

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

INTERIM STUDY PROPOSAL 2007-021

State of Arkansas

*As Engrossed: H1/30/07 H3/23/07*

86th General Assembly

**A Bill**

Regular Session, 2007

HOUSE BILL 1162

By: Representatives T. Baker, *Cornwell, Gaskill, Pierce, Pyle, Wagner, Walters*

Referred to

Public Retirement & Social Security Programs-joint

by the House of Representatives

on 03/29/2007

**For An Act To Be Entitled**

AN ACT TO PROVIDE THAT CITY ALDERMEN WHO RECEIVE COMPENSATION IN EXCESS OF REIMBURSEMENT EXPENSES SHALL BE MEMBERS OF THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO ALLOW PURCHASED CREDITED SERVICE FOR CERTAIN SERVICE OF CITY ALDERMEN; AND FOR OTHER PURPOSES.

**Subtitle**

AN ACT TO PROVIDE THAT CERTAIN CITY ALDERMEN SHALL BE MEMBERS OF THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND TO ALLOW PURCHASED CREDITED SERVICE FOR CERTAIN SERVICE OF CITY ALDERMEN.

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

SECTION 1. Arkansas Code § 24-4-101(17), concerning the definition of "employees" as applied to the Arkansas Public Employees' Retirement System, is amended to read as follows:

(17)(A)(i)(a) "Employees" means all officers and employees of any office, agency, board, commission, including the Department of Higher

1 Education, or department of a public employer whose compensations were or are  
2 payable from funds appropriated by the public employer and all otherwise  
3 eligible employees whose compensations were or are payable in whole or part  
4 from federal funds, as well as the official court reporters and stenographers  
5 of the circuit and chancery courts of the state and all of the prosecuting  
6 attorneys of the judicial districts of Arkansas.

7 (b) In addition, effective July 1, 1983, ~~the~~  
8 ~~term~~ "employees" shall include those persons who are eligible for benefits  
9 from the Teachers Insurance and Annuity Association but who are otherwise  
10 eligible for participation in the Arkansas Public Employees' Retirement  
11 System due to employment with a public employer.

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

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

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

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

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

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

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

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

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

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

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

29 (v) Persons in the employ of the General Assembly  
30 who are employed on a less than full-time regular annual salary basis, except  
31 that any person who has served or who shall serve during at least six (6)  
32 legislative sessions as Chief Clerk of the House of Representatives and who  
33 has served in the employ of the General Assembly during at least twelve (12)  
34 previous legislative sessions shall be eligible to receive credited service  
35 in the Arkansas Public Employees' Retirement System for any period of  
36 employment with the General Assembly since July 1, 1957, but only if the

1 employee is, or was, an active member of the ~~system~~ Arkansas Public  
2 Employees' Retirement System with at least ten (10) years of credited service  
3 and only if the employee pays or causes to be paid all employee contributions  
4 at the rate and on the compensation that would have been paid had he or she  
5 been a member of the ~~system~~ Arkansas Public Employees' Retirement System  
6 during those periods of time, all employer contributions based on the  
7 employer normal cost from the most recently completed regular annual  
8 actuarial valuation and the compensation that would have been paid had he or  
9 she been a member during those periods of time, and regular interest on the  
10 employee and employer contributions computed from the date of service to the  
11 date the payment is received by the ~~system~~ Arkansas Public Employees'  
12 Retirement System;

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

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

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

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

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

32 (xi) Any person previously denied coverage by the  
33 Arkansas Public Employees' Retirement System because that person was eligible  
34 for membership in but did not participate in another retirement system that  
35 is supported by state funds or that is authorized by the laws of the state,  
36 shall become a member of the Arkansas Public Employees' Retirement System

1 from the date of July 1, 1999, if in an otherwise eligible position due to  
2 employment with a participating employer. Any person previously denied  
3 coverage by the Arkansas Public Employees' Retirement System because that  
4 person was eligible for or receiving benefits from another retirement system  
5 supported by state funds or that is authorized by the laws of the state shall  
6 become a member of the Arkansas Public Employees' Retirement System from the  
7 date of July 1, 1999, if in an otherwise eligible position due to employment  
8 with a participating employer. That person may receive, at the employee's  
9 option, credit for service rendered to a participating public employer before  
10 that date, subject to the following conditions:

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

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

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

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

30 (xii) The surviving spouse of any person deemed  
31 erroneously enrolled due to receipt of a benefit from another retirement  
32 system supported by state funds or that is authorized by the laws of the  
33 state but whose service had not been refunded at or before the date of death  
34 shall be eligible to receive a benefit under the provisions of § 24-4-608,  
35 provided that the person was an employee of the participating employer on the  
36 date of death. The monthly annuity shall be payable on the first day of the

1 month following the month of application and shall be retroactive to the date  
2 the benefit would have been otherwise payable as provided for in § 24-4-608;  
3 and

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

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

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

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

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

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

35 (D)(i) "Employees" includes a city alderman who:

36 (a) Is elected by a municipality that is a

1 participating public employer; and

2 (b) Receives compensation in excess of  
3 reimbursement for actual expenses incurred in the performance of his or her  
4 duties.

5 (ii) The provisions of subdivisions (17)(B)(viii)  
6 and (iv) of this section shall not apply to city alderman qualified as  
7 employees under subdivision (17)(D)(i) of this section.

8 (iii) Service as a city alderman shall be credited  
9 at the rate of one (1) month for each month of service as a city alderman.

10  
11 SECTION 2. Arkansas Code Title 24, Chapter 4, Subchapter 7 is amended  
12 to add an additional section to read as follows:

13 24-4-750. Purchase of service as a city alderman.

14 (a) A member who has been elected to serve as a city alderman for a  
15 participating public employer may purchase credited service for his or her  
16 service as a city alderman if:

17 (1) The member has at least five (5) years of credited service  
18 at the time of application;

19 (2) The member received compensation for his or her service as a  
20 city alderman in excess of reimbursement for actual expenses; and

21 (3) The member pays to the member's deposit fund an amount equal  
22 to the actuarial present value of the credited service provided for under  
23 this section based upon assumptions recommended by the actuary.

24 (b) A member shall not receive the credited service provided under  
25 this section if the service is also used to establish entitlement to or the  
26 amount of any other benefit to be paid by any federal, state, or local  
27 governmental entity, except a benefit under the federal Social Security Act.

28 (c) The credited service provided under this section is subject to any  
29 applicable limits under the Internal Revenue Code of 1987, as it existed on  
30 January 1, 2007.

31 (d) Credited service purchased under this section shall be credited to  
32 the member at the rate of one (1) month for each month of service as a city  
33 alderman.

34  
35 /s/ T. Baker, et al  
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