

2 State of Arkansas  
3 88th General Assembly  
4 Regular Session, 2011

*As Engrossed: H2/16/11*  
**A Bill**

HOUSE BILL 1119

5  
6 By: Representatives Pennartz, Summers, Sanders

7 Filed with: Interim Joint Committee on Public Retirement & Social Security Programs  
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO PREVENT STATE EMPLOYEES CONVICTED OF THEFT  
11 OF PROPERTY AGAINST THE EMPLOYER FROM DRAWING STATE  
12 RETIREMENT BENEFITS BASED ON THE MONTHS IN WHICH THE  
13 THEFT OCCURRED; TO DECLARE AN EMERGENCY; AND FOR  
14 OTHER PURPOSES.

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17 **Subtitle**

18 TO PREVENT STATE EMPLOYEES CONVICTED OF  
19 THEFT OF PROPERTY AGAINST THE EMPLOYER  
20 FROM DRAWING STATE RETIREMENT BENEFITS  
21 BASED ON THE MONTHS IN WHICH THE THEFT  
22 OCCURRED AND TO DECLARE AN EMERGENCY.

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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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28 SECTION 1. Arkansas Code § 24-4-1002 is amended to read as follows:

29 24-4-1002. Benefit provisions – Subjection of annuity rights to  
30 process of law -- Loss of right to benefits.

31 (a) ~~The~~ Except as provided in this chapter, the right of a person to  
32 an annuity, ~~to~~ the return of accumulated contributions, the annuity itself,  
33 ~~any~~ an annuity option, any other right accrued or accruing under ~~the~~  
34 ~~provisions of~~ § 24-4-101 et seq., and all moneys belonging to a plan ~~shall~~  
35 ~~not be:~~

36 (1) Are not subject to execution, garnishment, attachment, the

1 operation of bankruptcy or insolvency laws, or any other process of law  
 2 ~~whatsoever and shall be unassignable, except as is specifically provided in~~  
 3 ~~this chapter; and~~

4 (2) Are not assignable.

5 (b) An employer ~~shall have~~ has the right of setoff for any claim  
 6 arising from embezzlement by or fraud of a member, retirant, or beneficiary.

7 (c) If a public employee has pleaded guilty or nolo contendere to or been  
 8 found guilty of theft of property against the employer under § 5-36-103, then  
 9 the portion of the annuity based on employer contributions shall be  
 10 recalculated to exclude the months in which the theft of property against the  
 11 employer occurred beginning with thefts occurring on or after July 1, 2011.

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 13 SECTION 2. Arkansas Code Title 24, Chapter 5, is amended to add an  
 14 additional section to read as follows:

15 24-5-205. Loss of right to benefits.

16 If a public employee has pleaded guilty or nolo contendere to or been found  
 17 guilty of theft of property against the employer under § 5-36-103, then the  
 18 portion of the annuity based on employer contributions shall be recalculated  
 19 to exclude the months in which the theft of property against the employer  
 20 occurred beginning with thefts occurring on or after July 1, 2011.

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 22 SECTION 3. Arkansas Code § 24-6-223 is amended to read as follows:

23 24-6-223. Interest in fund not transferable or subject to legal  
 24 process -- Loss of right to benefits.

25 (a) No person entitled to any interest or share in any pension, any  
 26 return of contributions or accumulated contributions, or any other benefit  
 27 payable or to be made payable from funds of the system shall have the right  
 28 to anticipate such entitlement or to sell, assign, pledge, mortgage, or  
 29 otherwise dispose of or encumber such entitlement, nor shall any interest or  
 30 share in any pension, any return of contributions or accumulated  
 31 contributions, or any other benefit payable or to be made payable from funds  
 32 of the system be liable for the debts or liabilities of the person or persons  
 33 entitled thereto, or be subject to attachment, garnishment, execution, levy,  
 34 sale, or judicial proceedings, or be transferable by any means, voluntarily  
 35 or involuntarily, except as expressly provided for in this subchapter.

36 (b) ~~Should a member be~~ If a member is covered by a group insurance or

1 prepayment plan participated in by the Department of Arkansas State Police  
 2 and ~~should he be if he or she is permitted to, and elect to~~ and elects to,  
 3 continue the coverage as a retirant, ~~nothing contained in this section shall~~  
 4 does not prevent the board, upon the member's written request, from deducting  
 5 from his or her pension the payments required of him or her to continue  
 6 coverage under the group insurance or prepayment plan.

7 (c) The State of Arkansas ~~shall have~~ has the right of setoff for any  
 8 claim arising from embezzlement by, or fraud of, a member, retirant, or  
 9 beneficiary.

10 (d) If a public employee has pleaded guilty or nolo contendere to or been  
 11 found guilty of theft of property against the employer under § 5-36-103, then  
 12 the portion of the annuity based on employer contributions shall be  
 13 recalculated to exclude the months in which the theft of property against the  
 14 employer occurred beginning with thefts occurring on or after July 1, 2011.

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 16 SECTION 4. Arkansas Code § 24-6-413 is amended to read as follows:

17 24-6-413. Benefit provisions – Subjection of annuity rights to process  
 18 of law -- Loss of right to benefits.

19 (a) The right of a person to an annuity, to the return of accumulated  
 20 contributions, the annuity itself, any annuity option, any other right  
 21 accrued or accruing under the provisions of the subchapter, and all moneys  
 22 belonging to a plan shall not be subject to execution, garnishment,  
 23 attachment, the operation of bankruptcy or insolvency laws, or any other  
 24 process of law whatsoever and shall be unassignable, except as is  
 25 specifically provided in this chapter.

26 (b) An employer ~~shall have~~ has the right of setoff for any claim  
 27 arising from embezzlement by or fraud of a member, retirant, or beneficiary.

28 (c) If a public employee has pleaded guilty or nolo contendere to or been  
 29 found guilty of theft of property against the employer under § 5-36-103, then  
 30 the portion of the annuity based on employer contributions shall be  
 31 recalculated to exclude the months in which the theft of property against the  
 32 employer occurred beginning with thefts occurring on or after July 1, 2011.

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 34 SECTION 5. Arkansas Code § 24-7-715 is amended to read as follows:

35 24-7-715. Benefit rights not subject to legal process -- Loss of right  
 36 to benefits.

1 (a)(1) The right of a person to an annuity, to the return of  
 2 accumulated contributions, to the annuity itself, to any annuity option, and  
 3 to any other right accrued or accruing under the provisions of the this act,  
 4 and all moneys belonging to the Arkansas Teacher Retirement System, shall not  
 5 be subject to execution, garnishment, attachment, the operation of bankruptcy  
 6 or insolvency laws, or any other process of law whatsoever and shall be  
 7 unassignable, except as is specifically provided in this act.

8 (2) However, the employer ~~shall have~~ has the right of setoff for  
 9 any claim arising from embezzlement by, or fraud of, a member, retirant, or  
 10 beneficiary.

11 (b) ~~In the event~~ If an individual is no longer an active teacher or  
 12 employee of any public school district in this state, ~~nor~~ or on leave of  
 13 absence, and is found by any court of competent jurisdiction of this state to  
 14 be willfully refusing or failing to support minor dependent children of the  
 15 individual in violation of a court order providing for such support, although  
 16 the individual is financially able to do so, then the court may, ~~in its~~  
 17 ~~discretion,~~ order the accumulated contributions, annuity or annuity options,  
 18 or any other funds accruing under ~~the provisions of~~ this act to be paid into  
 19 the registry of the court for such further disposition as the court ~~shall~~  
 20 ~~deem~~ deems just and proper.

21 (c)(1) If, under the provisions of subsection (b) of this section,  
 22 there is created a court order ~~which~~ that directs payment of all, or a  
 23 portion of, a person's accumulated contributions, the payment shall be made  
 24 by the system to the court.

25 (2) The person shall be notified by the system of the payment  
 26 and shall be given an opportunity to redeposit with the system the amount of  
 27 the payment.

28 (3) If the payment is not redeposited, then any system annuity  
 29 otherwise payable to, or on behalf of, the person shall be reduced in the  
 30 proportion that the payment bears to the person's accumulated contributions  
 31 before the payment.

32 (d) If a public employee has pleaded guilty or nolo contendere to or been  
 33 found guilty of theft of property against the employer under § 5-36-103, then  
 34 the portion of the annuity based on employer contributions shall be  
 35 recalculated to exclude the months in which the theft of property against the  
 36 employer occurred beginning with thefts occurring on or after July 1, 2011.

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SECTION 6. Arkansas Code § 24-10-616 is amended to read as follows:

24-10-616. Subjection of benefit rights to legal process -- Loss of right to benefit.

(a) The right of a person to an annuity, the return of accumulated contributions, the annuity itself, any annuity option, any other right accrued or accruing under the provisions of this chapter, and all moneys belonging to a plan shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this chapter.

(b) However, an employer ~~shall have~~ has the right of setoff for any claim arising from embezzlement by, or fraud of, a member, retirant, or beneficiary.

(c) If a public employee has pleaded guilty or nolo contendere to or been found guilty of theft of property against the employer under § 5-36-103, then the portion of the annuity based on employer contributions shall be recalculated to exclude the months in which the theft of property against the employer occurred beginning with thefts occurring on or after July 1, 2011.

SECTION 7. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that employees convicted of theft of property against the employer are currently eligible to draw retirement benefits from the employer; that these members should not be allowed to profit from their crimes; and that for the months in which the thefts occurred,. 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, 2011.

*/s/Pennartz*

Referred by the Arkansas House of Representatives

Prepared by: MMC/VJF