

**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.  
Act 93 of the Regular Session**

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

# A Bill

SENATE BILL 80

5 By: Senator J. Jeffress  
6 By: Representative Norton  
7

## For An Act To Be Entitled

AN ACT CONCERNING CONTRIBUTORY AND  
NONCONTRIBUTORY STATUS IN THE ARKANSAS TEACHER  
RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.

### Subtitle

AN ACT CONCERNING CONTRIBUTORY AND  
NONCONTRIBUTORY STATUS IN THE ARKANSAS  
TEACHER RETIREMENT SYSTEM.

18  
19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 24-7-406 is amended to read as follows:

23 24-7-406. Retirement fund assets accounts - Members' deposit account -  
24 Contributions.

25 (a)(1) The members' deposit account shall be the account in which shall  
26 be accumulated at regular interest the members' contributions to the Arkansas  
27 Teacher Retirement System and from which shall be paid refunds of accumulated  
28 contributions and transfers as provided in this act. However, employer  
29 contributions which are paid by an employee instead of an employer shall be  
30 credited to the members' deposit account. Those contributions shall be  
31 subject to refund under the same conditions that regular member contributions  
32 are refundable.

33 (2) Upon a member's retirement, his or her accumulated  
34 contributions standing to his or her credit in the members' deposit account  
35 shall be transferred to the retirement reserve account.



1           (3) In the event survivor benefits become payable on account of  
2 the death of a member, his or her accumulated contributions standing to his  
3 or her credit in the members' deposit account shall be transferred to the  
4 survivor benefit account.

5           (b)(1) Except as provided otherwise in this section, the contributions  
6 of a member to the system shall be the amounts set forth in this subsection.

7           (2) Each member who first became a member July 1, 1971, or later  
8 shall contribute to the system six percent (6%) of his or her salary.

9           (3) Member contributions before July 1, 1969, shall be in  
10 accordance with provisions in force before July 1, 1969.

11           (4)(A) For each member who first became a member before July 1,  
12 1971, member contributions for the period after June 30, 1969, shall be six  
13 percent (6%) of the first seven thousand eight hundred dollars (\$7,800) of  
14 his or her annual salary unless he or she shall have elected, in accordance  
15 with rules and regulations established by the Board of Trustees of the  
16 Arkansas Teacher Retirement System, to contribute six percent (6%) of his or  
17 her full salary for the period after June 30, 1969.

18           (B) If the election is made before July 1, 1984, the member  
19 must contribute to the system the difference between full salary member  
20 contributions and member contributions based on seven thousand eight hundred  
21 dollars (\$7,800) annual covered salary retroactive to July 1, 1969, or to the  
22 actual date of employment, whichever is later, plus interest from the dates  
23 the added contributions would  
24 normally have been received by the system to the date of the actual added  
25 contributions.

26           (C) If the election is made July 1, 1984, or later, the  
27 member must contribute to the system both the added member contributions and  
28 the added employer contributions which would have been paid to the system had  
29 the member's full salary always been covered, plus interest from the dates  
30 the added contributions would normally have been received by the system to  
31 the date of the actual added contributions.

32           (D) The interest and added employer contributions shall be  
33 considered member contributions for purposes of the system. However, any  
34 former active member who returns to covered employment on or after July 1,  
35 1995, and who elects to make contributions to the system, shall contribute on  
36 his or her full salary.

1 (5) Members who left covered employment before July 1, 1985, and  
2 who had annual compensation of seven thousand eight hundred dollars (\$7,800)  
3 or less shall have, upon their return to covered employment, full salary  
4 considered for purposes of the system.

5 (6) Contributions shall be required on all salary earned in  
6 covered employment during the fiscal year in which membership begins.

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

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

19 (B) A member who is receiving remuneration under both a  
20 regular contract and a purchased contract, or under both a regular contract  
21 and a contract won through litigation, shall have only the greater of the two  
22 (2) amounts considered as salary for the purposes of the system.

23 (C)(i) Should the employer fail at any time to report the  
24 salary of a member and remit the contributions to the system, the system  
25 shall have the right to collect from the employee and the employer the  
26 contributions due, if any, from each, together with interest beginning with  
27 the subsequent fiscal year.

28 (ii) In no case shall a member be given credit for  
29 service rendered until any contributions and interest due from each are paid  
30 in full.

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

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

36 (B) Payment of his or her salary less the deductions shall

1 be a full and complete discharge and acquittance of all claims and demands  
2 whatsoever for the services rendered by the member during the period covered  
3 by the payment, except as to benefits provided by the system.

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

8 (d)(1) In addition to the contributions deducted from the salaries of a  
9 member, as provided in this section, a member may deposit in the system, by a  
10 single contribution or by an increased rate of contributions as approved by  
11 the board, the amounts he or she may have received therefrom and not repaid  
12 thereto, together with interest from the date of withdrawal to the date of  
13 repayment.

14 (2) In no case shall a member be given credit for service  
15 rendered prior to the date he or she received payments until he or she  
16 returns to the system all amounts due from him or her.

17 ~~(e)(1) A retirant may elect to make additional contributions to the~~  
18 ~~system in order to provide himself or herself with additional benefits if he~~  
19 ~~or she retired after June 30, 1970, and is still receiving a system annuity~~  
20 ~~and he or she had not contributed on his or her full salary for the period~~  
21 ~~after June 30, 1969.~~

22 ~~(2) By written election made after June 1, 1981, the retirant may~~  
23 ~~contribute on his or her full salary in the same manner as provided in~~  
24 ~~subsection (b) of this section for members, but interest must be added to the~~  
25 ~~additional contributions for the period from the date the relevant salary was~~  
26 ~~paid to the date the contributions are received by the system.~~

27 ~~(3) When the contributions and interest are received, the monthly~~  
28 ~~annuity of the retirant shall be recalculated to be the annuity amount which~~  
29 ~~would be payable if the contributions had all been paid by the effective date~~  
30 ~~of retirement.~~

31 ~~(4) The resulting increase in the monthly annuity shall be~~  
32 ~~effective for the calendar month after the date the payment of contributions~~  
33 ~~and interest is completed.~~

34 ~~(f)~~(e)(1)(A) Active members as of July 1, 1999, shall elect by written  
35 election filed with the system in accordance with rules and regulations  
36 adopted by the board to eliminate future member contributions or to make

1 member contributions, otherwise provided for in this section.

2 (B)(i) The election shall be irrevocable and shall be made  
3 on or before July 1, 2000.

4 (ii) If no election is made, then the member's status  
5 on June 30, 2000, shall be in effect and shall be irrevocable.

6 (2)(A) For an inactive member who enters the system after June  
7 30, 1999, the election shall be made within one (1) year of the effective  
8 date the member is considered an active member.

9 (B)(i) The election shall be effective the earlier of:

10 (a) The preparation of the payroll containing  
11 the first salary payment upon reentry; or

12 (b) The July 1 next following the date the  
13 election is filed with the system.

14 (ii) If no election is made within one (1) year, then  
15 the member's status prior to reentry will remain in effect.

16 (3)(A)(i) If the election is to eliminate member contributions,  
17 then the election shall apply only to future member salaries and shall not  
18 change the status of any member contributions made before the election.

19 (ii) Beginning July 1, 1999, an active member who has  
20 previously elected to eliminate member contributions may change credited  
21 service on which no member contributions have been paid to member  
22 contributions credited service by paying the additional member contributions  
23 due plus interest from the dates the contributions would have been received  
24 by the system to the date of the payment in full.

25 (B)(i) If the effect of the election is to require member  
26 contributions, then the election shall apply only to future member salaries  
27 and shall not change any member contribution requirements existing before the  
28 election.

29 (ii) If a member has previously contributed on only  
30 the first seven thousand eight hundred dollars (\$7,800) of his or her annual  
31 salary, then he or she cannot contribute on full future salaries until he or  
32 she has made added contributions on past full salaries as provided in  
33 subsection (b) of this section.

34 (4)(A)(i) After July 1, 1999, all new members shall make the  
35 member contributions otherwise provided for in this section. ~~However, From~~  
36 July 1, 1999, through June 30, 2007, new members who are under contract with

1 a covered employer for one hundred eighty (180) days or less shall have one  
2 (1) year to make an irrevocable election to make member contributions.

3 (ii) Effective July 1, 2005, any active member whose  
4 status later changes from nonteacher status to teacher status under contract  
5 for one hundred eighty-one (181) days or more shall make the member  
6 contributions otherwise provided for in this section regardless of an earlier  
7 election to be noncontributory.

8 (B) Through June 30, 2007, ~~New~~ new members who are not under  
9 contract with a covered employer shall not make member contributions.

10 (5)(A) Effective From July 1, 2005, and each July 1 thereafter  
11 through June 30, 2007, active members who have previously elected to  
12 eliminate member contributions may make an irrevocable election to make  
13 future contributions to the system.

14 (B) If the election is made:

15 (i) Before the preparation of the first salary  
16 payment to the member in the fiscal year, the election shall become effective  
17 immediately; and

18 (ii) After the preparation of the first payroll  
19 containing the first salary payment to the member in the fiscal year, the  
20 election shall become effective July 1 of the next fiscal year.

21 (6)(A)(i) Effective July 1, 2007, new members who are under  
22 contract with a covered employer for one hundred eighty one (181) days or  
23 more shall make member contributions under this section.

24 (ii) Effective July 1, 2007, persons reentering the  
25 system who left as contributory members shall reenter as contributory members  
26 and shall make member contributions under this section.

27 (B)(i) Effective July 1, 2007, new members who are under  
28 contract with a covered employer for one hundred eighty (180) days or less  
29 and new members who are not under contract with a covered employer may make  
30 an irrevocable election to make future member contributions under this  
31 section.

32 (ii) Effective July 1, 2007, and each July 1  
33 thereafter, active members who have previously been noncontributory, whether  
34 by election or otherwise, may make an irrevocable election to make future  
35 member contributions under this section.

36 (iii) Effective July 1, 2007, inactive members or

1 rescinding retirees reentering the System may make an irrevocable election to  
2 make future member contributions under this section at the time of  
3 reemployment regardless of previous noncontributory status.

4 (iv) If the election is made:

5 (a) Before the preparation of the first salary  
6 payment to the member in the fiscal year, the election shall become effective  
7 immediately; and

8 (b) After the preparation of the first payroll  
9 containing the first salary payment to the member in the fiscal year, the  
10 election shall become effective July 1 of the next fiscal year.

11 (C) If the board determines that a member's contributions  
12 may not be treated as employer contributions under the Internal Revenue Code  
13 or the Income Tax Act of 1929, § 26-51-101 et seq., the board may exclude the  
14 member's participation under this subdivision ~~(f)(5)~~(e).

15 ~~(g)~~(f)(1) Employees who are eligible for membership in the system under  
16 § 24-7-202, who are or have been erroneously enrolled in the Arkansas Public  
17 Employees' Retirement System, whose membership in that system is cancelled  
18 and whose employee or employer contributions are refunded by that system  
19 under §§ 24-2-301 - 24-2-305, shall make member contributions to the system  
20 as provided in subdivision (b)(2) of this section.

21 (2) If such an employee becomes an active member of the  
22 contributory plan of this system, he or she may establish contributory credit  
23 for all or part of his or her service that is cancelled by the system by  
24 paying both the employee and employer contributions required by this system  
25 plus interest.

26 ~~(h)~~(g)(1)(A) Each employer shall pay the member contributions under  
27 this section from the salary earned by a member after June 30, 1997, and  
28 those contributions shall then be treated as employer contributions in  
29 determining tax treatment under the provisions of the Internal Revenue Code  
30 and the Income Tax Act of 1929, § 26-51-101 et seq.

31 (B) If a member elects to purchase past service credits  
32 under § 24-7-501(b), § 24-7-502(b)(5), § 24-7-610, § 24-7-611, or §§ 24-7-602  
33 - 24-7-607 through payroll deductions, the employer shall pay the amount  
34 required to purchase such past service credits from the employee's salary  
35 earned after the employee signs an irrevocable payroll authorization  
36 prescribed by the board, and those purchases shall then be treated as

1 employer contributions in determining tax treatment under the provisions of  
 2 the Internal Revenue Code and the Income Tax Act of 1929, § 26-51-101 et  
 3 seq.

4 (2) Each employer shall continue to withhold federal and state  
 5 income taxes based upon those contributions as income of the member until the  
 6 Internal Revenue Service or the federal courts rule that, pursuant to section  
 7 414(h) of the Internal Revenue Code, the contributions shall not be included  
 8 as gross income of the member until they are distributed or made available to  
 9 the member.

10 (3) The employer shall pay these member contributions from the  
 11 same source of funds used in paying the salary to the member. The employer  
 12 may pay these contributions by a reduction in the cash salary of the member,  
 13 by a setoff against future salary increases, or by a combination of a  
 14 reduction in salary and a setoff against future salary increases.

15 (4) If member contributions are paid by the employer as provided  
 16 under this subsection, they shall be treated for all purposes of the system  
 17 in the same manner and to the same extent possible as member contributions  
 18 made prior to the date the employer began payment of the member's  
 19 contributions hereunder.

20 (5) Whenever member contributions are required to be paid by the  
 21 employer under this subsection, the employee shall not have the option of  
 22 choosing to receive the contributed amounts directly instead of having them  
 23 paid by the employer.

24  
 25 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 26 General Assembly of the State of Arkansas that the current laws applicable to  
 27 the Arkansas Teacher Retirement System regarding contributory and  
 28 noncontributory status require revision; that revisions are necessary to  
 29 ensure the effective and efficient operation of the system; and that the most  
 30 effective time to make changes to the retirement system is at the beginning  
 31 of the state's fiscal year. Therefore, an emergency is declared to exist and  
 32 this act being immediately necessary for the preservation of the public  
 33 peace, health, and safety shall become effective on July 1, 2007.

34  
 35 APPROVED: 2/12/2007  
 36