

Senate Bill 150

(Engrossed March 28, 2023)

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 150 affects the Arkansas public retirement systems as defined in §24-1-301(a). The bill as engrossed March 28, 2023 does exclude the alternate plans used by higher education due to conflicts pointed out in our March 9, 2023 report. The bill sets out rules for the forfeiture of retirement benefits when a retirement plan member is convicted or pleads guilty to “committing a public trust crime while holding office in this state.” A public trust crime is defined in the bill to be a crime prohibited under the Arkansas Constitution, Article 5, §9. The term “holding office” is narrowed to mean only members “elected by the voters of the State of Arkansas” as Engrossed March 28, 2023.

Fiscal Impact

It is difficult to directly calculate the savings associated with the provisions of Senate Bill 150. There have not been many cases of members being convicted of crimes while holding office. There would be additional administrative expenses to administer these provisions. It is our opinion that Senate Bill 150 would create a very small savings to any system from which benefits are forfeited.

Senate Bill 150 provides for the return of contributions to the member, beneficiary, or estate of a member in this situation. It also provides that if the conviction or judgement is reversed judicially then regular payments may be reinstated. The reinstatement would occur after the accumulated contributions with interest are returned to the system.

Concerns

I outlined several concerns in my March 9, 2023 letter which are not repeated in this report. The bill as engrossed March 28, 2023 works to address each of those issues. Although I understand that the Arkansas constitutional contract clause as interpreted by *Landers v. Stone* (2016) allows the forfeiture described in this bill, I don’t know if that is the policy this committee would want to take. I would site the example of a teacher who has retired from ATRS and is elected to the legislature and commits a crime described. Under this bill, that person would forfeit their ATRS retirement as well as the APERS benefit.

Current Practices

Based on discussions with the various systems, these types of issues (as well as issues not involving elected officials) can be addressed with current tools. There are several situations where, as part of the plea and sentencing with the courts, a part or all of the retirement benefit is sent to a special account from which restitution or fines are paid.

Conclusion

In my opinion, there are tools in place to address the issues outlined in Senate Bill 150 more efficiently.

Sincerely,



Jody Carreiro, EA, ASA MAAA, FCA
Actuary