

INTERIM STUDY PROPOSAL 2009-195

1  
2 State of Arkansas  
3 87th General Assembly  
4 Fiscal Session, 2010

**A Bill**

MMC/MMC  
HOUSE BILL

5  
6 By: Representative Kerr

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8 Filed with: Arkansas Legislative Council  
9 pursuant to A.C.A. §10-3-217.

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11 **For An Act To Be Entitled**

12 AN ACT TO INCREASE THE AMOUNT OF TIME A RETIREE  
13 DRAWING RETIREMENT BENEFITS MUST WAIT BEFORE  
14 BEING REHIRED BY A COVERED EMPLOYER; TO REPEAL  
15 THE LAW THAT ALLOWS LOCAL ELECTED PUBLIC  
16 OFFICIALS TO EARN TWO YEARS OF RETIREMENT CREDIT  
17 FOR EVERY YEAR WORKED; TO REQUIRE THE ARKANSAS  
18 PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE ON  
19 A MONTHLY BASIS A LIST OF MEMBERS WHO HAVE  
20 RETIRED; TO REQUIRE OFFICES OR AGENCIES COVERED  
21 BY THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT  
22 SYSTEM TO PROVIDE A LIST OF MEMBERS WHO HAVE BEEN  
23 REEMPLOYED FOLLOWING RETIREMENT; AND FOR OTHER  
24 PURPOSES.

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26 **Subtitle**

27 TO INCREASE THE AMOUNT OF TIME A RETIREE  
28 MUST WAIT BEFORE BEING REHIRED BY A  
29 COVERED EMPLOYER; TO REPEAL THE LAW THAT  
30 ALLOWS LOCAL ELECTED PUBLIC OFFICIALS TO  
31 EARN TWO YEARS OF RETIREMENT CREDIT FOR  
32 EVERY YEAR WORKED.

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35 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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SECTION 1. Arkansas Code § 24-4-520 is amended to read as follows:  
24-4-520. Termination required for retirement.

(a)(1) As used in this section, "terminate" means that:

(A) The member's employment has ended;

(B) A complete severance of the employer-employee relationship has occurred;

(C) The member has no property of the employer in his or her possession nor any access to the employer's property; and

(D) The member has ceased performing any services for the employer.

(2) If the member is an elected public official, "terminate" as used in this section means that:

(A) The member has resigned, been removed, vacated the office in accordance with state law, or otherwise no longer holds the elected position;

(B) A complete severance from the elected position has occurred;

(C) The member has no property of the employer in his or her possession nor any access to the employer's property; and

(D) The member has ceased performing any services in his or her elected position.

(3) Taking a leave of absence or performing job duties or services without remuneration does not qualify as a termination of the employment.

~~(a)(b)~~ Except as provided in subsection ~~(e)~~ (d) of this section, a member of the Arkansas Public Employees' Retirement System shall terminate covered employment to be eligible for retirement.

~~(b)(1)(c)(1)~~ A member shall not be terminated from employment for retirement purposes if the person:

(A) Returns to employment in a position covered under the system within ~~one hundred eighty (180) days~~ one (1) year of the person's effective date of retirement; or

(B) Is a member with service credit under § 24-4-521 at a rate of two (2) or more years of credited service for each year of actual service and the person returns to employment in a position covered under the system within ~~one hundred eighty (180) days~~ one (1) year of the person's

1 effective date of retirement.

2 (2) A member participating in the Arkansas Public Employees'  
3 Retirement System Deferred Retirement Option Plan on January 1, 2009, shall  
4 have the ~~one hundred eighty day~~ one-year separation requirement waived and  
5 may return to employment otherwise covered by the system no sooner than  
6 thirty (30) calendar days from the commencement of his or her retirement.

7 (3) A member who has retired and commenced receiving benefits in  
8 any month between January 2009 and June 2009, inclusive, shall have the ~~one-~~  
9 ~~hundred eighty day~~ one-year separation requirement waived and may return to  
10 employment otherwise covered by the system no sooner than thirty (30)  
11 calendar days from the commencement of his or her retirement.

12 (4) A member participating in the Arkansas Public Employees'  
13 Retirement System Deferred Retirement Option Plan after January 1, 2009, but  
14 before July 1, 2010, shall have the one-year separation requirement waived  
15 and may return to employment otherwise covered by the system no sooner than  
16 one hundred eighty (180) calendar days from the commencement of his or her  
17 retirement.

18 (5) A member who has retired and commenced receiving benefits in  
19 any month between July 2009 and June 2010, inclusive, shall have the one-year  
20 separation requirement waived and may return to employment otherwise covered  
21 by the system no sooner than one hundred eighty (180) calendar days from the  
22 commencement of his or her retirement.

23 ~~(e)-(1)-(d)(1)~~ An elected public official may retire and begin receiving  
24 retirement benefits if the elected public official is a member:

25 (A) Whose current service in public office in one (1) form  
26 of government is covered by § 24-4-521(b)(5); and

27 (B) Who is elected to public office in a different form of  
28 government and will begin serving in that public office immediately after the  
29 expiration of his or her term of public office described in subdivision  
30 ~~(e)-(1)-(A)-(d)(1)(A)~~ of this section.

31 (2) The member shall notify the ~~retirement~~ system of his or her  
32 impending service in another form of government at least thirty (30) days  
33 prior to the first day of the month in which that service will begin. A  
34 completed retirement application shall be submitted at that time.

35 (3) As used in this subsection, "form of government" means city  
36 government, county government, or state government.

1       ~~(d)~~(e) Persons failing to meet termination requirements shall forfeit  
2 their benefits until requirements are met.

3       (f)(1) The system shall:

4               (A) Prepare a list containing the name and job title or  
5 public office of each member who retired from the system during the preceding  
6 calendar month;

7               (B) Provide the list to the Legislative Council on or  
8 before the twentieth day of each month; and

9               (C) Publish the list in at least one (1) newspaper with  
10 statewide circulation on or before the end of each month.

11       (2) Each state agency and each county, city, executive branch  
12 office, legislative branch office, or other employer covered by the system  
13 shall:

14               (A) Prepare a list containing the name and job title or  
15 public office of each person who has been rehired following that person's  
16 retirement from the system during the previous calendar month;

17               (B) Provide the list to the Legislative Council on or  
18 before the twentieth day of each month; and

19               (C) Publish the list in at least one (1) newspaper with  
20 statewide circulation on or before the end of each month.

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22       SECTION 2. Arkansas Code § 24-4-521(b)(5), concerning credited  
23 service, is amended to read as follows:

24       (5)(A) Noncontributory employment as an elected public official ~~other~~  
25 ~~than Governor or an elected state constitutional officer or a member of the~~  
26 ~~General Assembly or an elected public official under the state division of~~  
27 ~~the system~~ by a person elected to a public office covered by the system:

28               (i) Before July 1, 2010, shall be credited as service at  
29 two (2) times the regular rate for crediting service; and

30               (ii) On or after July 1, 2010, shall be credited at the  
31 regular rate for crediting service.

32       (B) However, ~~except that~~ at least five (5) years of actual  
33 service shall be required to meet:

34               (i) ~~the~~ The retirement eligibility requirements of §§ 24-  
35 4-601 and 24-4-510 – 24-4-512,; and

36               (ii) at least five (5) years of actual service shall be

1 ~~required to meet the~~ The eligibility requirements of § 24-4-608.

2 (C) This subdivision (b)(5) does not apply to:

3 (i) The Governor;

4 (ii) An elected state constitutional officer;

5 (iii) A member of the General Assembly; or

6 (iv) An elected public official under the state division  
7 of the system.

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9 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
10 General Assembly of the State of Arkansas that members of the Arkansas Public  
11 Employees' Retirement System have been rehired by covered employers after  
12 having only been retired a nominal period of time; that public officials are  
13 drawing both retirement and salaries without having resigned from their  
14 elected position; that these employees are drawing their retirement pay and  
15 current salary during the period of reemployment; that such payments are at  
16 the expense of the taxpayer; that limiting the reemployment of a retired  
17 individual to only those having at least a one-year break in employment will  
18 encourage these positions to be filled by others rather than holding the  
19 position for the retiree; that since retiring employees generally do not work  
20 in entry level positions, additional restrictions on the rehire of retirees  
21 will provide incentives to existing staff and prospective employees and  
22 provide an opportunity for new citizens to run for public office; and that  
23 imposing restrictions will benefit the Arkansas Public Employees' Retirement  
24 System and the State of Arkansas. Therefore, an emergency is declared to  
25 exist and this act being necessary for the preservation of the public peace,  
26 health, and safety shall become effective on July 1, 2010.

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36 Filed Date: 10/14/2009 By: MMC\YTC