

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: H2/4/13*

# A Bill

HOUSE BILL 1136

5 By: Representative Lenderman  
6

## For An Act To Be Entitled

8 AN ACT TO CLARIFY DISABILITY RETIREMENT REQUIREMENTS  
9 AND ELIGIBILITY FOR ADMINISTRATION IN THE ARKANSAS  
10 TEACHER RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY;  
11 AND FOR OTHER PURPOSES.  
12  
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### Subtitle

15 TO CLARIFY DISABILITY RETIREMENT  
16 REQUIREMENTS AND ELIGIBILITY FOR  
17 ADMINISTRATION IN THE ARKANSAS TEACHER  
18 RETIREMENT SYSTEM AND TO DECLARE AN  
19 EMERGENCY.  
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 24-7-704(a), concerning disability  
25 retirement, is amended to read as follows:

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

34 (B) An active member who is eligible for retirement under  
35 § 24-7-701 is not eligible for disability retirement.

36 (C)(i) An active member who has met the eligibility



1 requirement of subdivision (a)(1)(A) of this section shall meet the  
 2 termination of covered employment requirements under § 24-7-502 to be  
 3 eligible for disability retirement benefits.

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

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

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

15 (i) The member is physically or mentally  
 16 incapacitated;

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

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

22 (iv) The incapacity will most likely be permanent;  
 23 and

24 (v) The member should be retired.

25 (2) The disability retirement ~~shall be~~ is effective ~~the calendar~~  
 26 ~~month following the member's termination of active membership~~ from the date  
 27 the written application is filed with the system and the member is no longer  
 28 employed by an employer.

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

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

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

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2 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
3 General Assembly of the State of Arkansas that provisions of the Arkansas  
4 Teacher Retirement System Act addressing the administration of disability  
5 retirement are in need of revision to maintain the teacher retirement laws in  
6 conformance with sound public pension policy and proper administration; that  
7 the Arkansas Teacher Retirement System operates on a July 1 to June 30 fiscal  
8 year; and that this act is necessary to allow the provisions impacting  
9 disability retirement to begin on the first day of the fiscal year.  
10 Therefore, an emergency is declared to exist, and this act being necessary  
11 for the preservation of the public peace, health, and safety shall become  
12 effective on July 1, 2013.

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14 /s/Lenderman  
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