

INTERIM STUDY PROPOSAL 2009-195

State of Arkansas

87th General Assembly

Fiscal Session, 2010

A Bill

MMC/MMC

HOUSE BILL

By: Representative Kerr

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

For An Act To Be Entitled

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

Subtitle

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

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

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

effective date of retirement.

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

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

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

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

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

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

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

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

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

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

(f)(1) The system shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(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