), concerning the payment of  
 4 benefits upon the death of an active police officer or retired member, is  
 5 amended to read as follows:

6 (a)(1)(A) If any active police officer or any retired member dies from  
 7 any cause, leaving a surviving spouse, then the board of trustees shall  
 8 direct a monthly pension during the surviving spouse's life in an amount  
 9 equal to the lesser of the:

10 (i) ~~pension~~ Pension attached to the rank of the  
 11 deceased police officer at the time of his or her death; or

12 (ii) Monthly pension amount being paid to the  
 13 deceased police officer at the time of his or her death, — but.

14 (B) ~~in~~ In no event shall the benefit of the surviving  
 15 spouse be less than three hundred fifty dollars (\$350) per month.

16 (2) If any active police officer or any retired member dies from  
 17 any cause and leaves no surviving spouse but has a surviving child or  
 18 children under the age of eighteen (18) who have not completed high school,  
 19 then the board shall direct a monthly pension benefit to the surviving child  
 20 or children under the age of eighteen (18) in an aggregate amount to the  
 21 children equal to the pension attached to the rank of the deceased police  
 22 officer at the time of his or her death, but in no event shall the benefits  
 23 to the surviving children be less than three hundred fifty dollars (\$350) per  
 24 month. However, if any child enrolls in an institution of higher learning  
 25 after completing high school, then the payment shall continue as long as the  
 26 child is a full-time student but not beyond the child's twenty-third birthday  
 27 unless he or she is a dependent child who is physically or mentally  
 28 permanently disabled.

29 (3)(A) The board may continue a benefit for life for a dependent  
 30 child who is physically or mentally permanently disabled and this fact is  
 31 certified to the board by a physician ~~on the board.~~

32 (B) The board may first require that a second evaluation  
 33 be performed by another physician to be named by the board, and they shall  
 34 review the child's disabled status from time to time, but at least every five  
 35 (5) years.

36 (4)(A) If a retired member dies from any cause and leaves a

1 surviving former spouse who was receiving a portion of the retired member's  
 2 retirement benefit and also leaves a surviving spouse entitled to benefits  
 3 under subsection (a)(1) of this section, then until the surviving former  
 4 spouse or surviving spouse dies or remarries, the surviving former spouse  
 5 shall continue to receive the same benefit he or she was receiving when the  
 6 retired member died.

7 (B) A surviving former spouse shall not be entitled to any  
 8 benefit increases approved by the board for its members.

9  
 10 SECTION 3. Arkansas Code § 24-11-425(g), concerning the receipt of  
 11 benefits by surviving spouses or children, is amended to read as follows:

12 (g)(1) If any surviving spouse, surviving former spouse, or child  
 13 shall marry, he or she shall thereafter receive no further pension under this  
 14 subchapter except that if he or she is a surviving spouse of a police officer  
 15 who is killed while in the official performance of his or her duties, then  
 16 any such surviving spouse's or former spouses's benefits shall continue.

17 (2) Benefits may be restored to the a surviving spouse whose  
 18 benefits had been terminated prior to or after August 1, 1997, upon his or  
 19 her application to and approval by the board.

20  
 21 SECTION 4. Arkansas Code § 24-11-430 is amended to read as follows:

22 ~~24-11-430. Funeral expenses~~ Death benefit.

23 (a) Whenever an active or retired police officer ~~shall die or be dies~~  
 24 or is killed, the board of trustees shall ~~appropriate pay~~ appropriate pay from the fund a sum  
 25 of not less than one hundred dollars (\$100) nor more than four thousand  
 26 dollars (\$4,000) to ~~pay the funeral expenses of the decedent to:~~

27 (1) The surviving spouse of the police officer; or

28 (2) The police officer's estate if there is no surviving spouse.

29 (b) Each board of trustees shall adopt a policy establishing the  
 30 amount to be paid for ~~funeral expenses~~ death benefits pursuant to this  
 31 section, and the amount shall be awarded uniformly to all eligible persons.

32 (c) The board of trustees may change the amount of ~~funeral expenses~~  
 33 death benefits payable under this section, but in that instance the amount  
 34 shall be uniformly distributed likewise.

35 ~~(d) The effective date of the 1983 amendment to this section shall be~~  
 36 ~~retroactive to June 17, 1981.~~

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SECTION 5. Arkansas Code § 24-11-434 is amended to read as follows:  
24-11-434. Deferred retirement option plan.

(a)(1) In lieu of terminating employment and accepting a service retirement pension pursuant to § 24-11-401 et seq., any police officer who is a member of a policemen’s pension and relief fund who has not less than twenty (20) years of credited service and who is eligible to receive a service retirement pension may elect to participate in the Arkansas Police Officers’ Deferred Option Plan and defer the receipt of benefits in accordance with the provisions of this section, provided that the board of trustees of the local policemen’s pension and relief fund approves the participation in the plan.

(2) For purposes of this section, credited service shall include service credit recognized pursuant to this subchapter.

(b)(1) The duration of participation in the plan for active police officers shall not exceed five (5) years.

(2) The five-year limit may be extended if:

(A) The extension does not cause the limit to exceed ten (10) years;

(B) The extension applies to all active members and all members on the plan;

(C) The extension is approved by a majority of votes of the board of trustees of the pension and relief fund or of the Arkansas Local Police and Fire Retirement System for funds whose administrative responsibility has been assigned to the system as provided in § 24-11-406(b);

(D) The interest credited after the first five (5) years on the plan shall be ~~two (2) percentage points below the rate of return of the investment portfolio of the fund and shall not be determined under subdivision (c)(2) of this section, but in no event shall the interest rate credited be less than zero percent (0%)~~ at a rate determined from time to time by the board; and

(E) The extension is approved by a majority vote of the governing body of the sponsoring municipality.

(c)(1) Except under subdivision (c)(2) of this section, at the conclusion of a member’s participation in the plan, the member shall terminate employment with all participating municipalities as a police

1 officer and shall start receiving the member's accrued monthly retirement  
 2 benefit from the policemen's pension and relief fund.

3 (2) If a member is at the conclusion of a member's participation  
 4 in the plan, the member may continue employment by a municipality under the  
 5 following conditions:

6 (A) The municipality makes continued employment available  
 7 to all similarly situated members;

8 (B) The availability of continued employment is approved  
 9 by a majority vote of the governing body of the sponsoring municipality after  
 10 receiving approval for an increase in benefits under § 24-11-102;

11 (C) The monthly benefit that is credited to the member's  
 12 plan account is discontinued and the member shall not receive a monthly  
 13 benefit until the member actually ceases employment;

14 (D) The interest rate credited to the plan account is the  
 15 same paid as under subdivision (e)(2) of this section, ~~except that the~~  
 16 ~~minimum rate is zero percent (0%);~~

17 (E) The employer's matching contribution of six percent  
 18 (6%) shall cease, but all other employer contributions shall continue and be  
 19 credited to the pension and relief fund; and

20 (F) The employee contributions of six percent (6%) shall  
 21 discontinue.

22 (d)(1) When a member begins participation in the plan, the  
 23 contribution of the police officer and the employer contribution shall  
 24 continue to be paid.

25 (2)(A) In a municipality having a population of over twenty  
 26 thousand (20,000) persons, municipal matching contributions for employees who  
 27 elect the plan shall be credited equally to the policemen's pension and  
 28 relief fund and to the plan, or at the option of the local pension and relief  
 29 fund board of trustees, credited in the manner provided in subdivision  
 30 (d)(2)(B) of this section.

31 (B) In a municipality having a population of twenty  
 32 thousand (20,000) persons or less, municipal matching contributions for  
 33 employees who elect the plan shall be credited in full to the policemen's  
 34 pension and relief fund, and the contribution of the employee shall be  
 35 credited to the member's plan account.

36 (3) The monthly retirement benefits that would have been payable

1 had the member elected to cease employment and receive service retirement and  
 2 pension supplement payments made by the Policemen's Pension Supplement  
 3 Program shall be paid into the plan account.

4 (e)(1) The member's monthly retirement benefit shall not change unless  
 5 the plan receives a benefit increase.

6 (2)(A) A member who participates in this plan shall earn  
 7 interest at a rate of ~~two (2) percentage points below the rate of return of~~  
 8 ~~the investment portfolio of the policemen's pension and relief fund as~~  
 9 ~~certified by the actuary under contract with the Arkansas Fire and Police~~  
 10 ~~Pension Review Board in accordance with generally accepted actuarial~~  
 11 ~~practices and § 24-11-207 but no less than the actuarial assumed interest~~  
 12 ~~rate as certified by the actuary~~ determined from time to time by the board.

13 (B) The interest shall be credited to the individual  
 14 account balance of the member on an annual basis.

15 (f)(1) At the option of the participant, a participant in the plan  
 16 shall receive a lump-sum payment from the account equal to the payments to  
 17 the account or a true annuity based upon the account of the participant or  
 18 may elect any other method of payment if approved by the board of trustees.

19 (2) If approved by a majority vote of the governing body of the  
 20 sponsoring municipality and the board of trustees, a participant in the  
 21 deferred retirement option plan may defer receiving payment of the  
 22 participant's account and continue with the funds deposited in the plan.

23 (3)(A) Interest credited to the continuing deposit of funds in  
 24 the plan under subdivision (f)(2) of this section shall be calculated in the  
 25 same manner as interest under subdivision (e)(2) of this section.

26 (B) However, the minimum interest rate shall not be less  
 27 than zero percent (0%).

28 (4) The payment of funds accumulated while participating in the  
 29 deferred retirement option plan may be deferred only one (1) time. These  
 30 funds must be distributed or annuitized by December 31 of the year a member  
 31 attains age seventy and one-half (70 1/2).

32 (g) If the participant dies during the period of participation in the  
 33 plan, ~~a lump sum payment equal to the account balance of the participant~~  
 34 ~~shall be paid~~ the deceased participant's named beneficiary may elect to  
 35 receive the remaining funds in the deceased participant's account under any  
 36 method of distribution approved by the board.



1 (h) A participant in the plan shall not receive any benefits under the  
2 plan unless he or she participates in the plan for a minimum of one (1) year,  
3 absent death or disability.

4 (i) The Arkansas Fire and Police Pension Review Board may promulgate  
5 ~~regulations~~ rules to make the plan under this section comply with the  
6 requirements of this section and with the applicable portions of the federal  
7 Internal Revenue Code, as it existed on January 1, 2003.

8 (j) Although the police officer may remain employed by the  
9 participating municipality, any member who opts to participate in the plan  
10 shall be considered to be retired for all retirement purposes, including, but  
11 not limited to, benefit increase purposes and the extension of benefits to  
12 the spouses of deceased members.

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