

**ARKANSAS SENATE**  
86th General Assembly - Regular Session, 2007  
**Amendment Form**

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**Subtitle of Senate Bill No. 136**

"AN ACT TO PROVIDE PUBLIC SAFETY MEMBERS OF THE ARKANSAS PUBLIC  
EMPLOYEES RETIREMENT SYSTEM WITH AN ENHANCED CREDIT."

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**Amendment No. 1 to Senate Bill No. 136.**

Amend Senate Bill No. 136 as originally introduced:

Delete everything following the enacting clause and substitute the following:

“SECTION 1. Arkansas Code § 24-4-101 is amended to read as follows:  
24-4-101. Definitions.

As used in this act:

(1) "Accumulated contributions" means the sum of all amounts deducted from the compensations of a member and credited to his or her individual account in the member's deposit account, together with regular interest as may have been credited thereon;

(2) "Actual service" means service credited at the rate of one (1) month for each month of service;

(3) "Actuarial equivalent" means a benefit of equal reserve value when "reserve" means the present value of all payments to be made on account of any benefit based upon such reasonable rates of interest and tables of experience as a plan shall adopt from time to time;

(4) "Actuary" means a qualified actuary with experience in retirement plan financing. Membership in the American Academy of Actuaries shall be sufficient for a person to be deemed a qualified actuary;

(5) "Age" means age on last birthday;

(6)(A) "Annuity" means a monthly amount payable from funds of the Arkansas Public Employees' Retirement System throughout the life of a person.

(B) All annuities shall be paid in equal monthly installments;

(7) "Annuity reserve" means the present value of an annuity computed upon the basis of mortality and other such tables of experience and regular interest, as the Board of Trustees of the Arkansas Public Employees' Retirement System shall adopt;

(8) "Beneficiary" means any person except a retirant who is receiving or is designated by a member to receive a plan benefit;

(9) "Benefit program" means a schedule of benefits or benefit formulas from which the amounts of benefits can be determined;

(10) "Board" means the Board of Trustees of the Arkansas Public



Employees' Retirement System, as created in this act;

(11)(A) "Compensation" means the recurring remuneration paid a member by public employers for personal services rendered by a member in a position covered by an employer participating in the Arkansas Public Employees' Retirement System.

(B) In case a member's compensation includes either lodging or meals, or both, exclusive of travel expense, the cash value of the lodging and meals shall be fixed by the board, not to exceed the amount the employee is required to report for federal income tax purposes;

(12) "Contributory member" means:

(A) A person who was a member of the Arkansas Public Employees' Retirement System prior to January 1, 1978, and who continues to contribute six percent (6%) of his or her compensation to the system. However, the rate will be five percent (5%) on and after July 1, 2005; or

(B) A member first hired on or after July 1, 2005, or a noncontributory member who elects to become a contributory member under § 24-4-1101 et seq. within six (6) months from July 1, 2005;

(13) "County" means any county in the state and includes all agencies, offices, departments, boards, commissions, and county-supported institutions that are duly constituted agencies of the county;

(14)(A) "County employees" means all employees whose compensations are payable, either directly or indirectly, by county participating public employers and includes employees of the Association of Arkansas Counties.

(B) In any case of doubt as to who is a county employee within the meaning of this act, the board shall have the final power to decide the question;

(15)(A) "Credited service" means the sum of the prior service and current service to the extent credited a member by the board, in accordance with the provisions of § 24-4-521.

(B) Any member first hired on or after July 1, 2005, to a covered position whose service is credited at a rate other than that defined in § 24-4-101(2) shall accrue that credit on no more than ten (10) actual years of service;

(16)(A) "Current service" means service rendered to a public employer by a member from and after the date he or she became a member.

(B) In the case of a nonstate employee, service rendered by the employee to a public employer in the period from June 30, 1957, to the date his or her employer became a participating public employer, which period is called interim current service, shall be included as current service, but only if the employee satisfies the conditions set forth in Acts 1965, No. 153, § 10 [repealed];

(17)(A)(i)(a) "Employees" means all officers and employees of any office, agency, board, commission, including the Department of Higher Education, or department of a public employer whose compensations were or are payable from funds appropriated by the public employer and all otherwise eligible employees whose compensations were or are payable in whole or part from federal funds, as well as the official court reporters and stenographers of the circuit and chancery courts of the state and all of the prosecuting attorneys of the judicial districts of Arkansas.

(b) In addition, effective July 1, 1983, the term "employees" shall include those persons who are eligible for benefits

from the Teachers Insurance and Annuity Association but who are otherwise eligible for participation in the Arkansas Public Employees' Retirement System due to employment with a public employer.

(ii) Any person who has previously been denied coverage under the Arkansas Public Employees' Retirement System because the person was or is paid from a grant instead of funds appropriated by the public employer shall from July 1, 1991, become a member of the system if in an otherwise eligible position due to being an employee of a public employer, and a member may at his or her option receive credit for service rendered before that date as an employee paid from a grant, subject to the following conditions:

(a) The member is a participating employee covered under the Arkansas Public Employees' Retirement System at the time of the purchase;

(b) The member furnishes proof in a form required by the Arkansas Public Employees' Retirement System of the service and compensation received;

(c) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the Arkansas Public Employees' Retirement System. The member may purchase all of the service or any portion thereof in multiples of one (1) year;

(d) The payment of funds shall be made in one (1) lump sum; and

(e) Any person who, prior to the effectiveness of this provision, has been removed from membership in the Arkansas Public Employees' Retirement System because of eligibility for membership in a local firemen's pension fund as a volunteer firefighter may restore the refunded service and establish subsequent service by paying or causing to be paid to the Arkansas Public Employees' Retirement System the refunded contributions and the legally required contributions for subsequent service.

(B) Excepting members of the General Assembly and those persons participating in a local firemen's pension fund because of their status as volunteer firefighters and those persons who have dual full-time employment in separate positions covered by the Arkansas Public Employees' Retirement System and the Arkansas Local Police and Fire Retirement System respectively, the term "employees" shall not include persons who are members of any other retirement system, excepting federal Social Security, which retirement system is supported by state funds or is authorized by the laws of the state. In addition, the term "employees" specifically shall not include the following:

(i) Persons in the employ of the Department of Arkansas State Police who are members of the State Police Retirement System;

(ii) Persons in the employ of the Department of Education or the Arkansas Teacher Retirement System, except as otherwise provided by law;

(iii) Persons in the employ of the University of Arkansas or any other state-supported institution of higher learning, except as otherwise provided by law;

(iv) Justices of the Supreme Court, judges of circuit courts, or judges of chancery courts;

(v) Persons in the employ of the General Assembly who are employed on a less than full-time regular annual salary basis, except that any person who has served or who shall serve during at least six (6) legislative sessions as Chief Clerk of the House of Representatives and who has served in the employ of the General Assembly during at least twelve (12) previous legislative sessions shall be eligible to receive credited service in the Arkansas Public Employees' Retirement System for any period of employment with the General Assembly since July 1, 1957, but only if the employee is, or was, an active member of the system with at least ten (10) years of credited service and only if the employee pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member of the system during those periods of time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during those periods of time, and regular interest on the employee and employer contributions computed from the date of service to the date the payment is received by the system;

(vi) Persons who are in the employ of the Arkansas State Highway and Transportation Department;

(vii) Persons employed with the intent of working less than ninety (90) calendar days;

(viii) Persons who are employed for a period of more than ninety (90) consecutive calendar days but who do not qualify as full-time employees shall be excluded from membership. A person shall be considered a full-time employee if that person works at least eighty (80) hours per month during a period of ninety (90) consecutive calendar days;

(ix) Persons whose rate of pay does not constitute employment that is substantially gainful shall be excluded from membership. A rate of pay less than the federal minimum wage for the year shall not be considered employment that is substantially gainful;

(x) Persons who are first employed or those who are reemployed as participants on or after July 1, 1979, under the Comprehensive Employment and Training Act. However, those persons participating in the program prior to July 1, 1979, shall continue to be members of the Arkansas Public Employees' Retirement System while employed by a participating public employer;

(xi) Any person previously denied coverage by the Arkansas Public Employees' Retirement System because that person was eligible for membership in but did not participate in another retirement system that is supported by state funds or that is authorized by the laws of the state, shall become a member of the Arkansas Public Employees' Retirement System from the date of July 1, 1999, if in an otherwise eligible position due to employment with a participating employer. Any person previously denied coverage by the Arkansas Public Employees' Retirement System because that person was eligible for or receiving benefits from another retirement system supported by state funds or that is authorized by the laws of the state shall

become a member of the Arkansas Public Employees' Retirement System from the date of July 1, 1999, if in an otherwise eligible position due to employment with a participating employer. That person may receive, at the employee's option, credit for service rendered to a participating public employer before that date, subject to the following conditions:

(a) The member is a participating employee covered under the Arkansas Public Employees' Retirement System at the time of the purchase;

(b) The member furnishes proof in a form required by the Arkansas Public Employees' Retirement System of the service and compensation received;

(c) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the Arkansas Public Employees' Retirement System. The member may purchase all of the service or any portion thereof in multiples of one (1) year; and

(d) The payment of funds shall be made in one (1) lump sum;

(xii) The surviving spouse of any person deemed erroneously enrolled due to receipt of a benefit from another retirement system supported by state funds or that is authorized by the laws of the state but whose service had not been refunded at or before the date of death shall be eligible to receive a benefit under the provisions of § 24-4-608, provided that the person was an employee of the participating employer on the date of death. The monthly annuity shall be payable on the first day of the month following the month of application and shall be retroactive to the date the benefit would have been otherwise payable as provided for in § 24-4-608; and

(xiii) Any person previously denied coverage by the Arkansas Public Employees' Retirement System because that person was employed in dual full-time positions covered by the Arkansas Public Employees' Retirement System and the Arkansas Local Police and Fire Retirement System, respectively, shall become a member of both systems from and after the date of July 1, 2001, if in otherwise eligible positions with participating employers. The person may receive at the employee's option credit for service rendered to a participating public employer before that date, subject to the following conditions:

(a) The member is a participating employee covered under the Arkansas Public Employees' Retirement System at the time of the purchase;

(b) The member furnishes proof in a form required by the Arkansas Public Employees' Retirement System of the service and compensation received;

(c) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had the person been a member during that time, all employer

contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had the person been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the Arkansas Public Employees' Retirement System. The member may purchase all of the service or any portion thereof in multiples of one (1) year; and

(d) The payment of funds shall be made in one (1) lump sum.

(C) In any case of doubt as to who is an employee within the meaning of this act, the board shall have the final power to decide the question;

(18)(A)(i) "Final average compensation" means the average of the highest annual compensations paid a member during any period of three (3) years of credited service with a public employer.

(ii) The three-year average shall be the greatest of the following:

(a) One-third (1/3) of the following: The total of the highest compensations paid during the two (2) completed fiscal years when added to the total third highest compensation paid during the completed fiscal year; or

(b) One-third (1/3) of the following: The total of the highest compensations paid during the two (2) completed fiscal years added to the total of the compensation paid for the months of credited service within the incomplete fiscal year in which the member retires, provided there are some, and the total third highest compensation paid during the completed fiscal year which has been multiplied by the number of months remaining in the fiscal year in which retirement occurs and divided by twelve (12).

(iii) Should the member have less than the minimum three (3) years of credited service, "average compensation" means the annual average compensations to the member during his or her total years of actual service.

(B) Any other provision to the contrary notwithstanding:

(i) If a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "average compensation" shall not be less than the member's rate of pay at the time of separation from covered employment;

(ii) If a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "average compensation" shall not be less than the member's highest rate of such pay; or

(iii) If a member served at any time in an office whose rate of pay is set by Arkansas Constitution, Amendment 70, § 1, and that member was a member of the General Assembly on December 31, 1978, then the member's "average compensation" shall not be less than the rate of pay currently set for the highest legislative office the member held;

(19) "General Assembly" means the General Assembly of the state;

(20) "Intergovernmental Juvenile Detention Council" means the Intergovernmental Juvenile Detention Council of the Tenth Judicial District created by uncodified Act 899 of 1995, which has chosen by a majority vote of the council to participate in the Arkansas Public Employees' Retirement

System;

(21) "Joint county and municipal sanitation authority" means any sanitation authority created under the Joint County and Municipal Solid Waste Disposal Act, § 14-233-101 et seq., which has chosen by a majority vote of its full-time employees to participate in the Arkansas Public Employees' Retirement System;

(22) "Local units of government" means those entities participating in the Arkansas Public Employees' Retirement System under the provisions of § 24-4-746;

(23) "Member" means any person who is included in the membership of the Arkansas Public Employees' Retirement System;

(24)(A) "Municipal employees" means all employees whose compensations are payable, either directly or indirectly, by participating municipal public employers and includes employees of the Arkansas Municipal League, employees of the water and sewer system of any city divided by a state line, and employees of the Arkansas Local Police and Fire Retirement System.

(B) "Municipal employees" shall not include members of a municipal firemen's or policemen's pension fund while the member is accruing credited service in that system, excepting those members of a municipal firemen's pension fund who are members solely because of their status as volunteer firefighters.

(C) In any case of doubt as to who is a municipal employee within the meaning of this act, the board shall have the final power to decide the question;

(25) "Municipality" means any incorporated city or town in the state and includes all agencies, offices, departments, and commissions of the city or town;

(26) "Noncontributory member" means a person who does not contribute a portion of his or her compensation to the Arkansas Public Employees' Retirement System;

(27) "Nonstate employees" means county employees, municipal employees, rural waterworks facilities board employees, regional airport authority employees, public facilities board employees, regional solid waste management board employees, joint county and municipal sanitation authority employees, regional water distribution board employees, school employees, and the employees of the Intergovernmental Juvenile Detention Council;

(28) "Normal retirement age" means, for a member, the youngest of the following ages:

(A) Age sixty (60) and with twenty (20) or more years of actual service for a contributory member; or

(B) Age sixty-five (65) with five (5) or more years of actual service, except for a member of the General Assembly who must have ten (10) or more years of actual service if he or she only has service as a member of the General Assembly;

(C) If the provisions of § 24-4-521 are used to determine any portion of total credited service, then the age upon completion of thirty-five (35) years of credited service, but in no event to an age younger than fifty-five (55);

(D) For a noncontributory member with credited service for employment as a public safety employee or as a sheriff, age sixty-five (65) reduced by one (1) month for each two (2) months of such credited service,

but in no event to an age younger than fifty-five (55), except in the case of a sheriff who has a minimum of ten (10) years of actual service as a sheriff or who has eight (8) years of actual service as a sheriff and a minimum of two (2) years of service in another state-supported retirement system, for whom the minimum retirement age shall be fifty-two (52);

(E) The age upon completion of twenty-eight (28) years of credited service, if the provisions of § 24-4-521 are not used to determine any portion of the credited service;

(F) For a member of the General Assembly with twelve (12) years of actual service, ten (10) of which must be as a member of the General Assembly, at age fifty-five (55). A member of the General Assembly who was either serving in the General Assembly on July 1, 1979, or held an elected office on July 1, 1979, shall be eligible to retire with seventeen and one-half (17 1/2) years of actual service regardless of age;

(G) An elected state constitutional officer shall be eligible to retire with twenty-eight (28) years of credited service at age fifty-five (55); and

(H) Notwithstanding subdivision (28)(C) of this section, in the case of a deputy sheriff who has a minimum of twenty-five (25) years of actual service as a deputy sheriff, the minimum retirement age shall be fifty-two (52);

(29) "Participating public employer" means:

(A) Any county, municipality, rural waterworks facilities board, regional airport authority, public facilities board, regional solid waste management board, joint county and municipal sanitation authority, or regional water distribution board in the state whose employees are included in the membership of the Arkansas Public Employees' Retirement System;

(B) The employees of the Intergovernmental Juvenile Detention Council of the Tenth Judicial District who are included in the membership of the Arkansas Public Employees' Retirement System; or

(C) A public rehabilitative services corporation or local unit of government as provided for in § 24-4-746;

(30)(A) "Prior service", in the case of a state or municipal employee, means personal service rendered by the employee to a public employer prior to July 1, 1957.

(B) The term "prior service", in the case of a county employee, means personal service rendered by the employee to a public employer prior to July 1, 1959;

(31) "Public employer" means the State of Arkansas or any participating public employer;

(32) "Public facilities board" means any public facilities board created under the Public Facilities Boards Act, § 14-137-101 et seq., which has chosen by a majority vote of the full-time employees to participate in the Arkansas Public Employees' Retirement System;

(33) "Public Rehabilitation Services Corporations" means those entities participating in the Arkansas Public Employees' Retirement System under the provisions of § 24-4-746;

(34)(A) "Public safety member" means a noncontributory member whose covered employment is for personal services as a police officer or firefighter and his or her employment commenced prior to July 1, 1997.

(B)(i) "Police officer" means any regular or permanent employee whose primary duty is law enforcement of a municipal police



department, a county sheriff's office, or the Department of Arkansas State Police, including probationary police officers, and shall also include wildlife officers of the Arkansas State Game and Fish Commission and all officers and the Director of the State Capitol Police within the office of the Secretary of State.

(ii) An officer who, although assigned to administrative duties, is still subject to call for service at patrol duty or duty in the field or is subject to call for duties in emergency situations requiring the officer to be armed with a firearm shall be considered to have the primary duty of law enforcement for the purpose of this subdivision (34)(B).

(iii) The term "police officer" shall not include any civilian employee of a police department or any person temporarily employed as a police officer during an emergency.

(C)(i) "Firefighter" means any regular employee of a fire department whose primary duty is fire fighting, including probationary firefighters.

(ii) "Firefighter" shall not include any civilian employee of a fire department or any person temporarily employed as a firefighter during an emergency.

(D) "Public safety member" shall not include a member whose employment as a police officer or firefighter commenced on or after July 1, 1997.

(E) A public safety member who receives or has received credited service at one and one-half (1 1/2) times the regular rate for crediting service may change employers and continue to receive credited service at one and one-half (1 1/2) times the regular rate for crediting service, provided:

(i) The person is employed as a public safety officer within six (6) months of termination from employment as a public safety member; and

(ii) The employer provides public safety officers credited service at one and one-half (1 1/2) times the regular rate for crediting service;

(35) "Public safety officer" means:

(A) A person classified as a public safety member under subdivision (34) of this section; or

(B) A warden or correctional officer of the Department of Correction as designated by the Director of the Department of Correction.

~~(35)~~(36) "Regional airport authority" means any regional airport authority created under the Regional Airport Act, § 14-362-101 et seq., which was formed after January 1, 1990, and which has chosen to participate in the Arkansas Public Employees' Retirement System;

~~(36)~~(37) "Regional solid waste management board" means any regional solid waste management board defined under § 8-6-701 et seq. which has chosen by a majority vote of the full-time employees to participate in the Arkansas Public Employees' Retirement System;

~~(37)~~(38) "Regional water distribution board" means any regional water distribution board created under the Regional Water Distribution District Act, § 14-116-101 et seq., which has chosen by a majority vote of the full-time employees to participate in the Arkansas Public Employees' Retirement System;

~~(38)~~(39)(A) "Regular interest" means such rates of interest per annum, compounded annually, as the board shall prescribe from time to time.

(B) However, for circumstances entered into July 1, 1985, or later, when payments are payable to the Arkansas Public Employees' Retirement System by a member together with regular interest thereon, the rate of interest shall be the same for all circumstances and shall be six percent (6%) per annum unless changed by the board;

~~(39)~~(40) "Retirant" means a person receiving a plan annuity by reason of having been a member of the Arkansas Public Employees' Retirement System;

~~(40)~~(41) "Retirement" means a member's withdrawal from the service of a public employer, with an annuity payable from funds of the Arkansas Public Employees' Retirement System;

~~(41)~~(42) "Rural waterworks facilities board" means a rural waterworks facilities board created under the Rural Waterworks Facilities Boards Act, § 14-238-101 et seq.;

~~(42)~~(43) "Social Security" means the federal Social Security old age, survivors', and disability insurance program;

~~(43)~~(44) "State" means the State of Arkansas and includes all agencies, offices, departments, boards, commissions, and state-supported institutions that are duly constituted agencies of the state;

~~(44)~~(45)(A) "State employees" means all otherwise eligible employees whose compensations were, or are, payable from funds appropriated by the state and includes all employees whose compensations were, or are, payable in whole or in part from federal funds.

(B) In any case of doubt as to who is a state employee within the meaning of this act, the board shall have the final power to decide the question; and

~~(45)~~(46) "System" means the Arkansas Public Employees' Retirement System.

SECTION 2. Arkansas Code Title 24, Chapter 4, Subchapter 7 is amended to add an additional section to read as follows:

24-4-750. Multiplier for public safety officers who became system members beginning July 1, 1997.

The multiplier used to calculate an annuity for a public safety officer who became a member of the Arkansas Public Employees' Retirement System beginning July 1, 1997, shall be as follows:

(1) For a noncontributory member of the system, two and twenty-one hundredths percent (2.21%); and

(2) For a contributory member of the system, two and one half percent (2.5%).

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act affects the retirement benefits of members of the Arkansas Public Employees' Retirement System classified as public safety officers and the ideal time to revise benefit provisions of the system is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator J. Jeffress

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Secretary