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Senate Bill 174

(As Engrossed February 24, 2021)
Actuarial Cost Study prepared for
Joint Committee on Public Retirement and Social Security Programs
of the Arkansas 93rd General Assembly

Provisions of the Bill

Senate Bill 174 affects the Arkansas Teachers Retirement System (ATRS). Senate Bill 174 modifies the definition of Normal Retirement Age to be 65 with five years of service or age 60 with total service (including service while in TDROP and reciprocal service) of at least 38 years. The second section of the bill then allows a person who reaches Normal Retirement Age to begin receiving their retirement benefits even if there is no termination of employment. The result of these changes is that the current 30-day waiting period between retirement and reemployment that is available to those with 38 years of total service (actual and TDROP) is eliminated and those who meet the new definition of Normal Retirement Age do not have to separate from service.

Fiscal Impact

Senate Bill 174 will have the practical effect of removing the 30-day waiting period before reemployment requirement for members with a total of 38 years of total service. This change would not provide this opportunity to other members that currently have a 90-day waiting period. This new provision would be applied to all members who meet these criteria, without preference. The employer contributions continue while on TDROP or as a continued employment member. It is our opinion that the effect of Senate Bill 174 will be an insignificant cost impact.

Other Information

Federal pension law says that no retirement payment is to be made unless there is a separation from service. Although the phrase "separation from service" is very significant, it is not defined. Tax Court rulings have held that there must be a complete severance of the employee-employer relationship and that there is not to be any agreement, written or verbal, for a continuation of employment after any period. The 180 days and the current employer rule in current law is an effort to protect the system and the employers from violating these Tax Court rulings. The current 30-day rule for long term service was to recognize that service yet provide some protection to the employer. The difficulty is that with a 30-day waiting period it is too easy for the member and the employer to have an “agreement” in place.

There have been some changes in federal pension law in the 12 years since the current separation from service rules were put into Arkansas law. The Pension Protection Act of 2006 permits a plan to allow for distributions while the employee remains in service under certain conditions. Those conditions for defined benefit plans are that the participant is beyond normal retirement age. Federal regulations define what is a reasonable definition of normal retirement age. Senate Bill 174 provides a definition of Normal Retirement Age that appears to meet the reasonable definition requirements, then allows in-service benefit distributions to those persons that meet the new definition. The result of these changes is that when a member meets these criteria , they will be able to begin drawing their monthly benefits while continuing to draw their salary.

Related Legislation

There were several items that were requested by the ATRS board to be considered by the legislature. This has resulted in the filing of House Bills 1279, 1319, 1320, 1326, 1339, and 1340. There is a seventh item which was discussed by the ATRS board, but was not officially requested, that is now Senate Bill 174. It is our opinion that none of these bills have a significant fiscal impact on ATRS and that they do not have significant overlapping effects.

Sincerely,

Jody Carreiro

Jody Carreiro, EA, ASA, MAAA, FCA
Actuary