

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

SENATE BILL 192

5 By: Senator E. Cheatham
6

For An Act To Be Entitled

8 AN ACT TO ALLOW MEMBERS WITH RECIPROCAL SERVICE TO
9 RETIRE UPON A DETERMINATION OF DISABILITY; TO AMEND
10 DISABILITY RETIREMENT PROCEDURES; TO ENCOURAGE
11 DISABILITY RETIREES OF THE ARKANSAS TEACHER
12 RETIREMENT SYSTEM TO RETURN TO EMPLOYMENT; TO DECLARE
13 AN EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

16
17 TO ALLOW MEMBERS WITH RECIPROCAL SERVICE
18 TO RETIRE UPON A DETERMINATION OF
19 DISABILITY; TO AMEND DISABILITY
20 RETIREMENT PROCEDURES; TO ENCOURAGE
21 DISABILITY RETIREES TO RETURN TO
22 EMPLOYMENT; AND TO DECLARE AN EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code § 24-7-704(a)(1)(A), concerning disability
28 retirement under the Arkansas Teacher Retirement System, is amended to read
29 as follows:

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



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SECTION 2. The introductory language of Arkansas Code § 24-7-704(a)(4), concerning disability retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(4) To ~~receive~~ begin receiving disability retirement, a member shall not:

SECTION 3. Arkansas Code § 24-7-704(b)(3)(C), concerning disability retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(C) The system ~~will~~ shall terminate disability retirement benefits to a member or retirant when the member or retirant fails to:

(i) Provide a Social Security Administration determination letter finding that the member or retirant is disabled to the system within the thirty-six-month period under subdivision (a)(3)(A) of this section; ~~or~~

(ii) Receive an extension of time under subdivision (a)(3)(B) of this section to provide the system with a letter from the Social Security Administration finding that the member or retirant is disabled; or

(iii) Apply for a review by the system's medical committee within three (3) months of disability benefits ceasing due to the lack of a Social Security Administration determination letter finding that the member or retirant is disabled.

SECTION 4. Arkansas Code § 24-7-704(b)(3), concerning disability retirement under the Arkansas Teacher Retirement System, is amended to add an additional subdivision to read as follows:

(D)(i) A member or retirant who seeks and fails to receive a determination letter finding the member or retirant disabled by the Social Security Administration may seek a review permitted under subdivision (b)(3)(C)(iii) of this section no earlier than three (3) months before the date on which the member's disability retirement would otherwise end and no later than three (3) months after termination of disability retirement.

(ii) The system's medical committee shall hear all applications for review permitted under subdivision (b)(3)(C)(iii) of this section and render decisions consistent with the definition of disability

1 under subdivision (a)(1)(D) of this section.

2 (iii) The medical committee's recommendation after
 3 its review of an application permitted under subdivision (b)(3)(C)(iii) of
 4 this section shall be presented to the board for a final order.

5 (iv) After receiving the medical committee's
 6 recommendation under subdivision (b)(3)(D)(iii) of this section, the board
 7 shall issue a final order consistent with the provisions of this chapter and
 8 the system's rules for initial disability retirement.

9 (v) The board's approval of the medical committee's
 10 recommendation shall be a final disposition of the matter by the system,
 11 under § 25-15-201 et seq.

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 13 SECTION 5. Arkansas Code § 24-7-704(b)(4), concerning disability
 14 retirement under the Arkansas Teacher Retirement System, is repealed.

15 ~~(4) The requirements under subdivision (b)(3) of this section~~
 16 ~~shall not apply to a member or retirant who is fifty-seven (57) years of age~~
 17 ~~or older before July 1, 2015.~~

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 19 SECTION 6. Arkansas Code § 24-7-704(c), concerning disability
 20 retirement under the Arkansas Teacher Retirement System, is amended to read
 21 as follows:

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

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

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

33 ~~(4) If the medical committee, upon the medical examination of~~
 34 ~~the retirant, or the system staff on behalf of the medical committee, reports~~
 35 ~~to the board with cause that the retirant is physically and mentally able and~~
 36 ~~capable of resuming his or her duty in the position held by him or her at the~~

1 ~~time of disability retirement, then his or her disability retirement shall~~
 2 ~~terminate.~~

3 ~~(5)(A)~~ If a disability retirant returns to covered employment
 4 before attaining sixty (60) years of age, his or her disability retirement
 5 shall terminate unless the retirant meets the requirements to return to
 6 covered employment or obtains a waiver under subsection (e) of this section.

7 (B) If a disability retirant returns to covered employment
 8 after attaining sixty (60) years of age and is otherwise eligible for
 9 retirement under § 24-7-707, the retirant shall be treated as if he or she
 10 retired under § 24-7-701.

11 ~~(6)(2)(A)~~ If a disability retirant under sixty (60) years of age
 12 returns to covered employment, he or she shall ~~immediately again~~ become an
 13 active member of the system immediately, and his or her credited service at
 14 the time of his or her disability retirement shall be restored to his or her
 15 credit in the members' deposit account.

16 (B) The retirant's disability retirement and his or her
 17 accumulated contributions shall be treated as if he or she ~~had~~ returned to
 18 service on the date of the full-time employment.

19 ~~(7)(3)~~ A Except as provided under subdivision (c)(2) of this
 20 section, a disability retirant shall not earn or be given service credit for
 21 the period he or she was receiving a disability retirement annuity.

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 23 SECTION 7. Arkansas Code § 24-7-704, concerning disability retirement,
 24 is amended to add a new subsection to read as follows:

25 (e) A disability retirant may be employed by a covered employer and
 26 also receive a monthly disability retirement if:

27 (1) The disability retirant provides the covered employer with:

28 (A) Less than forty (40) days of actual service during a
 29 fiscal year; or

30 (B) At least forty (40) days of actual service during the
 31 fiscal year and the actual service:

32 (i) Is substantially different from the position,
 33 job requirements, and work duties from which the disability retirant retired
 34 after a determination of disability; and

35 (ii) Has a computed yearly salary that is less than
 36 the final average salary used to compute the monthly disability benefit; and

1 (2)(A)(i) Within three (3) months of a covered employer's
 2 employment of a disability retirant under this section, the system grants a
 3 waiver of subdivision (a)(4)(A) of this section upon the request of the
 4 covered employer.

5 (ii) If a covered employer's request for a waiver of
 6 subdivision (a)(4)(A) of this section is received by the system, the system
 7 shall grant a waiver to permit the covered employer's employment of the
 8 disability retirant for less than forty (40) days of actual service in the
 9 fiscal year.

10 (iii) The system is not required to grant a waiver
 11 under subdivision (e)(2)(A)(i) of this section if the disability retirant
 12 previously worked at least forty (40) days in the fiscal year as a disability
 13 retirant.

14 (B) If a covered employer requests a waiver of subdivision
 15 (a)(4)(A) in order to employ a disability retirant for forty (40) days or
 16 more of actual service during the fiscal year, upon receiving the request and
 17 any supporting documentation, the system shall grant the waiver if it
 18 determines that the requirements of this subsection are met.

19 (3)(A) A disability retirant who meets the requirements of this
 20 subsection and whose employer is granted a waiver of subdivision (a)(4)(A) of
 21 this section shall continue to receive his or her monthly disability
 22 retirement annuity from the system and shall not accrue additional service
 23 credit.

24 (B) A covered employer who employs a disability retirant
 25 under this subsection shall remit contributions on all salary paid to the
 26 disability retirant in an amount equal to the employer contribution rate
 27 applicable to an active member.

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 29 SECTION 8. Arkansas Code Title 24, Chapter 7, Subchapter 7, is amended
 30 to add a new section to read as follows:

31 24-7-738. Return to regular covered employment for service credit
 32 after disability retirement - Alternate option to return to disability
 33 retirement - Incentive to work.

34 (a) If a member who has been on disability retirement with the
 35 Arkansas Teacher Retirement System returns to regular, covered employment and
 36 then returns to disability retirement with the system, the disability

1 retirement benefit shall be the higher of the:

2 (1) Amount that the member would have received if he or she did
3 not return to regular, covered employment; or

4 (2) Recomputed benefit using the additional salary and
5 additional service credit earned by the member under the covered employment.

6 (b)(1) A member who returns to covered employment under this section
7 after disability retirement shall not receive a disability retirement benefit
8 from the system in any month that the member is paid a salary from a covered
9 employer for a work period that is concurrent with the receipt of the
10 disability retirement.

11 (2) Any disability retirement benefit erroneously paid to the
12 member or retirant for a month in which the member receives salary from a
13 covered employer may be recovered by the system as an overpayment as allowed
14 by law.

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16 SECTION 9. EMERGENCY CLAUSE. It is found and determined by the
17 General Assembly of the State of Arkansas that the operations of the Arkansas
18 Teacher Retirement System are complex; that the system must be able to meet
19 the needs of its members as anticipated by the General Assembly; that certain
20 provisions of the Arkansas Teacher Retirement System Act are imminently in
21 need of revision and updating to bring them into conformance with sound
22 public pension policy and actuarial requirements; that such revision and
23 updating is of great importance to members of the system and to other
24 citizens of the State of Arkansas; that the system needs to have the ability
25 to make immediate changes to maintain and improve its actuarial status; and
26 that this act is immediately necessary in order to maintain an orderly
27 management of benefits for the members of the system. Therefore, an emergency
28 is declared to exist and this act being necessary for the preservation of the
29 public peace, health, and safety shall become effective on:

30 (1) The date of its approved by the Governor;

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

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

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