

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

As Engrossed: S1/23/13

A Bill

SENATE BILL 40

5 By: Senator B. Sample
6

For An Act To Be Entitled

8 AN ACT TO MAKE TECHNICAL CHANGES TO THE LAW
9 CONCERNING THE ARKANSAS LOCAL POLICE AND FIRE
10 RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO MAKE TECHNICAL CHANGES TO THE LAW
13 CONCERNING THE ARKANSAS LOCAL POLICE AND
14 FIRE RETIREMENT SYSTEM.
15
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 24-10-102(17), concerning the definition of
22 final average pay, is amended to read as follows:

23 (17)(A) "Final average pay" means the monthly average of the
24 pays to an employee during the period of thirty-six (36) consecutive months
25 of credited service producing the highest monthly average, but the period
26 must be contained within the period of one hundred twenty (120) consecutive
27 months of credited service immediately preceding his or her separation from
28 covered employment.

29 (B) Should a member have less than thirty-six (36) months
30 of credited service, "final average pay" means the monthly average of pays to
31 ~~him or her~~ the member during ~~his or her~~ the member's total months of credited
32 service.

33 (C)(i) In any event, pays usable in determining final
34 average pay shall be limited by the test in subdivision ~~(17)(e)(ii)~~
35 (17)(C)(ii) of this section, considering the final average pay period in four
36 ~~(4) contiguous segments~~ consecutive years.



1 (ii)(a) Pays during any ~~one (1) annual segment~~
2 twelve (12) consecutive months shall be usable only to the extent that the
3 pays do not exceed thirty-one percent (31%) of the total pays in the final
4 average pay period.

5 (b) However, if the final average pay period
6 is less than four (4) full years, the maximum usable thirty-one percent (31%)
7 shall be increased proportionately.

8 (D)(i) For the limited purposes of calculating final
9 average pay for disability retirement benefits under § 24-10-607, pay shall
10 include workers' compensation benefits received by the member.

11 (ii) However, the pay that is increased for any
12 month for the limited purposes of calculating this final average pay shall
13 not be greater than the current pay attached to the rank of the member;
14

15 SECTION 2. Arkansas Code § 24-10-201(a), concerning members and terms,
16 is amended to read as follows:

17 (a) The general administration and the responsibility for the proper
18 operation of the Arkansas Local Police and Fire Retirement System and for
19 making effective the provisions of this chapter are vested in a board of
20 trustees of seven (7) persons as follows:

21 (1) One (1) person to be appointed member trustee by the
22 Governor from two (2) lists of persons submitted to him or her, one (1) list
23 from the Arkansas Professional Fire Fighters Association and one (1) list
24 ~~from the Arkansas Council of Professional Fire Fighters~~ State Firefighters
25 Association;

26 (2) One (1) person to be appointed member trustee by the
27 Governor from two (2) lists of persons submitted to him or her, one (1) list
28 from the Arkansas Municipal Police Association and one (1) list from the
29 Fraternal Order of Police;

30 (3) Two (2) persons to be appointed employer trustees by the
31 Governor from a list of persons submitted to him or her by the Arkansas
32 Municipal League;

33 (4) One (1) person who is not a member, retirant, or beneficiary
34 of the system and who is not a member of the governing body of any political
35 subdivision to be appointed trustee by the Governor from a list of persons
36 submitted to him or her by the Joint Committee on Public Retirement and

1 Social Security Programs;

2 (5) One (1) person who is a retired municipal police officer to
3 be appointed a member trustee by the Governor from a list of two (2) persons
4 submitted to him or her by the cochairs of the Joint Committee on Public
5 Retirement and Social Security Programs; and

6 (6) One (1) person who is a retired municipal firefighter to be
7 appointed a member trustee by the Governor from a list of two (2) persons
8 submitted to him or her by the cochairs of the Joint Committee on Public
9 Retirement and Social Security Programs.

10

11 SECTION 3. Arkansas Code § 24-10-405 is amended to read as follows:

12 24-10-405. Employer accumulation account -- Contributions.

13 (a) The employer accumulation account as created by this section shall
14 be the account ~~in~~ into which ~~shall be accumulated~~ the contributions made by
15 employers for annuities shall be accumulated and from which ~~shall be made~~
16 transfers shall be made as provided in this chapter.

17 (b) ~~When paid to the Arkansas Local Police and Fire Retirement System,~~
18 ~~the~~ Employer contributions paid to the Arkansas Local Police and Fire
19 Retirement System provided for in this section shall be credited to the
20 employer accumulation fund account of the employer making the contributions.

21 (c) When an annuity ~~first~~ becomes due and payable to or on behalf of a
22 member, there shall be transferred to the retirement reserve account from his
23 or her employer's account in the employer accumulation account the difference
24 between the reserve for the annuity and the accumulated contributions
25 standing to his or her credit in the members' deposit account at the time the
26 annuity first becomes due and payable.

27 (d) ~~(1) A separate account shall be maintained in the employer~~
28 ~~accumulation account for each employer~~ An employer accumulation account shall
29 be maintained to receive and hold employer contributions.

30 (2) ~~No paid service employer shall be responsible for the~~
31 ~~employer accumulation account liabilities of another paid service employer.~~

32 (e) ~~Each paid~~ Paid service employer's employer contributions to the
33 system shall be the total of the contribution amounts provided for in
34 subsections (f) and (g) of this section, and the contributions shall be
35 subject to the provisions of subsection (h) of this section.

36 (f)(1) For ~~each~~ paid service ~~employer~~ employers, the actuary shall

1 annually compute the rate of contributions, expressed as a percent of active
2 member pays, which will cover the benefit costs of ~~its~~ paid service employees
3 participating in the system.

4 (2) ~~The actuarial valuation determining the contribution rate~~
5 ~~shall be based upon such financial assumptions as shall be established by the~~
6 ~~Board of Trustees of the Arkansas Local Police and Fire Retirement System~~
7 ~~after consulting with the actuary~~ The Board of Trustees of the Arkansas Local
8 Police and Fire Retirement System in consultation with the actuary shall
9 establish, based upon their financial assumptions, the actuarial valuation
10 determining the contribution rate.

11 (3) The board shall ~~annually~~ certify annually to the governing
12 body of each employer the contribution rate so determined, and each employer
13 shall pay contributions based on that rate to the system during the
14 employer's next fiscal year, which begins six (6) months or more after the
15 date of the board certification.

16 (4) The payments shall be made in such manner and form, and in
17 such frequency, and shall be accompanied by such supporting data, as the
18 board shall determine.

19 (5) When received, the payments shall be credited to the
20 ~~employer's account in the~~ employer accumulation account.

21 (g) Each employer shall provide its share as determined by the board
22 of the administrative expenses of the system and shall pay that amount to the
23 system to be credited to the income-expense account.

24 (h)(1) Except under subdivision (h)(2) of this section, the paid
25 service employer's total contributions to the system, expressed as a ~~percent~~
26 percentage of active member pays, in any employer fiscal year beginning with
27 the second fiscal year that the political subdivision is an employer shall
28 not exceed its total contributions for the immediately preceding fiscal year,
29 expressed as a percent of active member pays, by more than one percent (1%).

30 (2) However, an increase in the paid service employer's
31 contributions to the system may exceed the limit of one percent (1%) per year
32 imposed under subdivision (h)(1) of this section if the board certifies to
33 the governing body of each paid service employer that the increase in the
34 paid service employer's contribution rate is the direct result of increased
35 benefit costs mandated by changes in the law made by the General Assembly.

36 (i)(1) For ~~each~~ volunteer service employers, the actuary shall

1 annually compute the rate of contributions that will cover the benefit costs
2 of ~~its~~ volunteer service employees participating in the system as determined
3 by policy established by the ~~Board of Trustees of the Arkansas Local Police~~
4 ~~and Fire Retirement System~~ board.

5 (2) The actuarial valuation determination of the contribution
6 rate shall be based upon financial assumptions established by the board
7 following consultation with the actuary.

8 (3) The board shall certify annually to the governing body of
9 each employer the determined contribution rate, and each employer shall pay
10 contributions based on the determined rate to the system during the
11 employer's next fiscal year that begins six (6) months or more from the date
12 of the board certification.

13 (4) The board shall determine required supporting data and the
14 manner, form, and frequency in which payments shall be made.

15 (5) The board shall establish necessary additional policies
16 regarding volunteer service employers that are required to meet the financial
17 objective of the system under this subchapter.

18 (j) Beginning in fiscal year 2012, for each paid service employer the
19 actuary shall annually compute the rate of contributions that will cover the
20 benefit costs of its employees participating in the system as determined by
21 policy established by the board.

22
23 SECTION 4. Arkansas Code § 24-10-407(d), concerning income-expense
24 account, is amended to read as follows:

25 (d)(1) At the end of each system fiscal year, the board shall credit
26 each member's individual account in the members' deposit account with regular
27 interest on the average balance in the account for the fiscal year.

28 (2) At the end of each system fiscal year, the board shall
29 credit to ~~each account in~~ the employer accumulation account regular interest
30 on the average balance in the account for the fiscal year and similarly shall
31 credit regular interest to the retirement reserve account.

32 (3) The regular interest shall be transferred from the income-
33 expense account.

34
35 SECTION 5. Arkansas Code § 24-10-502(d), concerning military service,
36 is amended to read as follows:

1 (d)(1)(A) Under ~~the requirements of~~ section 4312 of Pub. L. No. 103-
2 353, the Uniformed Services Employment and Reemployment Rights Act of 1994 in
3 effect October 13, 1996, a member who leaves covered employment to serve in
4 the uniformed services of the United States after giving notice to the
5 employer and who returns to employment shall be treated as not having
6 incurred a break in service with the employer.

7 (B) The employer shall certify to the system that
8 reemployment was in accordance with section 4312 of Pub. L. No. 103-353.

9 (2) Under this subsection, the uniformed services of the United
10 States are limited to the armed forces of the United States, the Army and Air
11 National Guard when engaged in active duty for training, inactive duty
12 training, or full-time National Guard duty, the commissioned corps of the
13 Public Health Service, and any other category of persons designated by the
14 President of the United States in time of war or national emergency.

15 (3) The cumulative length of the absence from a position of
16 employment with the employer by reason of service in the ~~uniformed~~ uniformed
17 services for which service credit will be given shall not exceed five (5)
18 years.

19 (4) A member whose uniformed service is honorably terminated and
20 who reports for reemployment under this subsection within the time provided
21 in section 4312 of Pub. L. No. 103-353 shall be entitled to accrue benefits
22 for the time the member served in the uniformed services by paying the
23 employee contributions required by § 24-10-404, if any, within the time
24 provided in section 4312 of Pub. L. No. 103-353, and by repaying any amount
25 the member may have previously withdrawn from the system, with interest.

26 (5)(A) An employer reemploying a member under this subsection
27 shall pay to the system the employer contributions due for the time the
28 member served in the uniformed services as required by § 24-10-405.

29 (B) However, if a member does not pay the employee
30 contributions due, then no employer contributions are due.

31 (6) For the purposes of determining the employee and employer
32 contributions due, the member's compensation during the period of service in
33 the uniformed services shall be computed at:

34 (A) The rate the member would have received if the member
35 had not served in the uniformed services; or

36 (B) The member's average compensation level during the

1 twelve-month period, or shorter if applicable, immediately preceding the
2 service.

3 (7) Unless both employee and employer contributions are paid,
4 the member shall not be entitled to any accrued benefits for the time served
5 in the uniformed services.

6 (8)(A) If a member dies on or after January 1, 2007, while
7 performing ~~USERRA~~ Uniformed Services Employment and Reemployment Rights Act
8 of 1994-qualified military service, the member shall be treated as though he
9 or she resumed covered employment on the day before the day of death.

10 (B) For a member who had not attained a vested status in
11 the system, sufficient service credit shall accrue to permit the member to
12 become vested.

13 (C) For a member who had attained a vested status,
14 additional service credit accrual shall not occur.

15 (D) In all cases, the eligible benefit awarded by the
16 system under this section shall be a nonduty death benefit.

17

18 SECTION 6. Arkansas Code § 24-10-503 is amended to read as follows:
19 24-10-503. Disability.

20 (a) In the event a member in covered employment becomes totally
21 physically or mentally incapacitated for his or her duty as an employee as
22 the natural and proximate result of a personal injury or disease which has
23 arisen out of and in the course of his or her actual performance of duty as
24 an employee, in the event the disability will probably not be permanent, and
25 in the event periodic payments are payable under any workers' compensation or
26 similar law on account of the same disability, then the disability time shall
27 be credited as service under this subchapter upon ~~written~~ proper application
28 filed with the Board of Trustees of the Arkansas Local Police and Fire
29 Retirement System by or on behalf of the member.

30 (b) All determinations concerning the nature of the disability shall
31 be made by the board.

32 (c) During the period of disability, his or her contributions based on
33 reportable pays to the Arkansas Local Police and Fire Retirement System shall
34 ~~be suspended~~ continue, and any balance remaining to his or her credit in the
35 system shall ~~be accumulated at~~ continue to accrue regular interest.

36 (d) Service credit granted under this section shall not be considered

1 as credited service for the purpose of determining the member's final average
2 pay.

3 (e) Should the ~~person~~ member die while so disabled, he or she shall be
4 considered a member in covered employment at the time of death.

5

6 SECTION 7. Arkansas Code § 24-10-504 is amended to read as follows:

7 24-10-504. Forfeiture and restoration.

8 (a)(1) When a member is no longer employed by any employer in covered
9 employment, he or she shall cease to be a member of the Arkansas Local Police
10 and Fire Retirement System.

11 (2) Except as otherwise provided in this chapter, upon
12 termination of his or her membership his or her credited service shall be
13 forfeited by him or her.

14 (3) If the person becomes reemployed by any employer in covered
15 employment, he or she shall again become a member of the system under
16 subdivision (a)(4) of this section.

17 (4) Upon his or her reemployment, his or her credited service
18 last forfeited by him or her shall be restored to his or her credit, but only
19 if he or she returns to the system the amount, if any, he or she withdrew
20 from the system, together with regular interest from the date of withdrawal
21 to the date of repayment.

22 (b)(1) Upon a member's retirement, he or she shall cease to be a
23 member.

24 (2) Except under subdivision (b)(3) of this section or as
25 otherwise provided in this chapter, he or she shall not again become a member
26 of the system.

27 (3) Upon a member's retirement for a period of not less than
28 ninety (90) days, the member may return to volunteer service with a covered
29 employer and may continue to draw the retirant's annuity if the retirant
30 desires to return to the covered employer and voluntarily ~~agrees to sign a~~
31 ~~waiver to earning any~~ waives further service credit in the system or in any
32 other police or firefighter-related pension fund.

33 (c)(1) Should a former member entitled to a vested annuity provided
34 for in § 24-10-611 reenter covered employment before becoming a retirant, he
35 or she shall cease to be entitled to a vested annuity and shall become a
36 member, with his or her previous credited service reactivated and to be

1 increased by the reemployment.

2 (2)(A) If a former member entitled to a vested annuity under §
3 24-10-611 reenters covered employment after becoming a retirant, the former
4 member may again become a member with previous credited service restored and
5 increased by the period of reemployment, but only if the former member:

6 (i) Was not a participant in the Deferred Retirement
7 Option Plan under § 24-10-701;

8 (ii) Was a retirant for at least thirty (30) days;
9 and

10 (iii) Remains reemployed for at least twelve (12)
11 months.

12 (B) During the time of reemployment, the retirement
13 benefits shall not be paid.

14 (C) The former member may exercise the reemployment option
15 under this subdivision (c)(2) one (1) time only.

16 (D)~~(1)~~(i) At the end of the period of reemployment, the
17 retirement benefit will be recalculated using service time, including the
18 reemployment service, and final average pay.

19 ~~(2)~~(ii) However, the final average pay shall be the
20 same final average pay used initially to calculate the retirement benefit
21 unless the period of reemployment lasts at least thirty-six (36) months, in
22 which case the final average pay will be recalculated as defined under § 24-
23 ~~10-102(15)~~ 24-10-102(17).

24 (d)(1) Upon the retirement of a member whose credited service results
25 from employment with more than one (1) employer, the amount of his or her
26 annuity shall be based upon his or her total credited service in force at the
27 time of his or her retirement and his or her final average pay during the
28 total credited service.

29 (2) Each employer shall be responsible financially, within the
30 provisions of this chapter, for the portion of the annuity based upon the
31 service credited the member for employment with the employer, and the benefit
32 program to be applied to each portion of credited service shall be the
33 benefit program the employer had in effect at the time the member left the
34 employment of the employer.

35 ~~(e) If it is determined by the Board of Trustees of the Arkansas Local~~
36 ~~Police and Fire Retirement System at any time that continuous employment to~~

1 ~~the time of retirement will leave a member with less than the minimum number~~
2 ~~of years of credited service specified in § 24-10-604, then the member shall~~
3 ~~cease to be a member.~~

4
5 SECTION 8. Arkansas Code § 24-10-603 is amended to read as follows:

6 24-10-603. Annuity options.

7 (a) Before the date the first payment of a member's annuity becomes
8 due, but not thereafter, a member may elect in ~~writing~~ a manner prescribed by
9 the system to receive his or her annuity as an Option A60 annuity under this
10 section, or the member may elect to have his or her life annuity reduced,
11 excepting any temporary annuity that may be payable. The member may nominate
12 a beneficiary in accordance with the provisions of one (1) of the following
13 options:

14 (1) Option A60 – Sixty (60) Months Certain and Life Annuity.

15 (A)(i) Under Option A60, the retirant shall be paid a
16 ~~reduced~~ an annuity for life with the provision that if the retirant's death
17 occurs before sixty (60) monthly payments have been made, the full ~~reduced~~
18 annuity shall continue to be paid for the remainder of the sixty (60) months
19 to such persons and in such shares as the retirant shall have designated in
20 ~~writing~~ a manner prescribed by the system and filed with the Board of
21 Trustees of the Arkansas Local Police and Fire Retirement System.

22 (ii) If there is no payee surviving, the lump-sum
23 actuarial equivalent of the remaining monthly payments shall be paid to the
24 estate of the last survivor among the retirant and the designated persons.

25 (B) The reduced annuity shall be ninety-six percent (96%)
26 of the life annuity if the first payment due date is before July 1, 2001,
27 ninety-seven percent (97%) of the life annuity if the first payment due date
28 is on or after July 1, 2001, or one hundred percent (100%) of the life
29 annuity if the first payment due date is on or after July 1, 2003.

30 (2) Option A120 – One Hundred Twenty (120) Months Certain and
31 Life Annuity.

32 (A)(i) Under Option A120, the retirant shall be paid a
33 reduced annuity for life with the provision that if the retirant's death
34 occurs before one hundred twenty (120) monthly payments have been made, the
35 full reduced annuity shall continue to be paid for the remainder of the one
36 hundred twenty (120) months to such persons and in such shares as the

1 retirant shall have designated in ~~writing~~ a manner prescribed by the system
2 and filed with the board.

3 (ii) If there is no payee surviving, the lump-sum
4 actuarial equivalent of the remaining monthly payments shall be paid to the
5 estate of the last survivor among the retirant and the designated persons.

6 (B) The reduced annuity shall be ninety percent (90%) of
7 the life annuity if the first payment due date is before July 1, 2001,
8 ninety-five percent (95%) of the life annuity if the first payment due date
9 is on or after July 1, 2001, or ninety-eight percent (98%) of the life
10 annuity if the first payment due date is on or after July 1, 2003.

11 (3) Option B50 -- Fifty Percent (50%) Survivor Beneficiary
12 Annuity.

13 (A)(i) Under Option B50, the retirant shall be paid a
14 reduced annuity for life with the provision that upon the retirant's death,
15 one-half (1/2) of the reduced annuity shall be continued throughout the
16 future lifetime of and paid to such person ~~as~~ the retirant ~~shall have~~ has
17 designated in ~~writing~~ a manner prescribed by the system and filed with the
18 board before his or her annuity starting date.

19 (ii) However, the person must be either:

20 (a) The retirant's spouse for not less than
21 one (1) year immediately preceding the first payment due date;

22 (b) Another person receiving more than one-
23 half (1/2) support from the retirant for not less than one (1) year
24 immediately preceding the first payment due date; or

25 (c) A dependent child as defined under § 24-
26 10-102~~(11)(B)(ii)(13)~~.

27 (B) If the first payment due date is before July 1, 2001,
28 the reduced annuity to the retirant shall be eighty-five percent (85%) if the
29 retirant's age and his or her beneficiary's age are the same on the first
30 payment due date, which shall be decreased by one-half of one percent (0.5%)
31 for each year that the beneficiary's age is less than the retirant's age or
32 which shall be increased by one-half of one percent (0.5%) up to a maximum of
33 ninety-five percent (95%) for each year that the beneficiary's age is more
34 than the retirant's age.

35 (C) If the first payment due date is on or after July 1,
36 2001, the reduced annuity to the retirant shall be ninety-one percent (91%)

1 if the retirant's age and his or her beneficiary's age are the same on the
2 first payment due date, which shall be decreased by one-half of one percent
3 (0.5%) for each year that the beneficiary's age is less than the retirant's
4 age or which shall be increased by one-half of one percent (0.5%) up to a
5 maximum of ninety-five percent (95%) for each year that the beneficiary's age
6 is more than the retirant's age.

7 (D) If the first payment due date is on or after July 1,
8 2003, the reduced annuity to the retirant shall be ninety-four percent (94%)
9 if the retirant's age and retirant's beneficiary's age are the same on the
10 first payment due date, which shall be decreased by ~~five-tenths~~ one half of
11 one percent (0.5%) for each year that the beneficiary's age is less than the
12 retirant's age or which shall be increased by ~~five-tenths~~ one half of one
13 percent (0.5%) up to a maximum of ninety-eight percent (98%) for each year
14 that the beneficiary's age is more than the retirant's age.

15 (4) Option B75 -- Seventy-Five Percent (75%) Survivor
16 Beneficiary Annuity.

17 (A)(i) Under Option B75, the retirant shall be paid a
18 reduced annuity for life with the provision that upon the retirant's death,
19 three-quarters (3/4) of the reduced annuity shall be continued throughout the
20 future lifetime of and paid to such person as the retirant shall have
21 designated in ~~writing~~ a manner prescribed by the system and filed with the
22 board before the retirant's annuity starting date.

23 (ii) However, the person must be either:

24 (a) The retirant's spouse for not less than
25 one (1) year immediately preceding the first payment due date;

26 (b) Another person receiving more than one-
27 half (1/2) support from the retirant for not less than one (1) year
28 immediately preceding the first payment due date; or

29 (c) A dependent child as defined under § 24-
30 10-102(11)(B)(ii)(13).

31 (B) If the first payment due date is before July 1, 2001,
32 the reduced annuity to the retirant shall be eighty percent (80%) if the
33 retirant's age and his or her beneficiary's age are the same on the first due
34 date, which shall be decreased by ~~three-quarters~~ three-fourths of one percent
35 (0.75%) for each year that the beneficiary's age is less than the retirant's
36 age or which shall be increased by ~~three-quarters~~ three-fourths of one

1 percent (0.75%) up to a maximum of ninety percent (90%) for each year that
2 the beneficiary's age is more than the retirant's age.

3 (C) If the first payment due date is on or after July 1,
4 2001, the reduced annuity to the retirant shall be eighty-six percent (86%)
5 if the retirant's age and his or her beneficiary's age are the same on the
6 first payment due date, which shall be decreased by ~~three-quarters~~ three-
7 fourths of one percent (0.75%) for each year that the beneficiary's age is
8 less than the retirant's age or which shall be increased by ~~three-quarters~~
9 three-fourths of one percent (0.75%) up to a maximum of ninety percent (90%)
10 for each year that the beneficiary's age is more than the retirant's age.

11 (D) If the first payment due date is on or after July 1,
12 2003, the reduced annuity to the retirant shall be eighty-nine percent (89%)
13 if the retirant's age and the retirant's beneficiary's age are the same on
14 the first payment due date, which shall be decreased by ~~seventy-five~~
15 ~~hundredths~~ three-fourths of one percent (0.75%) for each year that the
16 beneficiary's age is less than the retirant's age or which shall be increased
17 by ~~seventy-five hundredths~~ three-fourths of one percent (0.75%) up to a
18 maximum of ninety-four percent (94%) for each year that the beneficiary's age
19 is more than the retirant's age.

20 (b)(1)(A) At the ~~written~~ election of the retirant, a death of the
21 beneficiary or the divorce or other marriage dissolution after retirement
22 from a spouse designated as beneficiary shall cancel any optional plan
23 elected at retirement to provide continuing lifetime benefits to the
24 beneficiary and shall return the retirant to his or her single lifetime
25 benefit equivalent, to be effective the month following receipt of the
26 retirant's election by the plan.

27 (B) The election shall be in a manner prescribed by the
28 system.

29 (2) A retirant who is receiving a single lifetime benefit and
30 who marries after retirement or within the one (1) year immediately preceding
31 retirement may elect to cancel his or her single lifetime benefit and to
32 elect an optional plan providing continuing lifetime benefits to his or her
33 spouse, but only if the election is ~~on a form~~ in a manner approved by the
34 board and is received by the board not earlier than one (1) year after the
35 date of the marriage and not later than eighteen (18) months thereafter.

36 (3) The election shall be effective the first day of the month

1 following its receipt.

2 (c) If a member does not elect an option, his or her annuity shall be
3 paid to him or her as an Option A60 annuity provided for under subdivision
4 (a)(1) of this section.

5

6 SECTION 9. Arkansas Code § 24-10-606 is amended to read as follows:

7 24-10-606. Early retirement.

8 (a) ~~Any~~ An active member in covered employment who has not attained
9 his or her normal retirement age may retire with an early annuity as provided
10 in this section upon his or her ~~written~~ proper application to the Board of
11 Trustees of the Arkansas Local Police and Fire Retirement System setting
12 forth at what time, not less than thirty (30) days nor more than ninety (90)
13 days subsequent to the execution and filing of his or her application, he or
14 she desires to be retired, but only if, at the time of his or her separation
15 from employment and at the time so specified for his or her retirement, the
16 member ~~shall have~~ has:

17 (1) Attained age fifty (50) and ~~have~~ has twenty (20) years of
18 credited service in force; or

19 (2) Twenty-five (25) years of actual credited paid service in
20 the Arkansas Local Police and Fire Retirement System at any age.

21 (b) He or she shall have the right to elect an option provided for in
22 § 24-10-603.

23 (c)(1) Upon early retirement, a member shall receive a certain percent
24 of an annuity for life as provided for in § 24-10-602.

25 (2) The percent shall be one hundred percent (100%) reduced by
26 one-half of one percent (0.5%) multiplied by the number of months by which
27 his or her age at early retirement is less than his or her normal retirement
28 age.

29

30 SECTION 10. Arkansas Code § 24-10-607 is amended to read as follows:

31 24-10-607. Disability retirement.

32 (a)(1)(A) ~~Any~~ An active member with five (5) years of credited
33 service, including credited service for seventy-five percent (75%) of the two
34 (2) years immediately preceding his or her disability, who while an active
35 member becomes totally and permanently physically or mentally incapacitated
36 for any suitable duty as an employee as a result of a personal injury or

1 disease may be retired by the Board of Trustees of the Arkansas Local Police
2 and Fire Retirement System upon ~~written~~ proper application filed with the
3 board by or on behalf of the member or former member.

4 (B) The employee shall be retired only if, after a medical
5 examination of the member or former member made by or under the direction of
6 a physician or physicians designated by the board, the physician reports to
7 the plan in ~~writing~~ a manner prescribed by the board that the member or
8 former member is physically or mentally totally incapacitated for the further
9 performance of any suitable duty, that the incapacity will probably be
10 permanent, and that the member or former member should be retired.

11 (2) A ~~written~~ proper application to the board by the member or
12 former member or on behalf of the member shall be filed with the board not
13 later than one (1) year after the termination of active membership.

14 (3) The disability annuity shall be effective the first day of
15 the calendar month next following the later of:

16 (A) His or her termination of active membership; or

17 (B) Six (6) months before the date the ~~written~~ proper
18 application is filed with the board.

19 (b)(1)(A) Upon disability retirement as provided in subsection (a) of
20 this section, a member shall receive an annuity provided for in § 24-10-602.

21 (B)(i) For purposes of calculating the amount of an
22 annuity for disability retirement, a member's final average pay shall include
23 workers' compensation benefits received by the member as set forth under §
24 ~~24-10-102(15)(D)~~ 24-10-102(17)(D).

25 (ii) Disability benefits awarded to members, ~~prior~~
26 ~~to~~ before July 16, 2003, shall be adjusted to include workers' compensation
27 benefits in calculating final average pay upon application to the system by
28 the affected member.

29 (iii) ~~No~~ An adjustment shall not be made in monthly
30 benefits paid before January 1, 2003.

31 (2) ~~He or she~~ The member shall have the right to elect an option
32 provided for in § 24-10-603.

33 (3) ~~His or her~~ The member's disability retirement and annuity
34 shall be subject to the provisions of subsection (e) of this section and to
35 the provisions of § 24-10-610.

36 (c)(1)(A) Any active member who while an active member becomes totally

1 and permanently physically or mentally incapacitated for any suitable duty as
2 an employee as the result of a personal injury or disease that the board
3 finds to have arisen out of and in the course of his or her actual
4 performance of duty as an employee may be retired by the board upon ~~written~~
5 proper application filed with the board by or on behalf of the member or
6 former member.

7 (B) The employee shall be retired only if, after a medical
8 examination of the member or former member made by or under the direction of
9 a physician or physicians designated by the board, the physician reports to
10 the plan in ~~writing~~ a manner prescribed by the board that the member or
11 former member is physically or mentally totally incapacitated for the further
12 performance of any suitable duty, that the incapacity will probably be
13 permanent, and that the member or former member should be retired.

14 (2) A ~~written~~ proper application to the board by the member or
15 former member or on behalf of the member shall be filed with the board not
16 later than one (1) year after the termination of active membership.

17 (3) The disability annuity shall be effective the first day of
18 the calendar month next following the later of:

19 (A) His or her termination of active membership; or

20 (B) Six (6) months before the date the ~~written~~ proper
21 application is filed with the board.

22 (d)(1)(A) Upon disability retirement as provided in subsection (c) of
23 this section, a member shall receive an annuity provided for in § 24-10-602.

24 (B) However, for the sole purpose of computing the amount
25 of the annuity for such a retirant who does not have twenty-five (25) years
26 of credited service in force at the beginning of the disability retirement,
27 credited service shall be granted for the period from the date of disability
28 retirement to the date the retirant would have completed twenty-five (25)
29 years of credited service.

30 (2)(A) Upon disability retirement as provided in subsection (c)
31 of this section for members in paid service, a member shall receive an
32 annuity provided for in § 24-10-602.

33 (B) However, for determining the amount of the annuity,
34 the retirant's annuity amount shall either be equal to sixty-five percent
35 (65%) of the final average salary of the member or shall be equal to the
36 annuity paid to retirants for each year of paid service resulting from

1 employment as provided for in § 24-10-602, whichever is greater.

2 (3) The retirant shall have the right to elect an option
3 provided for in § 24-10-603.

4 (4) The retirant's disability retirement and annuity shall be
5 subject to the provisions of subsection (e) of this section and to the
6 provisions of § 24-10-610.

7 (e)(1) At least one (1) time each year during the first five (5) years
8 following a member's retirement on account of disability and at least one (1)
9 time in each three-year period thereafter, the board may require any
10 disability retirant who has not attained age fifty-five (55) to undergo a
11 medical examination to be made by or under the direction of a physician or
12 physicians designated by the board.

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

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

18 (4) If, upon the medical examination of the retirant, the
19 physician reports to the board that the retirant is physically and mentally
20 able and capable of resuming suitable duty as an employee, his or her
21 disability retirement shall terminate.

22 (5) If the former disability retirant does not immediately again
23 become an employee, then, for the purpose of determining his or her
24 eligibility for any other system benefit, he or she shall be considered to
25 have terminated active membership as of the time of disability retirement,
26 but for a reason other than disability or death.

27 (6)(A) If the former disability retirant immediately again
28 becomes an employee, he or she shall immediately again become a member of the
29 system, and his or her credited service at the time of his or her disability
30 retirement shall be restored to his or her credit.

31 (B) He or she shall be given service credit for the period
32 he or she was in receipt of the disability annuity.

33 (C) Should the former disability retirant again become
34 totally and permanently disabled within two (2) years immediately following
35 his or her return to membership, the seventy-five percent (75%) credited
36 service requirement specified in subsection (a) of this section shall be

1 waived.

2 (f)(1) Beginning July 1, 2003, subdivision (d)(2) of this section
3 shall apply retroactively to allow members of the Arkansas Local Police and
4 Fire Retirement System who received a disability retirement before July 1,
5 2001, to receive the greater benefit of sixty-five percent (65%) of the final
6 average salary of the member or an amount equal to the annuity paid to
7 retirants for each year of paid service resulting from employment.

8 (2) However, the system shall not be responsible for making
9 benefit payments retroactive to the effective date of the disability.

10

11 SECTION 11. Arkansas Code § 24-10-610 is amended to read as follows:
12 24-10-610. Limitations on death and disability annuities.

13 ~~(a) If a death annuity is payable on behalf of a member who dies in~~
14 ~~employer service before retirement, or for the portion of a disability~~
15 ~~annuity payable before a disability retirant's attainment of age fifty-five~~
16 ~~(55), in no event shall the total amount of the system annuities based on~~
17 ~~paid service shall not exceed one hundred percent (100%) of the amount of his~~
18 ~~or her final average pay at the time of death or disability, as the case may~~
19 ~~be, less the total of the following amounts:~~

20 ~~(1) Workers' compensation, if any, on account of the death or~~
21 ~~disability; and~~

22 ~~(2) Benefits, if any, from social security on account of the~~
23 ~~death or disability.~~

24 ~~(b)(1) Beginning with the January 1 which is at least twelve (12) full~~
25 ~~months after the effective date of an annuity, an amount of final average pay~~
26 ~~usable for the purposes of this section shall be redetermined each January 1,~~
27 ~~and the redetermined amount shall be applicable for the ensuing year.~~

28 ~~(2) The redetermined amount shall be the amount of final average~~
29 ~~pay at the time of termination of covered employment increased by any~~
30 ~~percentage increase in the inflation index for the period from the October~~
31 ~~immediately preceding the effective date of the benefit to the October~~
32 ~~immediately preceding the January 1.~~

33

34 SECTION 12. Arkansas Code § 24-10-611(a), concerning termination of
35 covered employment, is amended to read as follows:

36 (a) A member who terminates covered employment before attaining his or

1 her normal retirement age, for a reason other than death, early retirement,
2 or disability retirement, shall be entitled to an annuity computed in
3 accordance with the provisions of this section, as it provides at the time of
4 the last termination of covered employment, subject to the member's
5 satisfying all of the following conditions:

6 (1) The member has five (5) years of credited service;

7 (2) The member lives to his or her annuity starting date;

8 (3) The member makes ~~written~~ proper application for retirement
9 and payment of the annuity to the Arkansas Local Police and Fire Retirement
10 System ~~on or after the date that is six (6) months~~ not less than thirty (30)
11 days nor more than ninety (90) days before the date he or she attains his or
12 her normal retirement age; and

13 (4) The annuity starting date shall be the first day of the
14 calendar month next following the later of:

15 (A) The date the member attains his or her normal
16 retirement age; and

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

19
20 SECTION 13. Arkansas Code § 24-10-613 is amended to read as follows:

21 24-10-613. Disposition of accumulated contributions.

22 (a)(1) If a retirant and his or her eligible beneficiary, if any, both
23 die before they have received in annuity payments a total amount equal to the
24 accumulated contributions, including any interest credits standing to the
25 retirant's credit in the Arkansas Local Police and Fire Retirement System at
26 the time of his or her retirement, the difference between the accumulated
27 contributions and the total amount of annuities received by them shall be
28 paid to the persons the retirant nominated ~~by written designation duly~~
29 ~~executed~~ in a manner prescribed by the system and filed with the Board of
30 Trustees of the Arkansas Local Police and Fire Retirement System.

31 (2) If no designated person survives the retirant and his or her
32 beneficiary, the difference shall be paid to the ~~estate~~ estates of the
33 survivor of the retirant and his or her beneficiary.

34 (b) In the event a member ceases to be a member, other than by death,
35 before the date he or she becomes vested to receive an annuity payable by the
36 system, he or she shall be paid the accumulated contributions standing to his

1 or her credit in the members' deposit account upon his or her ~~written~~ proper
2 application filed with the board.

3 (c)(1) In the event a member dies and no annuity becomes or will
4 become payable by the system on account of his or her death, ~~his or her~~ the
5 accumulated contributions standing to his or her credit in the members'
6 deposit account at the time of his or her death shall be paid to the persons
7 he or she nominated ~~by written designation duly executed~~ in a manner
8 prescribed by the system and filed with the board.

9 (2) If there are no designated persons surviving the member, the
10 accumulated contributions shall be paid to his or her surviving spouse, or to
11 his or her estate, if there is no surviving spouse.

12 (d)(1) In the event a member's membership in the system terminates and
13 no annuity becomes or will become payable on his or her account, any
14 accumulated contributions standing to his or her credit in the members'
15 deposit account and unclaimed by the member or his or her legal
16 representative within three (3) years from and after the date his or her
17 membership terminated shall be transferred to the income-expense account.

18 (2) If, thereafter, proper application is made for the
19 accumulated contributions, the board shall pay them from the income-expense
20 account but without interest after the date payment was first due.

21

22 SECTION 14. Arkansas Code § 24-10-615 is amended to read as follows:

23 24-10-615. Suspension of payments upon request.

24 (a) Notwithstanding any other provision of a plan, a person entitled
25 to receive a plan benefit may request ~~the plan in writing~~ in a manner
26 prescribed by the system, for personal reasons and without disclosure
27 thereof, to suspend for any period the payment of all or any part of the
28 benefit otherwise payable to him or her under this chapter.

29 (b) Upon receipt of ~~the request~~ proper notice, the plan shall
30 authorize the suspension, and the person shall be deemed to have forfeited
31 all rights to the amount of benefits so suspended but shall have the right to
32 have the full benefit otherwise payable reinstated as to future monthly
33 payments upon ~~written~~ proper notice to the plan to revoke the prior request
34 for a suspension under this section.

35

36 SECTION 15. Arkansas Code § 24-10-701 is amended to read as follows:

1 24-10-701. Election to participate.

2 (a) In lieu of terminating employment and accepting a paid service
3 retirement benefit, a police officer or firefighter who is a member in paid
4 service with the Arkansas Local Police and Fire Retirement System may elect
5 in a manner prescribed by the system to participate in the Local Police and
6 Fire Deferred Retirement Option Plan and defer the receipt of benefits in
7 accordance with the provisions of this subchapter, provided that the member
8 meets one (1) of the following requirements:

9 (1) The member has at least twenty-eight (28) years of service;
10 or

11 (2) The member has at least twenty (20) years of service and is
12 at least fifty-five (55) years of age

13 (b) The Board of Trustees of the Arkansas Local Police and Fire
14 Retirement System shall approve the participation in the plan.

15
16 SECTION 16. Arkansas Code § 24-10-707 is amended to read as follows:

17 24-10-707. Death of participant.

18 (a) If the participant dies during the period of participation in the
19 Local Police and Fire Deferred Retirement Option Plan, a lump-sum payment
20 equal to the account balance of the participant shall be paid to the
21 participant's survivors or if none, to the participant's estate.

22 (b) A survivor is entitled to the annuity provided under § ~~24-10-709~~
23 24-10-603 based on the service and final average salary at the time the
24 member elected to participate in the plan.

25
26 SECTION 17. Arkansas Code § 24-10-709 is amended to read as follows:

27 24-10-709. Partial-annuity-and-lump-sum option.

28 (a) If a member does not terminate employment and retire on the date
29 the member meets the service requirements of § 24-10-604 for an unreduced
30 annuity and was not eligible for or has not elected to participate in the
31 Local Police and Fire Deferred Retirement Option Plan as provided in this
32 subchapter, the member may elect, in a manner prescribed by the system, at
33 the time of retirement to participate in the partial-annuity-and-lump-sum
34 option under this section.

35 (b)(1)(A) At the time of retirement, a member electing to participate
36 shall be eligible to receive a lump-sum distribution in an amount not

1 exceeding one (1) month of benefit for each completed month of service beyond
2 eligibility for an unreduced benefit.

3 (B) The lump sum shall not exceed an amount equal to sixty
4 (60) months of benefits.

5 (2) The member electing to participate in the partial-annuity-
6 and-lump-sum option shall then have the member's annuity reduced by an amount
7 that is an actuarially determined equivalent of the withdrawal amount.

8 (c) The Board of Trustees of the Arkansas Local Police and Fire
9 Retirement System shall adopt rules ~~and regulations~~ under this section
10 governing the application for the partial-annuity-and-lump-sum option and the
11 determination of the actuarially equivalent amount of the withdrawal.
12

13 SECTION 18. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that the local police and fire
15 retirement systems provide economic security for eligible citizens of
16 Arkansas; that the statutes need amending to update and clarify existing law;
17 and that these changes need to be made immediately. Therefore, an emergency
18 is declared to exist and this act being immediately necessary for the
19 preservation of the public peace, health, and safety shall become effective
20 on:

21 (1) The date of its approval by the Governor;

22 (2) If the bill is neither approved nor vetoed by the Governor,
23 the expiration of the period of time during which the Governor may veto the
24 bill; or

25 (3) If the bill is vetoed by the Governor and the veto is
26 overridden, the date the last house overrides the veto.

27
28 /s/B. Sample
29
30
31
32
33
34
35
36