

# RECEIVED

FEB 14 2024

BLR

## ATRS Rule 9 Retirement and Benefits

---

### § 9-101. Definitions.

As used in this rule:

- (1) "Act 808 Employee" means an employee of a state agency who:
  - (A) On April 8, 1987, was an active member of the Arkansas Teacher Retirement System;
  - (B) Qualified to retire before January 1, 1988, under the Early Retirement Incentive Law of 1987 (Acts 1987, No. 187); and
  - (C) Could elect to become a member of the Arkansas Public Employees' Retirement System and have his or her credited service in the Arkansas Teacher Retirement System transferred to the Arkansas Public Employees' Retirement System;
- (2) "Annuity options" means one (1) or more options that:
  - (A) Concern how an annuity benefit shall be paid, in accordance with Arkansas Code § 24-7-706, to a member for his or her lifetime after the member's retirement; and
  - (B) Are available for a member's election at the time of the member's retirement;
- (3) "Application" for the purposes of retirement eligibility means an application form and any other documents required by the Arkansas Teacher Retirement System to establish a member's eligibility to retire;
- (4) "Covered employer" or "employer" means an employer who participates in the Arkansas Teacher Retirement System and whose employees are eligible for membership in the Arkansas Teacher Retirement System;
- (5) "Dependent child" means a child of a member or retiree who:
  - (A) Is a minor; or
  - (C) Has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;
- (6) "Effective retirement date" means the first day of the month in which a member requests to receive retirement benefits and for which the member submits a timely retirement application;
- (7) "Eligible employee" for the purposes of salary or compensation limitations concerning the calculation of a final average salary means a person who was a member of the Arkansas Teacher Retirement System before the first plan year beginning after December 31, 1995;
- (8) "Full service year" means employment with a covered employer for one hundred sixty (160) days or more in a fiscal year;
- (9) "Incapacitated child" means a child who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;
- (10) "Marriage dissolution" means a final decree of divorce, separate maintenance, or annulment executed by a court of competent jurisdiction and filed of record in the Office of the Ex Officio Recorder;
- (11) "Medical committee" means the committee of three (3) physicians appointed by the Board of Trustees of the Arkansas Teacher Retirement System for the purpose of

evaluating disability retirement applications;

(12) "Option beneficiary" means a person who:

(A) A member nominates by written designation, before or after the member's retirement, to receive annuity payments after the member's death in accordance with the annuity option selected by the member; and

(B) If eligible, shall receive annuity payments after the member's death in accordance with the annuity option selected by the member;

(13) "Partial service year" means employment with a covered employer for less than one hundred sixty (160) days in a fiscal year;

(14) "Person" means an individual, trust, estate, corporation, partnership, or other legal entity;

(15) "Residue" means a member's accumulated contributions, including regular interest standing in the member's credit at the time of his or her retirement;

(16) "Residue beneficiary" means a person who a member nominates by written designation to receive the member's residue, if any, under Arkansas Code § 247-709;

(17) "Receivable" means monies due to the Arkansas Teacher Retirement System from a member, former member, covered employer, contributor, retiree, beneficiary, or alternate payee under a qualified domestic relations order or QDRO as a result of an overpayment of any payment or benefit by the Arkansas Teacher Retirement System;

(18) "Retiree" means a retired member who receives an annuity from the Arkansas Teacher Retirement System;

(19) "Service" means employment rendered as an employee.

#### **§ 9-102. State employee transfers to the Arkansas Public Employees' Retirement System.**

(a) An Act 808 employee shall make the election to transfer to the Arkansas Public Employees' Retirement System on a form approved by the Arkansas Teacher Retirement System.

(b) The transfer from the Arkansas Teacher Retirement System to the Arkansas Public Employees' Retirement System shall be effective on the employee's effective date of retirement.

(c) The Arkansas Teacher Retirement System shall certify to the Arkansas Public Employees' Retirement System a record of the Act 808 employee's service credit in the Arkansas Teacher Retirement System.

(d)(1) If an Act 808 employee is a non-contributory member of the Arkansas Teacher Retirement System at the time of his or her retirement, the Act 808 employee shall retire under the non-contributory provisions of Acts 1987, No. 187 and shall be entitled to a refund of his or her Act 808 employee contributions made since January 1, 1978, to the Arkansas Teacher Retirement System.

(2) If an Act 808 employee was a contributory member of the Arkansas Teacher Retirement System at the time of his or her retirement, the Act 808 employee shall retire under the contributory provisions of Acts 1987, No. 187.

(e)(1) The Arkansas Public Employees' Retirement System shall pay the monthly benefits of an Act 808 employee who elects to transfer to the Arkansas Public Employees' Retirement System.

(2) The Arkansas Public Employees' Retirement System shall certify monthly to

the Arkansas Teacher Retirement System the amount of monthly benefits paid and the Arkansas Teacher Retirement System shall transfer its pro-rata portion to the Arkansas Public Employees' Retirement System.

(f) Upon receipt of a death certificate from the Arkansas Public Employees' Retirement System for a retiree who chose a straight life annuity and has a balance remaining in his or her account, the Arkansas Teacher Retirement System shall transfer the remaining balance in the retiree's account to the Arkansas Public Employees' Retirement System for refunding to the retiree's designated beneficiary.

### **§ 9-103. Retirement eligibility.**

To be eligible for age and service retirement or disability retirement under the Arkansas Teacher Retirement System, a member shall:

(1) Satisfy the credited service requirements under one of the retirement statutes, Arkansas Code §§ 24-7-701—707;

(2) Be credited with all required covered employer and member contributions in the member's deposit account, with no amounts owed to the system;

(3) Pay all amounts owed to the system for underpayments, overpayments, or purchase service accounts; and

(4) Terminate employment with each of his or her covered employers or reach the normal retirement age.

### **§ 9-104. Age and service retirement — Effective retirement date.**

(a) For a member who is inactive, vested, and immediately eligible to retire, retirement benefits shall be payable the month after the Arkansas Teacher Retirement System receives the member's application for age and service retirement.

(b)(1) If a member meets all eligibility requirements for age and service retirement and is approved for retirement, annuity benefits shall be effective on the month proposed in the member's application.

(2) If the member does not file an application at least one (1) calendar month before the proposed effective retirement date, then the proposed retirement effective date in the member's application shall not be used, and the member's effective retirement date shall be the following month.

(c) If a member has signed an employment contract for the fiscal year and has been paid in full without providing service for the full period of the employment contract, the member's effective retirement date shall not be before July 1 of the subsequent fiscal year.

(d) If a member has accrued a full year of service credit equal or greater to one hundred sixty (160) days in a fiscal year, the member's retirement date shall not begin earlier than July 1 of the subsequent fiscal year, year unless the member:

(A) Has attained the normal retirement age and is not separating from employment;

or

(B) Is not licensed or otherwise certified as a classroom teacher and vacating a classroom.

(e)(1) A member who attains the normal retirement age may:

(A) Apply for retirement benefits without terminating employment; and

(B) Begin drawing retirement benefits.

(2) The retirement benefits of a member who attains the normal retirement age shall not be affected if the member applies for and draws retirement benefits.

**§ 9-105. Age and service retirement — Application.**

(a) A copy of the age and service retirement application may be downloaded from the system's website or requested from the system.

(b)(1) If eligible, an active or inactive member who attains age sixty (60) and has five (5) or more years of actual and reciprocal service credit may voluntarily retire by filing a written application with the Arkansas Teacher Retirement System.

(2) If eligible, an active or inactive member who has not reached age sixty (60) and has twenty-five (25) or more years of actual and reciprocal service credit, including purchased or free credited service, may voluntarily retire by filing a written application with the system.

(c)(1) In order for a retirement application to be timely filed, there is a three-month "window" to apply for retirement benefits.

(2) An active member who is currently employed by a covered employer shall file his or her retirement application:

(A) No sooner than four (4) months before the active member's effective retirement date; and

(B) No later than one (1) month before the active member's effective retirement date.

(d)(1) The system's procedure for handling a retirement application received by the system from a member shall include the following:

(A) If a retirement application is received by the system before the three-month window begins for the member's anticipated effective retirement date, the system shall:

(i) Consider the retirement application untimely;

(ii) Reject the retirement application;

(iii) Notify the member of one (1) or more dates on which the member may timely file a retirement application; and

(iv) Notify the member of the procedure to use in order to timely file a retirement application.

(2) If a retirement application is received after the three-month window ends for the member's anticipated effective retirement date, the system shall:

(i) Consider the retirement application untimely; and

(ii) Provide the member with a new effective retirement date that begins on the first day of the month following the member's previously anticipated effective retirement date.

(e) Section 9-105(d) and (e) of this rule do not apply to a disability retirement application or an application for survivor benefits.

(f) The following table shows examples of the windows for filing a retirement application:

<u>EXAMPLE OF RETIREMENT FILING DATES</u>			
<u>Effective Date of Retirement</u>	<u>Retirement Application Must be Filed In:</u>	<u>Last Date of Employment</u>	<u>First Retirement Check</u>
<u>January 1</u>	<u>September, October or November</u>	<u>December 31</u>	<u>End of January</u>
<u>February 1</u>	<u>October, November or December</u>	<u>January 31</u>	<u>End of February</u>
<u>March 1</u>	<u>November, December or January</u>	<u>Feb 28/29 (Leap year)</u>	<u>End of March</u>
<u>April 1</u>	<u>December, January or February</u>	<u>March 31</u>	<u>End of April</u>
<u>May 1</u>	<u>January, February or March</u>	<u>April 30</u>	<u>End of May</u>
<u>June 1</u>	<u>February, March or April</u>	<u>May 31</u>	<u>End of June</u>
<u>July 1</u>	<u>March, April or May</u>	<u>June 30</u>	<u>End of July</u>
<u>August 1</u>	<u>April, May or June</u>	<u>July 31</u>	<u>End of August</u>
<u>September 1</u>	<u>May, June or July</u>	<u>August 31</u>	<u>End of September</u>
<u>October 1</u>	<u>June, July or August</u>	<u>September 30</u>	<u>End of October</u>
<u>November 1</u>	<u>July, August or September</u>	<u>October 31</u>	<u>End of November</u>
<u>December 1</u>	<u>August, September or October</u>	<u>November 30</u>	<u>End of December</u>

(g) The following table is the only window for filing a Teacher Deferred Retirement Option Participation application:

<u>Effective Date of Retirement</u>	<u>Retirement Application Must be Filed In:</u>
<u>July 1</u>	<u>March, April, or May</u>

**§ 9-106. Age and service retirement — Additional documents.**

(a) Unless an extension is granted by the Executive Director of the Arkansas Teacher Retirement System, in addition to a completed application for retirement, a member shall submit the following additional documents to the Arkansas Teacher Retirement System by the end of the sixth full calendar month immediately following the member's effective retirement date:

(1) For members who elect a straight life annuity:

(A) Proof of the member's birthdate from a birth certificate or other authenticating documents; and

(B) Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents.

(2) For members who elect an Option A or Option B annuity and designate their spouse as the beneficiary:

(A) Proof of the member's birthdate from a birth certificate or other authenticating documents;

(B) Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents;

(C) Proof of the spouse's birthdate from a birth certificate or other authenticating documents;

(D) Proof of the spouse's taxpayer identification number from a Social Security card or other authenticating documents; and

(E) Proof of the marriage between the member and spouse from a marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage.

(3) For members who elect an Option A or Option B annuity and designate a dependent child as their beneficiary:

(A) Proof of the member's birthdate from a birth certificate or other authenticating documents;

(B) Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents;

(C)(i) Proof of guardianship

(ii) Adequate proof of the existence of a guardianship due to the incapacity of the member's dependent child that preexists the member's official retirement date.

(iii) Authenticating documents may include the order appointing guardianship of the person, letters of guardianship, or other adequate proof of the existence of the guardianship;

(D) Proof of the dependent child's birthdate from a birth certificate or other authenticating documents; and

(E) Proof of the dependent child's taxpayer identification number from a Social Security card or other authenticating documents.

(4) For members who elect an Option C annuity:

(A) Proof of the member's birthdate from a birth certificate or other authenticating documents; and

(B) Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents.



(b)(1) Unless an extension is granted by the executive director, a member shall submit by the end of the sixth full calendar month immediately following the member's effective retirement date all additional documents required by the system in order to begin issuing benefit payments to the member.

(2) If all additional documents required by the system are not submitted by the deadline or any extension granted by the executive director, the member's retirement application shall be void and without effect.

#### **§ 9-107. Disability retirement — Application.**

(a)(1) A member shall submit a completed application for disability retirement and all accompanying documentation required by the Arkansas Teacher Retirement System by the end of the sixth full calendar month immediately following the date of the member's disability retirement application.

(2) If a member does not submit all accompanying documentation by the end of the sixth full calendar month immediately following the date of the member's disability retirement application, the system shall:

(A) Submit the disability retirement application to the medical committee for review as complete; or

(B) Withdraw the application at the request of the member unless an extension is granted by the Executive Director of the Arkansas Teacher Retirement System.

(b)(1) Disability retirement benefits shall begin on the first of the month in which a member files a disability retirement application with the system if the:

(A) Member is eligible for disability retirement;

(B) Member is no longer employed by a covered employer at the time he or she files the disability retirement application; and

(C) Medical committee determines that the member has a disability.

(2) If the member is still employed by a covered employer at the time the member files the disability retirement application, then, once approved by the medical committee and then the Board of Trustees of the Arkansas Teacher Retirement System, the member's disability retirement shall begin on the first of the month following the last day of the member's covered employment.

(c) If a member's initial application for disability retirement is denied and the member elects and qualifies for age and service retirement, the member's effective retirement date shall be determined by the date the member's initial disability retirement application is filed.

(d)(1) A member may request a second review of his or her initial disability retirement application if the:

(A) Member's initial disability retirement application is denied; and

(B) Member submits additional medical documentation for the medical committee's consideration.

(2) A member may only request a second review one (1) time.

(3) If a member requests a second review, unless an extension is granted by the executive director, the member has until the end of the sixth full calendar month immediately following the date of the written notice of the medical committee's denial of the member's initial application for disability retirement to submit additional medical

documentation.

(4)(A) If a member's initial disability retirement application is denied after the second review, the member may file another subsequent disability retirement application and submit additional information for consideration if the member is active and eligible for disability retirement.

(B) If a member's initial disability retirement application is denied and the member is ineligible to apply for disability retirement benefits or is inactive, the member may apply for **age and service retirement** if the member meets the requirements **age and service retirement**.

(e) If a member dies after the disability application is received by the system, but before his or her disability retirement application is approved, then the:

(A) Member shall be considered as having died in active service; and

(B) Survivor benefits under Arkansas Code § 24-7-710 shall be paid, unless the member designated one (1) or more alternative residual beneficiaries.

(f)(1) If a disability retirement application is approved by the medical committee after May 31, 2011, the board shall allow the member to designate an Option A or Option B beneficiary at the time of retirement.

(2) An Option C beneficiary shall not be designated by a member who applies for disability retirement or a disability retiree.

(g)(1) The same rules that apply to an active member's surviving spouse under Arkansas Code § 24-7-710(b) shall apply to a disability retiree's surviving spouse if the disability retiree:

(A) Designates his or her spouse as Option A or Option B beneficiary at the time of retirement; and

(B) Dies before reaching sixty (60) years of age.

(2) The same rules that apply to a surviving spouse of an active member under Arkansas Code § 24-7-710(b) shall apply to the surviving spouse of a disability retiree if the disability retiree:

(A) Dies after disability retirement benefit payments to the disability retiree begin;

(B) Does not designate his or her spouse as an Option A or Option B beneficiary; and

(C) Does not designate a residue beneficiary.

(3) The same rules that apply to a surviving spouse of an active member under Arkansas Code § 24-7-710(b)(1)(B) shall apply to the surviving spouse of a disability retiree if the disability retiree:

(A) Dies after disability retirement benefit payments to the disability retiree began;

(B) Does not designate his or her spouse as an Option A or Option B beneficiary; and

(C) Designates his or her spouse as a residue beneficiary.

(4) The same procedures used under Arkansas Code § 24-7-710 that are used to determine when an active member's surviving spouse is entitled to begin receiving benefit payments shall be used to determine when benefit payments shall begin for a residue beneficiary who is the surviving spouse of a disability retiree and elects an Option A – 100% Survivor Annuity



(5) If a disability retiree designates his or her dependent child as an Option A or Option B beneficiary, and the disability retiree dies before reaching age sixty (60), then:

(A) The same rules that apply under Arkansas Code § 24-7-710(c) to an active member's surviving child shall apply to the disability retiree's Option A or Option B dependent child beneficiary until the date on which the disability retiree would have turned sixty (60) years of age; and

(B) On the date on which the disability retiree would have turned sixty (60) years of age, the Option A or Option B dependent child beneficiary shall receive the greater of the surviving child annuity under Arkansas Code § 24-7-710(c) or the Option A spouse annuity under Arkansas Code § 24-7-710(b).

#### **§ 9-108. Disability retirement — Disability review.**

(a) A deadline imposed by this rule may be extended as provided by this rule and Arkansas Code § 24-7-704.

(b)(1) A retiree shall submit to the Arkansas Teacher Retirement System a Social Security Administration (SSA) determination letter that finds the retiree disabled within thirty-six (36) months from:

(A) July 1, 2015, if the retiree's effective retirement date is before July 1, 2015; or

(B) The retiree's effective retirement date if the effective date of retirement is on or after July 1, 2015.

(2) A retiree may apply to the system for an extension of the thirty-six-month deadline if:

(A) The retiree demonstrates through an administrative or judicial confirmation of an active SSA claim that the claim is:

(i) Still under review; and

(ii) Part of a continuous claim without voluntary dismissal or withdrawal; and

(iii) The SSA disability claim was filed and remained active for at least twenty-four (24) months before the thirty-six-month deadline.

(c) The system shall suspend disability retirement benefit payments to a retiree if the retiree does not:

(1) Provide the system with a SSA determination letter finding the retiree disabled within the thirty-six-month deadline;

(2) Receive an extension of the thirty-six-month deadline to provide the system with a SSA determination letter finding the retiree disabled; or

(3) Apply to the medical committee for a review **by the end of the third full calendar month immediately following the system's suspension of** disability retirement benefit payments to the retiree due to the retiree's failure to provide a SSA determination letter finding the retiree disabled.

(d)(1) A retiree who attempts and is unable to receive a SSA determination letter finding the retiree disabled may apply for a review by the medical committee **if the member submits either an unfavorable SSA determination letter finding that the retiree is not disabled or documentation showing that the retiree applied for SSA benefits before the thirty-six-month deadline to submit a favorable SSA determination letter finding the retiree disabled expired.**

(2) A retiree may apply for a review by the medical committee:

(A) No earlier than **three (3) full calendar months** before the date on which the retiree's disability retirement benefit payment would otherwise be suspended; and

(B) No later **than by then end of the third full calendar month immediately following the system's suspension of** disability retirement benefit payments to the retiree.

(3) A review performed by the medical committee shall follow the standards and procedures in Arkansas Code § 24-7-704(a)(1)(E).

(4)(A) After a disability review is held due to the SSA finding that a member is not disabled, the medical committee's recommendations shall be submitted to the Board of Trustees of the Arkansas Teacher Retirement System for a final order.

(B) If a member is denied further disability benefits after a disability review by the medical committee, the member may:

(i) Offer additional medical information within thirty (30) days of the date of the disability review; and

(ii) Request that the board return the matter to the medical committee for reconsideration.

(C)(i) Disability retirement benefit payments to a member shall resume in the month immediately following the board's entry of an order finding the member eligible to receive disability retirement benefits if the board had previously entered an order finding the member ineligible to receive disability retirement benefits.

(ii) If the board enters an order finding a member eligible to receive disability retirement benefits, the member shall not be entitled to retroactive backpay of disability retirement benefits if the:

(a) Board had previously entered an order finding the member ineligible to receive disability retirement benefits;

(b) Member did not submit a favorable SSA determination letter within thirty-six (36) months of his or her effective date of disability retirement; and

(c) Member submits a favorable SSA determination letter after the board entered the order finding the member ineligible to receive disability retirement benefits.

(e) A member's option to request a second review of his or her initial disability retirement application does not apply to a retiree who seeks a disability review due to his or her inability to obtain a SSA determination letter finding him or her disabled.

(f) A retiree shall begin receiving regular retirement benefits as if the retiree voluntarily retired and a SSA determination letter shall not be required if the retiree

(1) Attains fifty-seven (57) years of age in the month the retiree's disability retirement benefits become effective; or

(2) Attains sixty (60) years of age.

#### **§ 9-109. Disability retirement — Employment after disability retirement.**

(a) A member's disability retirement is effective from the date the member files a disability retirement application with the Arkansas Teacher Retirement System and terminates employment with each of his or her covered employers.

(b)(1) A member is considered active if the member is using earned sick leave, Family Medical Leave Act leave, annual leave, and catastrophic leave.

(2) Worker's compensation, which may or may not include the use of leave granted

by an employer, shall not:

(A) Be considered leave by which a member is considered active; and

(B) Extend the date of active membership.

(c)(1) A member shall not receive disability retirement benefit payments if the member indirectly performs work for a covered employer as described in [Arkansas Code § 24-7-502](#).

(2) If a member is approved for disability retirement and continues to work either directly or indirectly for a covered employer, the member shall:

(A) Terminate direct or indirect employment with the covered employer by the proposed disability effective retirement date; or

(B) If the member is finalizing work for the covered employer, terminate employment no later than two (2) full calendar months after the medical committee's final decision.

(3) If the member does not terminate employment in accordance with the ATRS Rules and [Arkansas Code § 24-7-502](#), the member's disability retirement application shall be considered rescinded and the member may reapply for disability retirement if eligible.

(d)(1) A retiree under the age of sixty (60) may be employed by a covered employer and also receive disability retirement benefit payments if the retiree performs less than eighty (80) days of actual service during a fiscal year.

(2)(A) After receiving approval for disability retirement under the system, a retiree may choose to return to covered employment and relinquish his or her disability retirement.

(B) If a retiree chooses to return to covered employment, the member shall:

(i) Not receive disability retirement benefit payments;

(ii) Be considered an active member; and

(iii) Comply with Arkansas Code § 24-7-738 (Acts 2017, No. 549).

(3) A retiree shall become an active member and his or her disability retirement shall be immediately terminated if:

(A) The retiree notifies the system in writing of his or her intent to perform more than eighty (80) days of actual service during a fiscal year; or

(B) The system receives written notification of the retiree's intent to perform more than eighty (80) days of actual service during a fiscal year through a termination and status sheet, membership data form, or any other reasonably reliable documentation.

(e) A disability retiree shall not be permitted to transfer his or her disability retiree status to that of an age and service retiree.

### **§ 9-110. Benefit formula and Compound Cost of Living Adjustment.**

(a) The annuity formula for computing disability retirement benefits shall be the same annuity formula used to compute age and service retirement benefits.

(b)(1) The retirement benefits payable to a retiree shall be the total number of contributory years of credited service, multiplied by a factor that is not less than one and seventy-five hundredths percent (1.75%) and not more than two and fifteen hundredths percent (2.15%) of the final average salary as set by the Board of Trustees of the Arkansas Teacher Retirement System, plus the total number of noncontributory years of credited service multiplied by a factor that is not less than five-tenths percent (0.5%) and not more than one and thirty-ninth hundredths percent (1.39%) of the final average salary, as set

by the Board of Trustees of the Arkansas Teacher Retirement System.

(2) The board shall modify the standard multipliers for credited service of ten (10) years as necessary to maintain actuarial soundness.

(c)(1) The board by resolution may reverse a compound cost of living adjustment as needed to maintain the actuarial soundness of the system.

(3) A reversal may be phased in as the board determines appropriate.

(d)(1) If a covered employer reports additional salary for a member and the additional salary does not cause the member's annual benefit to increase or decrease by more than the de minimis amount, then the member's contributions on the additional salary shall be transferred from the member's deposit account to the employer accumulation account without making any change to the member's annual benefit.

(2) If the additional salary does increase or decrease the member's annual benefit by more than the de minimis amount, then the member's annual benefit shall be recalculated.

### **§ 9-111. Final average salary — Salary limitations.**

(a) The Board of Trustees of the Arkansas Teacher Retirement System may adopt rules to modify the definition of salary for the purpose of calculating retirement benefits available under the Arkansas Teacher Retirement System.

(b) The system shall include the salary received from each of a member's covered employers when calculating the member's final average salary.

(c)(1) Regardless of any provision in a state statute, rule, or regulation to the contrary, remuneration, salary, or other compensation that exceeds the limitations set forth provided in the Internal Revenue Code of 1986, 26 U.S.C. § 401(a)(17), as it existed on January 1, 2011, shall not be used for the purposes of calculating the final average salary on which benefits available under the system are based.

(2) The limitation on remuneration, salary, or compensation for an eligible employee shall not be less than the amount that was allowed to be considered by the Arkansas Teacher Retirement System as in effect on July 1, 1993.

(d)(1) A salary earned by a member before the member's death and paid after the member's death is subject to deductions by the system and the member's covered employer shall report the member's total salary and days of service in the covered employer's quarterly report.

(2) Gratuitous payments made by a covered employer to a member after the death of the member shall not be:

(A) Considered the salary of the member;

(B) Subject to contribution requirements; and

(C) Included in the covered employer's quarterly report to the system.

(e) The system shall not consider remuneration, salary, or compensation paid by a covered employer to a member as a salary earned by the member if the:

(1) Remuneration, salary, or compensation is paid as an incentive payment, bonus, separation payment, additional salary, or special payment in consideration for the member's agreement to retire, terminate employment, or not renew a contract with the covered employer;

(2) Offer described in § 9-111(d)(1) of this rule is extended by the covered employer to two (2) or more members;

(3) Remuneration, salary, or compensation is not offered as an additional salary or payment for the purchase of service credit that is part of a separation agreement resulting from the resolution of a claim of wrongful termination;

(4) Remuneration, salary, or compensation is not payment for accumulated, unused sick leave that:

(A) Accrued in the years immediately preceding the member's termination of covered employment; and

(B) Were in excess of the number of sick days that the covered employer allowed the member to carry forward;

(5) Covered employer offers a voluntary early retirement incentive plan, staff reduction plan, or buyout plan that would require the member as a participant of the plan to retire or terminate his or her employment with the covered employer; and

(6) Member voluntarily participates in the plan in exchange for the remuneration, salary, or compensation offered by the covered employer.

(f)(1) A covered employer shall not withhold a member's contributions or pay employer contributions from a remuneration, salary, or compensation paid to a member if the remuneration, salary, or compensation is subject to a salary limitation as provided by this rule.

(2) A covered employer that offers an early retirement plan, separation, plan, or contract nonrenewal plan and intends to pay remuneration, salary, or compensation that is subject to a salary limitation as provided by this rule shall notify the system before making a payment under the plan.

(g)(1) At the request of a covered employer, the system shall:

(A) Review a potential plan or payment that may be subject to a salary limitation as provided by this rule; and

(B) Provide written guidance to the covered employer concerning the applicability of the salary limitation to the plan or payment.

(2) The system's written determination on the applicability of a salary limitation to a plan or payment shall be treated as a staff determination letter, which may be appealed by the covered employer using the procedures in ATRS Rule 13-1.

(3) The law, rules, and policies applicable to the system shall be controlling if a conflict exists between the system's calculation of final average salary and a covered employer's laws, rules, or policies concerning the compensation of final average salary.

### **§ 9-112. Final average salary — Service years.**

(a) If a member dies during active service on or after July 1, 2013, the member's paid or unpaid accrued, unused sick leave, shall be credited as service in the fiscal year of the member's death for the purpose of determining the member's retirement eligibility, final average salary, and eligibility for other benefits under the Arkansas Teacher Retirement System.

(b)(1) A partial service year shall be excluded from the calculation of a member's final average salary unless the:

(A) Partial service year is higher than a full service year; or

(B) Member has less than the required number of years to calculate a final average salary.

(2) Anti-spiking calculations shall not be applied to a partial service year or a fiscal



year immediately following a partial service year.

(c)(1) The Board of the Arkansas Teacher Retirement System shall set annually the applicable number of years to be used in computing final average salary for retirement benefits at not less three (3) years and not more than five (5) years.

(2) Unless otherwise provided by law, rules, or policies applicable to the Arkansas Teacher Retirement System, effective July 1, 2018, the Arkansas Teacher Retirement System shall calculate a member's final average salary using the five (5) years in which the member received the highest salary from a covered employer.

(d)(1) If a member has less than the minimum number of years of credited service that would be used to calculate a final average salary, the member's final average salary shall be the total salary paid to the member for his or her years of credited service divided by the member's total credited years of service.

(2) If a member does not have full service years for the total years of service used in the calculation of final average salary, the board may establish by rule a fair base salary for a member's final average salary for purposes of comparing the member's highest salary years.

(e)(1) For an active member who has three (3) or more full service years as of July 1, 2018, the Arkansas Teacher Retirement System shall:

(A) Treat the active member as if he or she was retiring or entering the Teacher Deferred Retirement Option Plan as of June 30, 2018; and

(B) Determine the benchmark final average salary using the highest salary from the member's three (3) full service years through fiscal year 2018.

(2) A final average salary calculation using three (3) full service years shall be the benchmark comparison for a five-year final average salary calculation to which the active member may be entitled.

(3) The Arkansas Teacher Retirement System shall calculate the active member's final average salary using the five (5) years in which the active member received the highest salary from a covered employer if at the time of the active member's retirement using a five-year calculation of the final average salary is higher than using a three-year calculation.

(4) The Arkansas Teacher Retirement System shall not use a benchmark final average salary for an inactive member unless the inactive member provides the Arkansas Teacher Retirement System with appropriate documentation showing that the inactive member was active in a reciprocal system or alternate retirement plan during the 2018 fiscal year.

(f) For a member with reciprocal service credit, the Arkansas Teacher Retirement System shall use the highest final average salary calculated, at the time of the member's retirement, by the Arkansas Teacher Retirement System or a reciprocal system in which the member has at least two (2) years of service credit pursuant to Arkansas Code § 24-2-402.

### **§ 9-113. Annuity options.**

(a) Before the date the first benefit payment of an annuity becomes due, a member retiring with age or service may elect one (1) of the following annuity options:

(1) Option 1 – straight life annuity, which is a straight life annuity payable monthly for the life of the retiree.



(2)(A) Option 2 – reduced straight life annuity with option beneficiaries, under which a retiree shall receive the actuarial equivalent of his or her straight life annuity in a reduced annuity payable for the retiree's lifetime.

(B) Under Option 2, at the time of his or her retirement, a member may designate one (1) or more beneficiaries to receive one (1) of the following annuity options:

(i)(a) Option A – one hundred percent (100%) survivor annuity. Upon the death of the retiree, the retiree's reduced annuity shall be continued and paid throughout the life of the retiree's designated beneficiary.

(b) A member's eligible spouse, one (1) or more of the member's children who qualify as a dependent child, or both may be designated as an Option A beneficiary.

(c) If both a spouse and one (1) dependent child are designated as Option A beneficiaries, the retiree's reduced annuity shall be paid in equal shares to the spouse and the dependent child.

(d) If both a spouse and more than one (1) dependent child are designated as Option A beneficiaries, the spouse shall receive fifty percent (50%) of the retiree's reduced annuity and the remaining fifty percent (50%) shall be paid in equal shares to the dependent children.

(e) If more than one (1) dependent child is designated as an Option A beneficiary and a spouse is not designated as an Option A beneficiary, the retiree's reduced annuity shall be paid in equal shares to each dependent child.

(f) A dependent child's portion of the annuity shall not revert to the spouse or any other dependent children if the dependent child becomes ineligible to continue receiving annuity payments or predeceases the spouse or any other dependent children.

(g) A spouse's portion of the annuity shall not revert to any dependent child if the spouse becomes ineligible to continue receiving annuity payments or predeceases one (1) or more dependent children.

(ii)(a) Option B – fifty percent (50%) survivor annuity. Upon the death of the retiree, one-half (1/2) of the retiree's reduced annuity shall be continued and paid throughout the life of the retiree's designated beneficiary.

(b) A member's eligible spouse, one (1) or more of the member's children who qualify as a dependent child, or both may be designated as an Option B beneficiary.

(c) If both a spouse and one (1) dependent child are designated as Option B beneficiaries, one-half (1/2) of the retiree's reduced annuity shall be paid in equal shares to the spouse and the dependent child.

(d) If both a spouse and more than one (1) dependent child are designated as Option B beneficiaries, the spouse shall receive fifty percent (50%) of one-half (1/2) of the retiree's reduced annuity and the remaining fifty percent (50%) of one-half (1/2) of the retiree's reduced annuity shall be paid in equal shares to the dependent children.

(e) If more than one (1) dependent child is designated as an Option A beneficiary and a spouse is not designated as an Option B beneficiary, one-half (1/2) of the retiree's reduced annuity shall be paid in equal shares to each dependent child.

(f) A dependent child's portion of the annuity shall not revert to the spouse or any other dependent children if the dependent child becomes ineligible to continue receiving annuity payments or predeceases the spouse or any other dependent children.

(g) A spouse's portion of the annuity shall not revert to any dependent child if the spouse becomes ineligible to continue receiving annuity payments or predeceases one (1) or more dependent children.

(C)(i) Option C – annuity for ten (10) years certain and life thereafter. The retiree shall receive a reduced annuity payable throughout the retiree's life.

(ii) If the retiree dies before receiving one hundred twenty (120) monthly annuity payments, the payments shall be continued for the remainder of the period of one hundred twenty (120) months and paid to one (1) or more of the retiree's designated beneficiaries in equal shares.

(iii) A member may designate one (1) or more beneficiaries under Option C.

(b) The following persons are eligible to be designated as an Option A or Option B beneficiary:

(1) The retiree's spouse if the retiree and his or her spouse have been married to each other for at least one (1) year before the first annuity benefit payment to the retiree;

(2) A retiree's dependent child who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction, regardless of the age of the dependent child.

(c) If an Option 1 retiree dies within one (1) year of retirement, and his or her spouse qualifies for Option A benefits, the spouse may elect to cancel the Option 1 annuity in effect and elect Option A, one hundred percent (100%) survivor annuity, at that time.

(1) The election shall be effective the first day of the month following receipt of the election form from the Arkansas Teacher Retirement System.

(2) If the spouse elects Option A benefits, the residue, if any, shall not be paid until the Option A beneficiary's death.

(3) A spouse who is eligible to elect Option A benefits may elect to receive a lump-sum distribution of the retiree's residue in lieu of the spousal annuity if the spouse waives his or her right to the spousal annuity and the retiree did not designate one (1) or more dependent children as a beneficiary.

(d)(1) After his or her retirement, a retiree may designate his or her spouse as an Option A or Option B beneficiary if the retiree:

(A) Has been married to his or her spouse for one (1) year; and

(B) Either:

(i) Was married to his or her spouse for less than one (1) year upon his or her effective retirement date; or

(ii) Marries his or her spouse after his or her effective retirement date.

(2)(A) Upon meeting the one-year marriage requirement, the retiree shall have six (6) months to file a written nomination designating his or her spouse as either an Option A or Option B beneficiary.

(B) The designation shall be filed on a form approved by the system.

(e) After a retiree's effective retirement date, the retiree may designate an Option A or Option B dependent child beneficiary if the:

(1) Retiree previously designated his or her spouse as the Option A or Option B beneficiary;

(2) Spouse designated as the retiree's Option A or Option B beneficiary predeceases the retiree; and

(3) Dependent child has been adjudged physically or mentally incapacitated by a court of competent jurisdiction.

(f)(1) A member may request that the system remove an incapacitated child as his or her Option A or Option B beneficiary if:

(A) The member designated the incapacitated child as his or her Option A or Option B dependent child beneficiary; and

(B) One (1) of the following applies:

(i) A court finds that the incapacitated child is no longer incapacitated;

(ii) The incapacitated child is emancipated through marriage; or

(iii) The incapacitated child dies.

(2) The following forms of proof shall be submitted, as appropriate, with the member's request to remove an incapacitated child as his or her Option A or Option B:

(A) A file-marked copy of the court's order finding that the incapacitated child is no longer incapacitated;

(B) A copy of the incapacitated child's marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage; or

(C) A copy of the incapacitated child's death certificate.

(3) Once the proof required to remove an incapacitated child as the member's Option A or Option B beneficiary is submitted to the system, the member may:

(A) Elect to return to an Option 1; or

(B)(i) If the member is married, designate his or her spouse as the Option A or Option B beneficiary within six (6) months of the date on which the system receives the proof required under this rule.

(ii) The member's election shall be effective on the first day of the month following the date on which the system receives the election form.

(g)(1) A member may designate any person as a residue beneficiary.

(2) A retiree's residue, if any, shall be paid to the retiree's residue beneficiary if the:

(A) Retiree dies before receiving annuity benefit payments equal to the residue amount; and

(B) Option beneficiary dies before receiving annuity benefit payments equal to the residue amount.

(3) If a residue beneficiary is not nominated or does not survive the death of the option beneficiary, the residue shall be paid to the retiree's estate.

(4) (A) If a residue beneficiary survives the death of the retiree and the option beneficiary, but dies before payment of the residue can be issued by the system, the residue shall be paid to the residue beneficiary's estate.

(B) If more than one (1) residue beneficiary survives the death of the retiree and option beneficiary, but all the residue beneficiaries die before payment of the residue can be issued by the system, the residue shall be paid to the estate of the most recently deceased residue beneficiary.

(C) If all residue beneficiaries predecease the retiree, the residue shall be paid to either the retiree's estate or the estate of the most recently deceased designated beneficiary.

**§ 9-114. Change of marital status.**

(a)(1) If the marital status of a retiree changes due to the death of the retiree's spouse or a marriage dissolution, the retiree may choose to:

(A) Cancel his or her designation of the former spouse as a beneficiary; or

(B) Designate a dependent child as a replacement beneficiary if the:

(i) Retiree previously designated the former spouse as his or her Option A or Option B beneficiary; and

(ii) Former spouse predeceases the retiree.

(2) If the retiree chooses to cancel the designation of his or her former spouse as his or her Option A or Option B beneficiary or chooses to designate a dependent child as a replacement Option A or Option B beneficiary, the retiree shall file with the Arkansas Teacher Retirement System a change of option beneficiary on a form approved by the system, and any change in the benefit amount shall become effective the month after the system receives the approved form.

(b)(1) If a member designates one (1) or more alternative residual beneficiaries in lieu of his or her spouse, the member shall submit the names of each alternative residue beneficiary to the system on a form approved by the system.

(2) If a member designates one (1) or more alternative residue beneficiaries in lieu of his or her spouse, each alternative residue beneficiary shall receive an appropriate lump-sum payment of the greater of either:

(A) The member's residue from the Teacher Deferred Retirement Option Plan (T-DROP); or

(B) The member's contributions.

**§ 9-115. Final benefit check.**

(a)(1)(A) In the case of a retiree, benefits are payable through the month in which the retiree's death occurs.

(B) If a final benefit payment is not delivered in the normal course of business, the benefit payment shall be sent in the following order until delivered:

(i) To the member's residue beneficiary, if any;

(ii) To the member's lump-sum death beneficiary, if any;

(iii) To the member's estate' if any; or

(iv) To the trust assets of the Arkansas Teacher Retirement System.

(2)(A) In the case of an option beneficiary, benefits are payable through the month in which the last option beneficiary's death occurs.

(B)(i) If an option beneficiary dies before receiving the last check, the Arkansas Teacher Retirement System shall pay the final check in the normal manner paid before death.

(ii) If payment of the final check in the normal course becomes impossible, the final option beneficiary's annuity check shall be returned the system.

(b) The Board of the Arkansas Teacher Retirement System shall direct a benefit payment amount forfeited to the trust assets of the system if the:

(1) Benefit payment cannot be made five (5) years after the benefit payment is due because the location of the member or the identity and location of the member's beneficiary or personal representative cannot be ascertained by mailing the benefit payment to the last known address of the member, beneficiary, or personal representative in ATRS' records; and

(2) Neither the member, beneficiary, or personal representative submitted paperwork or forms approved by the system updating his or her location or last known address to the system before the expiration of five (5) years from when the benefit payment is due.

#### **§ 9-116. Correction of errors and collection of overpayments.**

(a)(1) If a change or error in the records of the Arkansas Teacher Retirement System is discovered during the look-back period and results in either an overpayment or underpayment to the system, the Board of Trustees of the Arkansas Teacher Retirement System shall authorize the system's staff to:

(A) Correct the error in the records;

(B) Adjust a benefit or any other amount payable to the corrected amount as far as practice able; and

(C) Take all necessary and appropriate action, including without limitation the options allowed under Arkansas Code § 24-7-205(b).

(2)(A) The board or its designee may adjust the records of the system, a covered employer, and a member beyond the look-back period if the board determines that the time limitation imposed by the look-back period will result in a manifest injustice in a specific case.

(B) Before making an adjustment of benefits that causes a reduction of the benefits or pursuing any other collection action, the system shall provide notice to the person who is the subject of the adjustment and the notice shall:

(i) State the amount determined to be a receivable;

(ii) State the reasons underlying the determination;

(iii) Describe the process for disputing an adjustment of benefits; and

(iv) Suggest alternate methods for payment of the receivable.

(b)(1) The manifest injustice process shall not be used to address a change, omission, or error in the records of the system that may be corrected within the look-back period.

(2) The manifest injustice process may be used to correct a change, omission, or error in the records of the system discovered after the look-back period if the board determines that the time limitation imposed by the look-back period would cause a manifest injustice.

(c) If a member is subject to a qualified domestic relations order and is paid a benefit or payment by the system to which the member is not entitled, and it is discovered during the look-back period, then a receivable is created and the board or its designee, may collect the amount due to the system.

(d)(1) Appeals to dispute collections shall be made according to the procedures in ATRS Rule 13.

(2) During the appeal process, retirement benefits may continue to be paid.  
Correction and Adjustment Limitations

(3) Actions that affect benefit rights shall not be corrected or adjusted further than

a five-year look-back period unless a manifest injustice has occurred or an exception exists under Arkansas Code § 24-7-205(c).

(4) A determination by the system of a manifest injustice in a particular instance due to a technical error or error in judgment is discretionary and governed by Arkansas Code § 24-7-205.

(e)(1) The Executive Director of the Arkansas Teacher Retirement System may waive interest on required contributions in an amount not to exceed \$5,000.

(2) A request to excuse an interest amount exceeding \$5,000 shall be submitted to the board for review.

(3) The executive director shall report any amounts excused under § 9-116 of this rule to the board.

(f)(1) The executive director may approve the correction of a change, omission, or error in the records of the system and implement a resolution that has a direct financial impact to the system of up to five thousand dollars (\$5,000) without obtaining board approval.

(2) Board approval shall be required to implement a resolution that has a direct financial impact to the system in excess of five thousand dollars (\$5,000).

(g) If required, a receivable under § 9-116 of this rule that is found by the board or its designee to be uncollectible or for which adjustment or payment has been waived shall be submitted to the Chief Fiscal Officer of the State for abatement pursuant to Arkansas Code §§ 19-2-301 — 19-2-307.

---

**Authority: Arkansas Code §§ 24-7-202, 24-7-205, 24-7-502, 24-7-701 — 24-7-707, 24-7-709, 24-7-710, 24-7-727, 24-7-732, 24-7-734, and Acts 1987, No. 808.**

## **History**

<u>Effective:</u>	<u>July 2, 2002</u>	<u>9-3</u>
<u>Amended:</u>	<u>June 15, 2004</u>	<u>9-2, 9-4, 9-7</u>
<u>Amended:</u>	<u>July 18, 2005</u>	<u>9-4, 9-8</u>
<u>Amended:</u>	<u>February 7, 2006</u>	<u>9-2, 9-7</u>
<u>Amended:</u>	<u>April 26, 2007</u>	<u>9-2, 9-7</u>
<u>Amended:</u>	<u>June 19, 2007</u>	<u>9-4</u>
<u>Amended:</u>	<u>June 16, 2009</u>	<u>(Emergency) 9-2</u>
<u>Amended:</u>	<u>October 5, 2009</u>	<u>(Permanent) 9-2</u>
<u>Adopted:</u>	<u>December 18, 2009</u>	<u>9-1, 9-4, 9-8</u>
<u>Amended:</u>	<u>July 1, 2011</u>	<u>(Emergency) 9-1,</u> <u>(Emergency) 9-2, 9-4</u> <u>(Emergency) 9-7</u> <u>(Emergency) 9-8</u>
<u>Adopted:</u>	<u>August 8, 2011</u>	<u>9-1, 9-2, 9-4, 9-7, 9-8</u>
<u>Effective:</u>	<u>November 11, 2011</u>	<u>9-1, 9-2, 9-4, 9-7, 9-8</u>
<u>Approved by Board:</u>	<u>February 6, 2013</u>	<u>9-4, 9-7</u>
<u>Amended:</u>	<u>April 18, 2012</u>	<u>9-4, 9-7</u>
<u>Effective:</u>	<u>May 29, 2012</u>	<u>9-4, 9-7</u>
<u>Approved by Board:</u>	<u>July 26, 2013</u>	<u>9-2, 9-4, 9-8</u>



<u>Amended:</u>	<u>October 9, 2013</u>	<u>9-2, 9-4, 9-8</u>
<u>Effective:</u>	<u>November 8, 2013</u>	<u>9-2, 9-4, 9-8</u>
<u>Approved by Board:</u>	<u>October 5, 2015</u>	<u>9-2, 9-4</u>
<u>Amended:</u>	<u>February 1, 2016</u>	<u>9-2, 9-4</u>
<u>Effective:</u>	<u>February 10, 2016</u>	<u>9-2, 9-4</u>
<u>Approved by Board:</u>	<u>February 5, 2018</u>	<u>9-2, 9-4, 9-8, 9-9</u>
<u>Effective:</u>	<u>February 16, 2018</u>	<u>9-2, 9-4, 9-8, 9-9</u>
<u>Effective:</u>	<u>May 28, 2020</u>	<u>Rule 9</u>
<u>Effective:</u>	<u>May 20, 2022</u>	<u>Rule 9</u>
<u>Effective:</u>	<u>TBD</u>	<u>Rule 9</u>

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1188

By: Representative A. Collins  
By: Senator K. Hammer

## For An Act To Be Entitled

AN ACT TO AMEND AND UPDATE THE LAW CONCERNING THE  
FINAL AVERAGE SALARY UNDER THE ARKANSAS TEACHER  
RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR  
OTHER PURPOSES.

## Subtitle

TO AMEND AND UPDATE THE LAW CONCERNING  
THE FINAL AVERAGE SALARY UNDER THE  
ARKANSAS TEACHER RETIREMENT SYSTEM; AND  
TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-736(c)(2)(A), concerning the method  
through which full and partial service years are used to calculate a member's  
final average salary under the Arkansas Teacher Retirement System, is amended  
to read as follows:

(2)(A) Full and partial service years that are recorded as  
service credit shall be used in the calculation of the final average salary  
in accordance with rules promulgated by the board.

SECTION 2. Arkansas Code § 24-7-736(c)(4)(D), concerning the  
calculation of a member's final average salary under the Arkansas Teacher  
Retirement System, is amended to read as follows:

(D)(i) The next-highest service year salary in the  
calculation of final average salary that is less than eight (8) years from



the base salary year shall not exceed the base salary value plus the ~~salary differential~~ anti-spiking amount unless the next-highest year's value is less than or equal to the ~~percentage increase~~ anti-spiking percentage of the base salary.

(ii) Subdivision (c)(4)(D)(i) of this section shall not apply to a partial service year or a fiscal year immediately following a partial service year.

SECTION 3. Arkansas Code § 24-7-736(e), concerning the ability of the Board of Trustees of the Arkansas Teacher Retirement System to adjust a member's calculated final average salary by board resolution when certain criteria are met, is amended to read as follows:

(e) The board may adjust the final average salary calculated in accordance with subsection (c) of this section by board resolution provided that:

(1) The ~~percentage increase~~ anti-spiking percentage under subdivision (c)(4)(D) of this section is set no lower than one hundred five percent (105%) per year and no higher than one hundred twenty percent (120%) per year; and

(2) The ~~salary differential~~ anti-spiking amount permitted under subdivision (c)(4)(D) of this section is set no lower than one thousand two hundred fifty dollars (\$1,250) per year and no higher than five thousand dollars (\$5,000) per year.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the operations of a state public retirement system are complex; that the Arkansas Teacher Retirement System must be able to meet the needs of its members as anticipated by the General Assembly; that certain provisions of the Arkansas Teacher Retirement System Act need revision and updating to bring them into conformance with sound public pension policy and actuarial requirements; that the revisions and updates are of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that as the Arkansas Teacher Retirement System operates on a fiscal year of July 1 to June 30, a July 1, 2023, effective date is necessary in order to allow the provisions within this act to begin on the first day of the fiscal year and

1 to allow for a structured and proper administration of the procedures  
2 referenced in this act; that the updates and revisions to the Arkansas  
3 Teacher Retirement System Act are of great importance for actuarial purposes  
4 and for the improvement and protection of member benefits under the Arkansas  
5 Teacher Retirement System; and that this act is necessary in order to  
6 maintain an orderly system of benefits for the members of the Arkansas  
7 Teacher Retirement System. Therefore, an emergency is declared to exist, and  
8 this act being necessary for the preservation of the public peace, health,  
9 and safety shall become effective on July 1, 2023.

10  
11  
12 **APPROVED: 2/21/23**  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

State of Arkansas

As Engrossed: H2/7/23

94th General Assembly

# A Bill

Regular Session, 2023

HOUSE BILL 1201

By: Representative Warren

By: Senator K. Hammer

## For An Act To Be Entitled

AN ACT TO ENACT THE ARKANSAS TEACHER RETIREMENT  
SYSTEM'S GENERAL OMNIBUS ACT; TO CORRECT CERTAIN  
REFERENCES TO "ALTERNATE RETIREMENT PLAN", "COVERED  
EMPLOYER", "CREDITED SERVICE", "RETIRANT", "SERVICE  
CREDIT", AND "THE SYSTEM"; TO AMEND AND ADD CERTAIN  
DEFINITIONS APPLICABLE TO THE ARKANSAS TEACHER  
RETIREMENT SYSTEM; TO CLARIFY THE LAW CONCERNING  
BENEFIT INCREASES AND COMPUTATION, DEADLINES, SYSTEM  
ASSETS, TERMINATION SEPARATION PERIOD, SERVICE  
CREDIT, SECOND REVIEWS OF DISABILITY RETIREMENT  
APPLICATIONS, A MEMBER'S RESIDUE, CONTRACT BUYOUT  
SETTLEMENT AGREEMENTS, THE DE MINIMIS AMOUNT, AND  
OTHER VARIOUS PROVISIONS APPLICABLE TO THE ARKANSAS  
TEACHER RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY;  
AND FOR OTHER PURPOSES.

## Subtitle

TO ENACT THE ARKANSAS TEACHER RETIREMENT  
SYSTEM'S GENERAL OMNIBUS ACT; AND TO  
DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 21-5-411(a)(1)(A)(v), concerning the  
eligibility of certain retired employees to participate in the State and  
Public School Life and Health Insurance Program, is amended to read as



1 follows:

2 (v) An alternate retirement plan ~~of a qualifying~~  
3 ~~institution under~~ as defined in § 24-7-801 24-7-202; and

4  
5 SECTION 2. Arkansas Code § 24-2-302(3)(D), concerning the  
6 classification under the Arkansas Teacher Retirement System of a person  
7 employed in a position requiring professional training or certification with  
8 an area vocational-technical school or employed by the Arkansas Educational  
9 Television Commission, is amended to read as follows:

10 (D) Any person employed in a position requiring  
11 professional training or certification with an area vocational-technical  
12 school or employed by the Arkansas Educational Television Commission, except  
13 that employees of area vocational-technical schools and the Division of  
14 Career and Technical Education, the Adult Education Section, and the Office  
15 of Skills Development, who have elected to participate in an alternate  
16 retirement plan established by ~~§§ 24-7-901 and 24-7-903 — 24-7-908~~ § 24-7-901  
17 et seq. shall be active members of the alternate retirement plan; and

18  
19 SECTION 3. Arkansas Code § 24-2-401(3)(F), concerning the definition  
20 of "reciprocal system" that is applicable to public employee retirement  
21 plans, is amended to read as follows:

22 (F) An alternate retirement plan ~~for:~~  
23 ~~(i) A college, university, or the Division of Higher~~  
24 ~~Education provided for under § 24-7-801 et seq., or~~  
25 ~~(ii) A vocational-technical school or the Division~~  
26 ~~of Career and Technical Education, the Adult Education Section of the~~  
27 ~~Division of Workforce Services, the Division of Higher Education, and the~~  
28 ~~Office of Skills Development, with respect to plans provided for under § 24-~~  
29 ~~7-901 et seq. as defined in § 24-7-202; or~~

30  
31 SECTION 4. Arkansas Code § 24-2-401(4)(D), concerning the definition  
32 of "state employer" that is applicable to public employee retirement plans,  
33 is amended to read as follows:

34 (D) A public employer ~~who is:~~  
35 ~~(i) A college, university, or the Division of Higher~~  
36 ~~Education whose employees are covered by an alternate retirement plan~~



1 ~~provided for under § 24-7-801 et seq., or~~  
2 ~~(ii) A vocational technical school or the Division~~  
3 ~~of Career and Technical Education, the Adult Education Section, and the~~  
4 ~~Office of Skills Development, whose employees are covered by an alternate~~  
5 ~~retirement plan provided for under § 24-7-901 et seq. that has an alternate~~  
6 ~~retirement plan as defined in § 24-7-202;~~  
7

8 SECTION 5. Arkansas Code § 24-2-402(g)(6), concerning death-in-service  
9 benefits as to an alternate retirement plan, is amended to read as follows:

10 (6) If the reciprocal system is an alternate retirement plan  
11 ~~under § 24-7-801 et seq. or § 24-7-901 et seq. as defined in § 24-7-202,~~  
12 death-in-service benefits shall be contingent on death-in-service benefits  
13 having been provided by the alternate retirement plan and having been  
14 selected by the member as a benefit.  
15

16 SECTION 6. Arkansas Code § 24-2-402(k), concerning the payment of  
17 payable benefits in accordance with terms specified in a written alternate  
18 retirement plan document, is amended to read as follows:

19 (k) If the reciprocal system is an alternate retirement plan ~~for a~~  
20 ~~college, a university, or the Division of Higher Education provided for under~~  
21 ~~§ 24-7-801 et seq., or for a vocational technical school or the Department of~~  
22 ~~Career Education provided for under § 24-7-901 et seq. as defined in § 24-7-~~  
23 ~~202,~~ the benefits payable shall be in accordance with terms specified in the  
24 written alternate retirement plan document for purchasing the insurance  
25 policies or annuity contracts, both fixed and variable in nature, for the  
26 participants.  
27

28 SECTION 7. Arkansas Code § 24-4-901(a)(1)(F), concerning credited  
29 service and reciprocity under the Arkansas Public Employees' Retirement  
30 System and the amount of annuity awarded to a member employed by an alternate  
31 retirement plan, is amended to read as follows:

32 (F) An alternate retirement plan ~~under § 24-8-101 et seq.~~  
33 ~~or § 24-9-201 et seq. as defined in § 24-7-202;~~ or  
34

35 SECTION 8. Arkansas Code § 24-4-901(a)(3)(B), concerning credited  
36 service and reciprocity under the Arkansas Public Employees' Retirement

1 System and the computation of final average compensation for credited service  
2 in the Arkansas Judicial Retirement System or an alternate retirement plan,  
3 is amended to read as follows:

4 (B) Compensation for credited service in the Arkansas  
5 Judicial Retirement System or an alternate retirement plan ~~under § 24-8-101~~  
6 ~~et seq. or § 24-9-201 et seq.~~ as defined in § 24-7-202 shall not be used to  
7 determine final average compensation.

8  
9 SECTION 9. Arkansas Code § 24-4-901(b)(1)(F), concerning credited  
10 service and reciprocity under the Arkansas Public Employees' Retirement  
11 System and what criteria an annuity is determined from when a member of an  
12 alternate retirement plan retires due to disability or dies in service, is  
13 amended to read as follows:

14 (F) An alternate retirement plan ~~under § 24-8-101 et seq.~~  
15 ~~or § 24-9-201 et seq.~~ as defined in § 24-7-202; or

16  
17 SECTION 10. Arkansas Code § 24-4-901(b)(4), concerning credited  
18 service and reciprocity under the Arkansas Public Employees' Retirement  
19 System and the contingency of disability and death-in-service benefits being  
20 awarded if provision of the benefits were provided to the alternate  
21 retirement plan and were selected by the member as a benefit, is amended to  
22 read as follows:

23 (4) If a member has service credit in an alternate retirement  
24 plan ~~under § 24-8-101 et seq. or § 24-9-201 et seq.~~ as defined in § 24-7-202,  
25 disability and death-in-service benefits shall be contingent on provision of  
26 those benefits having been provided by the alternate retirement plan and  
27 having been selected by the member as a benefit.

28  
29 SECTION 11. Arkansas Code § 24-4-901(d)(6), concerning credited  
30 service and reciprocity under the Arkansas Public Employees' Retirement  
31 System and the provision of reciprocal service credits between contributory  
32 and noncontributory members of an alternate retirement plan, is amended to  
33 read as follows:

34 (6) An alternate retirement plan ~~for a college, university, or~~  
35 ~~the Division of Higher Education provided for under § 24-8-101 et seq. or for~~  
36 ~~a vocational technical school or the Division of Career and Technical~~

1 ~~Education, the Adult Education Section, and the Office of Skills Development,~~  
2 ~~provided for under § 24-9-201 et seq., as defined in § 24-7-202; and~~

3  
4 SECTION 12. Arkansas Code § 24-7-202(6), concerning the definition of  
5 "alternate retirement plan" applicable to the Arkansas Teacher Retirement  
6 System, is amended to read as follows:

7 (6) "Alternate retirement plan" means a retirement plan based on  
8 the purchase of contracts providing retirement and death benefits for  
9 employees under ~~§ 24-7-801 et seq. or § 24-7-901 et seq.~~ § 24-7-801 et seq.,  
10 § 24-7-901 et seq., or § 24-7-1001 et seq.;

11 SECTION 13. Arkansas Code § 24-7-202(7), concerning the definition of  
12 "annuity" applicable to the Arkansas Teacher Retirement System, is amended to  
13 read as follows:

14 (7) "Annuity" means an amount payable to a ~~retirant~~ retiree each  
15 fiscal year by the Arkansas Teacher Retirement System in equal monthly  
16 installments;

17  
18 SECTION 14. Arkansas Code § 24-7-202(14), concerning the definition of  
19 "credited service" applicable to the Arkansas Teacher Retirement System, is  
20 amended to read as follows:

21 (14) "Credited service" means service which is ~~creditable~~  
22 credited as service by the Arkansas Teacher Retirement System;

23  
24 SECTION 15. Arkansas Code § 24-7-202(19)(D)(iii), concerning the  
25 definition of "employment with a school" applicable to the Arkansas Teacher  
26 Retirement System, is amended to read as follows:

27 (iii) Each education-related agency or organization  
28 shall ~~be~~:

29 (a) ~~Approved~~ Be approved according to rules  
30 established by the ~~board~~ Board of Trustees of the Arkansas Teacher Retirement  
31 System;

32 (b) ~~Considered an employer under subdivision~~  
33 ~~(18) of this section~~ Become a covered employer at the time that an employee  
34 elects to become or remain a member of the Arkansas Teacher Retirement  
35 System; and

36 (c) Be considered a covered employer only for

1 each employee who elects to become or remain a member of the Arkansas Teacher  
2 Retirement System; and

3 (d) Responsible Be responsible for all  
4 required employer contributions;

5  
6 SECTION 16. Arkansas Code § 24-7-202(21)(B), concerning the definition  
7 of "inactive member" applicable to the Arkansas Teacher Retirement System, is  
8 amended to read as follows:

9 (B) Not a ~~retirant~~ retiree;

10  
11 SECTION 17. Arkansas Code § 24-7-202(28), concerning the definition of  
12 "normal retirement age" applicable to the Arkansas Teacher Retirement System,  
13 is amended to read as follows:

14 (28) "Normal retirement age" means:

15 (A) Sixty-five (65) years of age if the member has at  
16 least five (5) years of actual service or reciprocal service; or

17 (B) ~~At least sixty (60) years of age if the member has a~~  
18 ~~combined total of thirty-eight (38) years or more of credited service in the~~  
19 ~~Arkansas Teacher Retirement System, Teacher Deferred Retirement Option Plan,~~  
20 ~~or reciprocal service in another eligible state retirement system~~ Sixty (60)  
21 years of age or older if the member's age and the member's combined years of  
22 credited service in the Arkansas Teacher Retirement System, Teacher Deferred  
23 Retirement Option Plan, or reciprocal service in another eligible state  
24 retirement system total ninety-eight (98);

25  
26 SECTION 18. Arkansas Code § 24-7-202(32), concerning the definition of  
27 "retiree" or "retirant" under the Arkansas Teacher Retirement System, is  
28 amended to read as follows:

29 (32) "Retiree" ~~or "retirant"~~ means a member receiving an  
30 Arkansas Teacher Retirement System annuity;

31  
32 SECTION 19. Arkansas Code § 24-7-202, concerning definitions  
33 applicable to the Arkansas Teacher Retirement System, is amended to add  
34 additional subdivisions to read as follows:

35 (45)(A) "Benefit enhancement" means any change to the current  
36 benefit policy for a retired, active, or inactive member of the Arkansas

1 Teacher Retirement System or T-DROP participant that increases the  
2 amortization period by one (1) year or more.

3 (B) Benefit enhancement does not include any change that is  
4 required to comply with federal law, prevent a manifest injustice, correct an  
5 error, avoid an unintended consequence of an existing statutory provision, or  
6 prevent undue hardship on any benefit participant or class of benefit  
7 participants.

8 (46) "Employment with a covered employer" means the employment  
9 of an employee that would require a covered employer to pay employer  
10 contributions to the system; and

11 (47) "Residue" for the purposes of § 24-7-701 et seq. means the  
12 difference between the accumulated contributions and regular interest  
13 credited to the retirement reserve account as of the member's effective date  
14 of retirement and the total amount of retirement annuities paid.

15  
16 SECTION 20. Arkansas Code § 24-7-207 is amended to read as follows:

17 24-7-207. Increase in benefit amount.

18 (a)(1) The Board of Trustees of the Arkansas Teacher Retirement System  
19 is authorized ~~by this act~~ to raise the level of benefits provided to the  
20 current ~~retirants~~ retirees and other beneficiaries of the Arkansas Teacher  
21 Retirement System ~~to a comparable level increase to match the increase in~~  
22 ~~benefits that would accrue to active members as a result of any reduction of~~  
23 ~~the calculation of "final average salary" to not less than a three year~~  
24 ~~period nor more than the five year period in accordance with any rules the~~  
25 ~~board might promulgate.~~

26 (2) The board may raise the level of benefits to a comparable  
27 level increase that matches the increase in benefits that would accrue to  
28 active members as a result of any reduction caused by setting the applicable  
29 number of years used in computing final average salary for retirement  
30 benefits at not less than three (3) years and not more than five (5) years in  
31 accordance with any rules that the board may promulgate.

32 (b) The amount of any increase for ~~retirants~~ retirees and other  
33 beneficiaries shall also be determined in accordance with the rules of the  
34 board as is actuarially appropriate for the system.

35  
36 SECTION 21. Arkansas Code § 24-7-301(4) and (5), concerning the

1 membership of the Board of Trustees of the Arkansas Teacher Retirement System  
2 and the election thereof, are amended to read as follows:

3 (4)(A) Three (3) ~~retirants~~ retirees shall be elected ~~retirant~~  
4 retiree trustees by the retirees of the system.

5 (B) Each ~~retirant~~ retiree trustee shall be a ~~retirant~~  
6 retiree with an annuity being paid by the system at the beginning of his or  
7 her term of office;

8 (5) The member and ~~retirant~~ retiree trustees shall be elected in  
9 accordance with rules as have been adopted by the board to govern the  
10 elections; and

11  
12 SECTION 22. Arkansas Code § 24-7-302(a)(2)(B), concerning the  
13 ineligibility of a retirant trustee to serve on the Board of Trustees of the  
14 Arkansas Teacher Retirement System after becoming active, is amended to read  
15 as follows:

16 (B) A ~~retirant~~ retiree trustee is ineligible to serve  
17 after becoming active.

18  
19 SECTION 23. Arkansas Code § 24-7-305(b)(5), concerning the ability of  
20 the Board of Trustees of the Arkansas Teacher Retirement System to set a de  
21 minimis amount to charge for distributing or collecting various moneys, is  
22 amended to read as follows:

23 (5) The board may set or amend by a motion or resolution at any  
24 board meeting a de minimis amount ~~of twenty-five dollars (\$25.00) or less~~  
25 concerning the system's obligation to distribute or collect payments,  
26 penalties, interest, funds, or moneys.

27  
28 SECTION 24. Arkansas Code § 24-7-403(b), concerning the restriction of  
29 trustees, officers, and employees of the Board of Trustees of the Arkansas  
30 Teacher Retirement System from holding an interest in the gains or profits of  
31 any of the board's investments, is amended to read as follows:

32 (b)(1) Except as to the rights of a member, ~~retirant~~ retiree, or  
33 beneficiary, ~~no trustee and no officer or employee~~ a trustee, officer, or  
34 employee of the board shall not have any direct or indirect interest, ~~direct~~  
35 ~~or indirect~~, in the gains or profits of any investment made by the board.

36 (2) ~~Nor shall any of them, directly or indirectly, for himself~~



1 ~~or herself or as an agent, in any manner use the assets of the system except~~  
2 ~~to make such current and necessary payments as are authorized by the board;~~  
3 ~~nor shall any of them become an endorser or surety or become in any manner an~~  
4 ~~obligor for moneys loaned by or borrowed from the board~~ A trustee, officer,  
5 or employee of the board shall not directly or indirectly use the assets of  
6 the system in any manner for himself or herself or as an agent.

7 (3) A trustee, officer, or employee of the board shall not in  
8 any manner become an endorser, surety, or obligor for moneys loaned by or  
9 borrowed from the board.

10 (4) A trustee, officer, or employee of the board may make such  
11 current and necessary payments as are authorized by the board.

12  
13 SECTION 25. Arkansas Code § 24-7-408 is amended to read as follows:  
14 24-7-408. Retirement fund assets accounts – Retirement reserve  
15 account.

16 (a) The retirement reserve account shall be the account from which  
17 shall be paid all annuities and benefits in lieu of annuities payable as  
18 provided in this act to ~~retirants~~ retirees who retired on account of  
19 superannuation or disability and to beneficiaries of such ~~retirants~~ retirees.

20 (b) If a disability ~~retirant~~ retiree returns to teaching service:

21 (1) The amount of his or her accumulated contributions at the  
22 time of his or her disability retirement shall be transferred from the  
23 retirement reserve account to the members' deposit account; and

24 (2) The remainder of his or her annuity reserve at the time of  
25 return shall be transferred from the retirement reserve account to the  
26 employer accumulation account.

27  
28 SECTION 26. Arkansas Code § 24-7-501(a)(2)(B)(iii), concerning the  
29 employer contribution rate under the Arkansas Teacher Retirement System being  
30 established at a rate necessary to fund liabilities, is amended to read as  
31 follows:

32 (iii) The employer contribution rate for this closed  
33 system shall be established at a rate necessary to fund all present and  
34 future liabilities until such time as there are no longer members, ~~retirants~~  
35 retirees, or deferred annuitants.

1 SECTION 27. Arkansas Code § 24-7-502(a)(6), concerning restrictions on  
2 a member during his or her termination separation period under the Arkansas  
3 Teacher Retirement System, is amended to read as follows:

4 (6) During the termination separation period, the member shall  
5 remain terminated and shall not:

6 (A) Form an employment relationship with ~~any system-~~  
7 ~~covered employer~~ a covered employer;

8 (B) Render any compensable services to or on behalf of ~~any~~  
9 ~~system-covered employer~~ a covered employer, except that a member may ~~provide~~  
10 ~~perform~~ volunteer activities ~~at a system-covered employer~~ for a covered  
11 employer that ~~does~~ do not have the effect of holding a position open for the  
12 member during a termination separation period; ~~and~~

13 (C) Exercise any authority to act as a representative of  
14 ~~any system-covered employer~~ a covered employer or exercise any authority over  
15 employees of ~~any system-covered employer~~ a covered employer; or

16 (D) Be indirectly employed by or through an independent  
17 contractor, limited liability company, partnership, corporation, or legal  
18 entity that is employed by a covered employer if the member has substantial  
19 control of the employer-employee relationship, including without limitation  
20 the ability to negotiate rates of pay with the covered employer or assign  
21 work and work hours to the member.

22  
23 SECTION 28. Arkansas Code § 24-7-601(e)(5), concerning the provision  
24 of a benefit amount that is not dependent on length of credited service under  
25 the Arkansas Teacher Retirement System, is amended to read as follows:

26 (5) When the Arkansas Teacher Retirement System provides a  
27 benefit amount that is not dependent on length of credited service, the  
28 benefit amount shall be reduced to the proportion that actual system service  
29 bears to total ~~reciprocal-system-credited~~ service credited by a reciprocal  
30 system.

31  
32 SECTION 29. Arkansas Code § 24-7-601(g)(1), concerning concurrent  
33 service earned in the Arkansas Teacher Retirement System and reciprocal  
34 systems, is amended to add an additional subdivision to read as follows:

35 (C) A member's part-time employment with a PSHE employer  
36 or an employer covered by the Arkansas Public Employees' Retirement System

1 shall not prevent the member from earning service credit under the Arkansas  
2 Teacher Retirement System if the member does not earn service credit in an  
3 alternate retirement plan or the Arkansas Public Employees' Retirement  
4 System.

5  
6 SECTION 30. Arkansas Code § 24-7-602(c)(1), concerning military  
7 service credit under the Arkansas Teacher Retirement System when a member  
8 leaves employment with a school to serve in the uniformed services of the  
9 United States and later returns to employment with a school, is amended to  
10 read as follows:

11 (c)(1)(A) ~~Effective December 12, 1994, a~~ A member who leaves  
12 employment with a school or employment with a covered employer to serve, on a  
13 voluntary or involuntary basis, in the uniformed services of the United  
14 States and returns to employment with a school or employment with a covered  
15 employer shall be treated as not having incurred a break in service with the  
16 employer.

17 (B) The employer shall certify to the system that  
18 reemployment was in accordance with the requirements set forth in section  
19 4312 of the Uniformed Services Employment and Reemployment Rights Act of  
20 1994, Pub. L. No. 103-353.

21  
22 SECTION 31. Arkansas Code § 24-7-701(a)(1)(B), concerning the time  
23 frame necessary for a member to submit a complete application for voluntary  
24 retirement under the Arkansas Teacher Retirement System, is amended to read  
25 as follows:

26 (B) If a member fails to submit a complete retirement  
27 application ~~within six (6) calendar months after~~ by the end of the sixth full  
28 calendar month immediately following the effective date of benefits,  
29 including all additional documentation required by the system, the  
30 application shall be void unless an extension has been granted by the ~~system~~  
31 Executive Director of the Arkansas Teacher Retirement System.

32  
33 SECTION 32. Arkansas Code § 24-7-701(e)(1), concerning when a member  
34 may cancel an application for voluntary retirement benefits under the  
35 Arkansas Teacher Retirement System, is amended to read as follows:

36 (e)(1) A member may cancel an application for voluntary retirement

1 benefits ~~up to two (2) calendar months after~~ any time before the end of the  
2 second full calendar month immediately following the effective date of  
3 benefits.

4  
5 SECTION 33. Arkansas Code § 24-7-702(a)(1)(A) and (B), concerning a  
6 member's application for voluntary early retirement under the Arkansas  
7 Teacher Retirement System, are amended to read as follows:

8 (a)(1)(A) Except as provided under subdivision (a)(2) of this section,  
9 an active or inactive member who has a combined total of twenty-five (25) or  
10 more years of actual and reciprocal service, including purchased or free  
11 credited service, but has not attained sixty (60) years of age and is not  
12 eligible for retirement under § 24-7-701 may voluntarily retire early by  
13 filing a written application with the ~~Board of Trustees of the Arkansas~~  
14 ~~Teacher Retirement System~~ Arkansas Teacher Retirement System.

15 (B) If a member fails to submit a complete retirement  
16 application ~~within six (6) calendar months of~~ by the end of the sixth full  
17 calendar month immediately following the effective date of benefits,  
18 including all additional documentation required by the Arkansas Teacher  
19 Retirement System, the application shall be void unless an extension is  
20 granted by the ~~system~~ Executive Director of the Arkansas Teacher Retirement  
21 System.

22  
23 SECTION 34. Arkansas Code § 24-7-702(f)(1), concerning when a member  
24 may cancel an application for early voluntary retirement benefits under the  
25 Arkansas Teacher Retirement System, is amended to read as follows:

26 (f)(1) A member may cancel an application for early voluntary  
27 retirement benefits up to two (2) full calendar months after the effective  
28 date of benefits.

29  
30 SECTION 35. Arkansas Code § 24-7-704(a)(1)(D)(i) and (ii), concerning  
31 when a member must submit an application and accompanying documentation for  
32 disability retirement under the Arkansas Teacher Retirement System, are  
33 amended to read as follows:

34 (D)(i) A member has ~~six (6) calendar months from~~ until the  
35 end of the sixth full calendar month immediately following the date of his or  
36 her application for disability retirement to submit a completed application

1 and accompanying documentation.

2 (ii) If a member does not provide all accompanying  
3 documentation requested by the system ~~within the six (6) calendar months by~~  
4 the end of the sixth full calendar month immediately following the date of  
5 his or her application for disability retirement, the system shall:

6 (a) Submit the application to the medical  
7 committee for review as complete; or

8 (b) Withdraw the application at the request of  
9 the member unless an extension is granted by the ~~system~~ Executive Director of  
10 the Arkansas Teacher Retirement System.

11  
12 SECTION 36. Arkansas Code § 24-7-704(a)(1)(G) and (H), concerning  
13 actions by the medical committee related to when a member submits an  
14 application for disability retirement under the Arkansas Teacher Retirement  
15 System, are amended to read as follows:

16 (G) If the medical committee requests additional  
17 documentation upon initial review, a member has ~~six (6) calendar months from~~  
18 until the end of the sixth full calendar month immediately following the date  
19 of a medical committee request to submit any additional accompanying  
20 documentation unless an extension is granted by the ~~system~~ executive  
21 director.

22 (H)(i) If the medical committee finds that a member is not  
23 qualified to receive disability benefits, written notice of the medical  
24 committee's finding shall be sent to the member and the member may request a  
25 second review provided the member submits additional medical documentation.

26 (ii)(a) ~~A second review may be requested one (1)~~  
27 ~~time~~ A member may request a second review one (1) time for each application  
28 for disability retirement filed by the member.

29 (b) A member's option to request a second  
30 review does not apply to a disability retiree who applies for a review under  
31 subsection (b) of this section.

32 (iii) The member has ~~six (6) calendar months until~~  
33 the end of the sixth full calendar month immediately following the date of  
34 the written notice to submit additional medical documentation unless an  
35 extension is granted by the ~~system~~ executive director.

1           SECTION 37. Arkansas Code § 24-7-704(a)(3)(B), concerning when a  
2 member must submit all documents and election forms required to begin annuity  
3 payments for disability retirement under the Arkansas Teacher Retirement  
4 System, is amended to read as follows:

5                   (B) If a member does not submit the required documents  
6 ~~within six (6) calendar months after~~ by the end of the sixth full calendar  
7 month immediately following the date on which the medical committee finds  
8 that the member qualifies to receive disability benefits, the member's  
9 application shall be void unless an extension has been granted by the ~~system~~  
10 executive director.

11  
12           SECTION 38. Arkansas Code § 24-7-704(a)(4), concerning restrictions on  
13 when a member is eligible to begin receiving disability retirement payments  
14 under the Arkansas Teacher Retirement System, is amended to read as follows:

15                   (4) To begin receiving disability retirement, a member shall  
16 not:

17                           (A) Be employed by a ~~system-covered employer~~ covered  
18 employer; or

19                           (B) ~~Be indirectly employed by or through an independent~~  
20 ~~contractor, limited liability company, partnership, corporation, or legal~~  
21 ~~entity that is employed by a system-covered employer if the member has~~  
22 ~~substantial control of the employer-employee relationship, including without~~  
23 ~~limitation the ability to negotiate rates of pay with the system-covered~~  
24 ~~employer or assign work and work hours to the member~~ Unless otherwise  
25 provided by law, perform any action described in § 24-7-502(a)(6).

26  
27           SECTION 39. Arkansas Code § 24-7-704(b)(3)(C)(iii), concerning actions  
28 not taken by a disability retiree under the Arkansas Teacher Retirement  
29 System that will cause termination of disability retirement benefits, is  
30 amended to read as follows:

31                           (iii) Apply for a review by the system's medical  
32 committee ~~within three (3) months of disability benefits ceasing~~ by the end  
33 of the third full calendar month immediately following the cessation of  
34 disability benefits due to the lack of a Social Security Administration  
35 determination letter finding that the disability retiree is unable to perform  
36 his or her former work duties as described in subdivision (a)(1)(E)(iii) of

1 this section.

2  
3 SECTION 40. Arkansas Code § 24-7-704(b)(3)(D)(i), concerning certain  
4 conditions that allow a disability retiree under the Arkansas Teacher  
5 Retirement System to seek a review by the system's medical committee, is  
6 amended to read as follows:

7 (D)(i) A disability retiree who seeks and fails to receive  
8 a determination letter finding the disability retiree is unable to perform  
9 his or her former work duties as described in subdivision (a)(1)(E)(iii) of  
10 this section by the Social Security Administration may seek a review  
11 permitted under subdivision (b)(3)(C)(iii) of this section no earlier than  
12 three (3) full calendar months before the date on which the member's  
13 disability retirement would otherwise end and no later than ~~three (3) months~~  
14 after the end of the third full calendar month immediately following the  
15 termination of disability retirement.

16  
17 SECTION 41. Arkansas Code § 24-7-706(a)-(e), concerning annuity  
18 options under the Arkansas Teacher Retirement System, are amended to read as  
19 follows:

20 (a)(1) Before the date the first payment of his or her annuity becomes  
21 due, a member may elect to receive his or her annuity as a straight life  
22 annuity, or he or she may elect to receive the actuarial equivalent, at that  
23 time, of his or her straight life annuity in a reduced annuity payable  
24 throughout his or her life.

25 (2) The member may nominate a beneficiary, in accordance with  
26 one (1) of the following options:

27 (A) Option A – 100% Survivor Annuity.

28 (i) Under Option A, upon the death of a ~~retirant~~  
29 retiree, his or her reduced annuity shall be continued throughout the life of  
30 and paid to such person as he or she shall have nominated by written  
31 designation executed and filed with the Board of Trustees of the Arkansas  
32 Teacher Retirement System before the date the first payment of his or her  
33 annuity becomes due.

34 (ii) The person designated as a beneficiary by the  
35 ~~retirant~~ retiree shall be:

36 (a) The ~~retirant's~~ retiree's spouse for not

1 less than one (1) year immediately preceding the first payment due date; or

2 (b) A dependent child of the ~~retirant~~ retiree  
3 who has been adjudged physically or mentally incapacitated by a court of  
4 competent jurisdiction;

5 (B) Option B – 50% Survivor Annuity.

6 (i) Under Option B, upon the death of a ~~retirant~~  
7 retiree, one-half ( $\frac{1}{2}$ ) of his or her reduced annuity shall be continued  
8 throughout the life of and paid to such person as he or she has nominated by  
9 written designation executed and filed with the board before the date the  
10 first payment of his or her annuity becomes due.

11 (ii) The person designated as a beneficiary by the  
12 ~~retirant~~ retiree shall be:

13 (a) The ~~retirant's~~ retiree's spouse for not  
14 less than one (1) year immediately preceding the first payment due date; or

15 (b) A dependent child of the ~~retirant~~ retiree  
16 who has been adjudged physically or mentally incapacitated by a court of  
17 competent jurisdiction; or

18 (C) Option C – Annuity for Ten (10) Years Certain and Life  
19 Thereafter.

20 (i) Under Option C, a ~~retirant~~ retiree shall receive  
21 a reduced annuity payable throughout his or her life with the provision that  
22 if he or she dies before he or she has received one hundred twenty (120)  
23 monthly annuity payments, the payments shall be continued for the remainder  
24 of the period of one hundred twenty (120) months and paid to such persons in  
25 equal shares as the ~~retirant~~ retiree has nominated by written designation  
26 executed and filed with the board.

27 (ii) If the designated beneficiaries predecease the  
28 ~~retirant~~ retiree, the ~~retirant~~ retiree may nominate successor beneficiaries  
29 or may elect to return to his or her single lifetime benefit equivalent by  
30 written designation executed and filed with the board, to be effective the  
31 month following receipt of his or her election by the Arkansas Teacher  
32 Retirement System.

33 (iii)(a) If the designated beneficiary is the spouse  
34 of the ~~retirant~~ retiree and the marriage ends in divorce or other marriage  
35 dissolution, the ~~retirant~~ retiree may:

36 (1) Nominate a successor beneficiary; or



1 (2) Elect to return to his or her single  
2 lifetime benefit equivalent.

3 (b) The nomination or election made under  
4 subdivision (a)(2)(C)(iii)(a) of this section shall be in writing, executed  
5 by the ~~retirant~~ retiree, and filed with the board, to be effective the month  
6 following receipt of his or her election by the system.

7 (iv) If no designated beneficiary survives the  
8 ~~retirant~~ retiree, the annuity reserve for the remainder of the annuity  
9 payments shall be paid to the ~~retirant's~~ retiree's estate.

10 (v) If the last designated beneficiary receiving  
11 annuity payments dies before all annuity payments are made, the annuity  
12 reserve for the remainder of the annuity payments shall be paid to the  
13 beneficiary's estate.

14 (vi) Effective the month following completion of the  
15 one-hundred-twenty-month period, the ~~retirant's~~ retiree's annuity shall  
16 return to his or her single lifetime benefit equivalent.

17 (3) In addition to the persons eligible to be designated as a  
18 beneficiary under either Option A or Option B in subdivision (a)(2) of this  
19 section, the board may promulgate rules concerning the addition of classes of  
20 eligible persons to be designated as a beneficiary under this section and for  
21 the rights of option beneficiaries of deceased disability retirees under §  
22 24-7-704.

23 (b)(1)(A) If a member's marital status changes after retirement due to  
24 the death of the member's spouse, or a divorce or marriage dissolution from  
25 the member's spouse who is also the member's designated beneficiary, then the  
26 member may elect to cancel any optional plan designating the former spouse as  
27 a beneficiary.

28 (B) A member's election under subdivision (b)(1)(A) of  
29 this section shall cause the member to return to his or her lifetime benefit  
30 equivalent, to be effective the month following the system's receipt of the  
31 approved form.

32 (2) A ~~retirant~~ retiree who is receiving a single lifetime  
33 benefit and who marries after retirement may elect to cancel his or her  
34 single lifetime benefit and may elect an annuity providing continuing  
35 lifetime benefits to his or her spouse under rules promulgated by the board.

36 (c) If a member fails to elect an option, his or her annuity shall be

1 paid to him or her as a straight life annuity.

2 (d)(1) Notwithstanding anything contained in this section to the  
3 contrary, the residue beneficiary under § 24-7-709 may elect to cancel the  
4 form of annuity in effect and elect Option A – 100% Survivor Annuity upon the  
5 death of a ~~retirant~~ retiree on or after July 1, 1989, if:

6 (A) The ~~retirant~~ retiree died within one (1) year  
7 following the effective date of retirement;

8 (B) The ~~retirant~~ retiree was receiving a straight life  
9 annuity; and

10 (C) The residue beneficiary otherwise qualifies for an  
11 Option A – 100% Survivor Annuity.

12 (2) The election to change may be made only one (1) time and  
13 shall be on a form approved by the system.

14 (3) The election form must be received by the system within one  
15 hundred twenty (120) days of the death of the retiree.

16 (e)(1) Notwithstanding anything in this section to the contrary, a  
17 ~~retirant~~ retiree who retired on or after July 1, 1994, may elect to cancel  
18 his or her election made at retirement for receiving an annuity and elect  
19 another option, provided that he or she:

20 (A) Does so within one (1) year after July 1, 1995, or  
21 within one (1) year of retirement;

22 (B) Files with the system a new election form approved by  
23 the system; and

24 (C)(i) Repays to the system the difference between the  
25 amount of the annuity received when he or she retired and the new annuity due  
26 as a result of the election change, plus interest from July 1, 1994, or his  
27 or her retirement date, whichever is later, to the date of payment in full.

28 (ii) The difference shall be calculated  
29 retroactively to July 1, 1994, or his or her retirement date, whichever is  
30 later.

31 (2) The election to change shall be made only one (1) time.

32 (3) The election change shall be effective retroactively to the  
33 effective date of his or her annuity.

34  
35 SECTION 42. Arkansas Code § 24-7-707(d), concerning when a member must  
36 submit an application for deferred retirement under the Arkansas Teacher

1 Retirement System, is amended to read as follows:

2 (d) If a member fails to submit a complete deferred retirement  
3 application ~~within six (6) calendar months of~~ by the end of the sixth full  
4 calendar month immediately following the effective date of benefits,  
5 including all additional documentation required by the system, the  
6 application shall be void unless an extension is granted by the ~~system~~  
7 Executive Director of the Arkansas Teacher Retirement System.

8  
9 SECTION 43. Arkansas Code § 24-7-707(e)(1), concerning when a member  
10 may cancel an application for deferred retirement under the Arkansas Teacher  
11 Retirement System, is amended to read as follows:

12 (e)(1) A member may cancel an application for deferred retirement  
13 benefits any time before ~~two (2) calendar months from~~ the end of the second  
14 full calendar month immediately following the effective date of benefits.

15  
16 SECTION 44. Arkansas Code § 24-7-709 is amended to read as follows:

17 24-7-709. Disposition of ~~member~~ retiree contributions – Residue.

18 (a)(1)~~(A)~~ If a retiree and his or her option annuitants, if any, die  
19 before receiving annuity payments equal to the ~~member's~~ retiree's residue  
20 ~~amount~~, then the residue ~~amount~~ shall be paid to ~~such persons as the retiree~~  
21 ~~shall have nominated by written designation duly~~ one (1) or more  
22 beneficiaries nominated by the retiree in a written designation that is  
23 executed and filed with the Arkansas Teacher Retirement System.

24 ~~(B) As used in this subchapter, "residue" means the~~  
25 ~~difference between the accumulated contributions and regular interest~~  
26 ~~credited to the retirement reserve account as of the member's retirement~~  
27 ~~effective date and the total amount of retirement annuities paid.~~

28 (2) If a retiree designates more than one (1) beneficiary, the  
29 residue shall be divided equally among each designated beneficiary.

30 (3) If a retiree and his or her option annuitants die and the  
31 member has failed to designate a beneficiary or if all designated  
32 beneficiaries have predeceased the retiree, the residue shall be paid to the  
33 retiree's estate.

34 (4) If all designated beneficiaries predecease the retiree, the  
35 residue shall be paid to the estate of the most recently deceased designated  
36 beneficiary.

1 (b) If upon the termination of the option annuity no surviving  
2 beneficiary designated by the ~~member~~ retiree survives and it is impracticable  
3 to make payment to the ~~member's~~ retiree's estate, the residue shall be  
4 forfeited to the trust assets of the system subject to any valid claim of the  
5 ~~member's~~ retiree's estate under § 24-7-734.

6  
7 SECTION 45. Arkansas Code § 24-7-710(a)(2)(B), concerning when an  
8 eligible survivor or a minor survivor's guardian or legal representative must  
9 complete an application for survivor annuity benefits under the Arkansas  
10 Teacher Retirement System, is amended to read as follows:

11 (B) If an immediately eligible survivor or the minor  
12 survivor's guardian or legal representative fails to complete the application  
13 process ~~within six (6) calendar months after~~ by the end of the sixth full  
14 calendar month following the date on which the application required under  
15 subdivision (a)(2)(A) of this section is filed, including the submission of  
16 any additional documentation required by the system, the application shall be  
17 void unless an extension is granted by the ~~system~~ Executive Director of the  
18 Arkansas Teacher Retirement System.

19  
20 SECTION 46. Arkansas Code § 24-7-710(b)(1)(A)(i), concerning a  
21 member's survivor annuity under the Arkansas Teacher Retirement System and  
22 when it is received by a member's surviving spouse who was married to the  
23 member for at least the two (2) years immediately preceding the member's  
24 death, is amended to read as follows:

25 (b)(1)(A)(i) Unless the member otherwise directs an alternative  
26 beneficiary to receive the member's residue amount by using a beneficiary  
27 form approved by the system, a member's surviving spouse, who was married to  
28 the member for at least the two (2) years immediately preceding the member's  
29 death, shall receive an annuity computed in the same manner in all respects  
30 as if the member had retired on the date of the member's death and elected  
31 Option A under § 24-7-706 to provide one hundred percent (100%) survivor  
32 annuity benefits, including benefits applicable under § 24-7-713, for his or  
33 her spouse.

34  
35 SECTION 47. Arkansas Code § 24-7-710(b)(1)(B)(ii), concerning when an  
36 immediately eligible spouse must complete an application process for a

1 survivor annuity benefit under the Arkansas Teacher Retirement System, is  
2 amended to read as follows:

3 (ii) If an immediately eligible spouse fails to  
4 complete the application process ~~within six (6) calendar months after~~ by the  
5 end of the sixth full calendar month following the date on which the  
6 application required under subdivision (b)(1)(B)(i) of this section is filed,  
7 including the submission of all additional documentation required by the  
8 system, the application shall be void unless an extension is granted by the  
9 ~~system~~ executive director.

10  
11 SECTION 48. Arkansas Code § 24-7-710(b)(1)(C)(ii), concerning when a  
12 surviving spouse's application for surviving spouse benefits becomes void  
13 under the Arkansas Teacher Retirement System, is amended to read as follows:

14 (ii) If a surviving spouse becomes eligible for  
15 surviving spouse benefits and fails to complete the application process  
16 ~~within six (6) calendar months after~~ by the end of the sixth full calendar  
17 month following the date on which the application required under subdivision  
18 (b)(1)(B)(i) of this section is filed, including the submission of any  
19 additional documentation required by the system, the application shall be  
20 void unless an extension is granted by the ~~system~~ executive director.

21  
22 SECTION 49. Arkansas Code § 24-7-713(a)(1), concerning when certain  
23 persons receiving benefits under the Arkansas Teacher Retirement System  
24 receive a simple cost of living adjustment, is amended to read as follows:

25 (a)(1) July 1 of each year, ~~retirants~~ retirees, survivors,  
26 participants in the Teacher Deferred Retirement Option Plan, and annuity  
27 beneficiaries who have been receiving monthly benefits for the previous  
28 twelve (12) months shall receive a simple cost of living adjustment.

29  
30 SECTION 50. Arkansas Code § 24-7-713(d), concerning the administration  
31 of the Arkansas Teacher Retirement System benefit stipend by the Board of  
32 Trustees of the Arkansas Teacher Retirement System, is amended to read as  
33 follows:

34 (d)(1) The board may remove by board resolution the benefit stipend  
35 from the base amount of current ~~retirants~~ retirees and option beneficiaries  
36 if the board determines that the removal of the benefit stipend from the base

1 amount is prudent in order to maintain actuarial soundness.

2 (2) The board may phase in the removal of the benefit stipend  
3 from the base amount of current ~~retirant~~ retiree and option beneficiaries by  
4 board resolution.

5  
6 SECTION 51. Arkansas Code § 24-7-714 is amended to read as follows:

7 24-7-714. Increase in monthly benefits – Acts 1979, No. 655, and Acts  
8 1981, No. 885.

9 (a) The monthly retirement benefit payable to ~~retirants~~ retirees and  
10 beneficiaries of the Arkansas Teacher Retirement System who were retired on  
11 or before July 1, 1978, and who were receiving benefits on July 1, 1979,  
12 shall be increased as follows:

13 (1) For all benefits to ~~retirants~~ retirees and beneficiaries of  
14 the system whose total credited service is before July 1, 1961, a monthly  
15 benefit increase equal to one dollar (\$1.00) per each year of credited  
16 service;

17 (2) For all benefits to ~~retirants~~ retirees and beneficiaries of  
18 the system which are based in whole or in part upon credited service rendered  
19 after July 1, 1961, a monthly benefit increase equal to seventy-five cents  
20 (75¢) per each year of credited service;

21 (3) For benefit increases authorized by subdivisions (a)(1) and  
22 (2) of this section, fractional years of service shall be disregarded, and  
23 the increase shall be added to the monthly annuity after the annual  
24 postretirement increase based on the consumer price index has been applied to  
25 the ~~retirant's~~ retiree's base annuity; and

26 (4) In the event that there is more than one (1) beneficiary or  
27 survivor of a member or ~~retirant~~ retiree receiving benefits, the increases in  
28 subdivisions (a)(1) and (2) of this section shall be based upon the member's  
29 total credited service. The benefit increase so determined shall be divided  
30 between the survivors or beneficiaries in proportion to their base annuities.

31 (b) For retirements effective after July 1, 1978, for which a monthly  
32 benefit is payable for the month of July 1981 or later, calculations shall be  
33 made as provided in subdivisions (b)(1) and (2) of this section. If the  
34 monthly benefit calculated using subdivision (b)(1) of this section is more  
35 than the monthly benefit calculated using subdivision (b)(2) of this section,  
36 then the difference shall be paid to the ~~retirant~~ retiree as a monthly

benefit increase, subject to the provisions of subdivisions (b)(3)-(6) of this section, as follows:

(1) Calculate the monthly annuity payable to the member under § 24-7-705, based on the provisions of § 24-7-705, his or her salary record, and his or her service record, all as of July 1, 1978, and add seventy-five cents (75¢) for each year of the member's credited service rendered before July 1, 1978;

(2) Calculate the monthly annuity payable to the member under the provisions of § 24-7-705 in effect at the time of the member's retirement;

(3) For benefit increases authorized by this subsection, fractional years of service shall be disregarded. The increase shall be added to the monthly annuity after the annual postretirement increase based on the consumer price index has been applied to the ~~retirant's~~ retiree's base annuity;

(4) In the event that there is more than one (1) beneficiary or survivor of a member or ~~retirant~~ retiree receiving benefits, the increases in this subsection shall be based upon the member's total credited service, and the benefit increase so determined shall be divided between the survivors or beneficiaries in proportion to their base annuities;

(5) Any benefit increase created by this subsection shall be effective at retirement but not for any month before July 1981; and

(6) If there is any change in § 24-7-705 after the member's retirement, the amount under subdivision (b)(2) of this section shall be recalculated using the changed provisions, and the benefit increase provided by this subsection shall be changed correspondingly.

SECTION 52. Arkansas Code § 24-7-727(a)(1), concerning when the Board of Trustees of the Arkansas Teacher Retirement System may compound the cost of living adjustment for retirants and participants in the Teacher Deferred Retirement Option Plan, is amended to read as follows:

(a)(1) ~~After July 1, 1999, the~~ The Board of Trustees of the Arkansas Teacher Retirement System may compound the cost of living adjustment for all ~~retirants~~ retirees and participants in the Teacher Deferred Retirement Option Plan who have received a monthly retirement benefit for the prior twelve-month period.

1  
2 SECTION 53. Arkansas Code § 24-7-727(b)(3)(A), concerning when the  
3 Board of Trustees of the Arkansas Teacher Retirement System may reverse a  
4 compounding of the cost of living adjustment for retirants and participants  
5 in the Teacher Deferred Retirement Option Plan, is amended to read as  
6 follows:

7 (3)(A) The board may reverse a compounding of the cost of living  
8 adjustment for all ~~retirants~~ retirees and participants in the Teacher  
9 Deferred Retirement Option Plan who benefit from the compounding.

10  
11 SECTION 54. Arkansas Code § 24-7-728 is amended to read as follows:  
12 24-7-728. Computation of benefits based on life annuity.

13 (a)(1) The Board of Trustees of the Arkansas Teacher Retirement System  
14 is authorized ~~by this section~~ to raise the level of benefit to the current  
15 ~~retirants~~ retirees and other beneficiaries of the Arkansas Teacher Retirement  
16 System ~~to a comparable level increase to match the increase in benefits that~~  
17 ~~would accrue to active members as a result of any increase in the calculation~~  
18 ~~of a life annuity as provided in § 24-7-705(a)(1) in accordance with any~~  
19 ~~rules the board might promulgate.~~

20 (2) The board may raise the level of benefit to a comparable  
21 level increase that matches the increase in benefits that would accrue to  
22 active members as a result of any increase in the calculation of a life  
23 annuity as provided in § 24-7-705(a)(1) in accordance with any rules the  
24 board might promulgate.

25 (b)(1) The amount of any increase for ~~retirants~~ retirees and other  
26 beneficiaries shall also be determined in accordance with the rules of the  
27 board as is actuarially appropriate for the system.

28 (2) ~~Prior to~~ Before increasing a benefit as provided in this  
29 section, the board shall file relevant information concerning the actuarial  
30 appropriateness of the action with the Joint Committee on Public Retirement  
31 and Social Security Programs, and the action shall be reviewed by the Joint  
32 Committee on Public Retirement and Social Security Programs.

33  
34 SECTION 55. Arkansas Code § 24-7-730(a)(1), concerning the required  
35 dates of distributions of member benefits under the Arkansas Teacher  
36 Retirement System, is amended to read as follows:



1 (a)(1)(A) Notwithstanding the provisions of this subchapter regarding  
2 the required dates of distribution of benefits under the Arkansas Teacher  
3 Retirement System to former members, the distribution of a former member's  
4 benefits under the system shall in any event be made or begun by April 1 of  
5 the calendar year following the ~~later of the calendar year~~ latter of the  
6 calendar year in which the member ~~attains age seventy-two (72) or the~~  
7 ~~calendar year in which the member retires~~ or the calendar year in which the  
8 member attains the applicable age.

9 (B) The applicable age for a member is as follows:

10 (i) In the case of a member who attains seventy-two  
11 (72) years of age after December 31, 2022, and seventy-three (73) years of  
12 age before January 1, 2030, the applicable age is seventy-three (73) years of  
13 age;

14 (ii) In the case of a member who attains seventy-  
15 three (73) years of age after December 31, 2029, and seventy-four (74) years  
16 of age before January 1, 2033, the applicable age is seventy-four (74) years  
17 of age; and

18 (iii) In the case of a member who attains seventy-  
19 four (74) years of age after December 31, 2032, the applicable age is  
20 seventy-five (75) years of age.

21  
22 SECTION 56. Arkansas Code § 24-7-733(a)(2), concerning the requirement  
23 that annual benefits under the Arkansas Teacher Retirement System shall not  
24 violate limitations under the Internal Revenue Code, 26 U.S.C. 415(b), is  
25 amended to read as follows:

26 (2) The annual benefits, as may be increased in subsequent  
27 years, that are paid to ~~retirants~~ retirees by the system shall not violate  
28 the limitations under the Internal Revenue Code, 26 U.S.C. 415(b), applicable  
29 to the annuity effective date under the Internal Revenue Code, 26 U.S.C.  
30 415(d), and benefits shall be paid in a manner that protects the tax-  
31 qualified status of the system.

32  
33 SECTION 57. Arkansas Code § 24-7-735(c), concerning a member or  
34 employer's ability to purchase service credit, additional salary, or both for  
35 a member under the Arkansas Teacher Retirement System, is amended to add an  
36 additional subdivision to read as follows:

1           (4)(A) Service credit purchased under a settlement agreement or  
2 court order shall offset service credit that is earned by the member as an  
3 employee of another covered employer during the same period of time covered  
4 by the service credit purchased under the settlement agreement or court  
5 order.

6           (B) Service credit purchased under a settlement agreement  
7 or court order shall not be applied by the system in a manner that allows the  
8 member to earn more than one (1) year of service credit in a fiscal year.

9  
10          SECTION 58. Arkansas Code § 24-7-738(b)(2), concerning the recovery of  
11 an erroneously paid disability retirement benefit for a month in which a  
12 member receives salary from a covered employer under the Arkansas Teacher  
13 Retirement System, is amended to read as follows:

14           (2) Any disability retirement benefit erroneously paid to the  
15 member or ~~retirant~~ retiree for a month in which the member receives salary  
16 from a covered employer may be recovered by the system as an overpayment as  
17 allowed by law.

18  
19          SECTION 59. Arkansas Code § 24-7-1302(c), concerning when a member may  
20 withdraw his or her application for the Teacher Deferred Retirement Option  
21 Plan under the Arkansas Teacher Retirement System, is amended to read as  
22 follows:

23           (c) The member may withdraw his or her plan application if notice to  
24 withdraw is received by the system ~~no later than two (2) calendar months~~  
25 after by the end of the second full calendar month immediately following the  
26 member's plan date.

27  
28          SECTION 60. Arkansas Code Title 24, Chapter 7, Subchapter 15 is  
29 amended to read as follows:

30           Subchapter 15 – ~~Retirants'~~ Retirees' Ad Hoc Increase Act

31  
32           24-7-1501. Title.

33           This subchapter shall be known and may be cited as the "~~Retirants'~~  
34 Retirees' Ad Hoc Increase Act".

35  
36           24-7-1502. Benefit generally.

(a)(1) The annual benefit payable to eligible retirees, survivors, and beneficiaries of ~~retirants~~ retirees of the Arkansas Teacher Retirement System shall be subject to a one-time ad hoc increase based on the ~~retirant's~~ retiree's years of credited service that is grouped within descending decades as calculated by subtracting the total years of credited service from the date of retirement.

(2) A break in credited service is not considered under this subchapter.

(3) Teacher Deferred Retirement Option Plan participants shall have the total years of credited service subtracted from the date of entry into the plan.

(b)(1) One-half ( $\frac{1}{2}$ ) of the annual dollar increase per year of credited service shall be calculated and provided to all retirees, survivors, and beneficiaries of ~~retirants~~ retirees that are eligible to receive this increase.

(2) One-half ( $\frac{1}{2}$ ) of the annual dollar increase per year of credited service shall be calculated then prorated based on the amount of contributory service credit to total service on the ~~retirant's~~ retiree's:

(A) Retirement date; or

(B) Plan entry date.

(3) The amounts under this subsection shall be calculated and provided to all retirees, survivors, and beneficiaries of ~~retirants~~ retirees.

(c) The ad hoc benefit is payable to the retirees, survivors, and beneficiaries of ~~retirants~~ retirees of the system beginning on a July 1 that is at least twelve (12) full months after the effective date of a monthly benefit.

(d) The ad hoc benefit for a ~~retirant~~ retiree, survivor, and beneficiary of a ~~retirant~~ retiree shall not increase the ~~retirant's~~ retiree's current benefit by more than twenty-five percent (25%) of the annuity benefit payable as of the prior June 30.

24-7-1503. Ad hoc benefit formula.

The schedule of decade dollar amounts per year of credited service is:

Formula Decades in Which Credited Service Was Accrued Service	Annual \$ Increase Per Year of Credited Service
---	---

1		
2	2000 – and later	\$5
3	1990–1999	\$10
4	1980–1989	\$20
5	1970–1979	\$30
6	1960–1969	\$40
7	1950–1959	\$50
8	1940–1949	\$60
9	1930–1939	\$70
10	1920–1929	\$80
11	1910–1919	\$90

12

13 24-7-1504. Promulgation of rules – Duty of board.

14 (a) The Board of Trustees of the Arkansas Teacher Retirement System  
15 shall promulgate rules for the ad hoc benefit under this subchapter.

16 (b) An ad hoc benefit under this subchapter shall not be implemented  
17 if the ad hoc benefit would cause the Arkansas Teacher Retirement System's  
18 unfunded actuarial accrued liabilities to exceed an eighteen-year  
19 amortization.

20 (c) The board shall only authorize an ad hoc benefit that is  
21 actuarially appropriate for the system.

22 (d) Before an increase of retirement benefit through an ad hoc benefit  
23 is authorized, the board shall file relevant information with the Joint  
24 Interim Committee on Public Retirement and Social Security Programs regarding  
25 the actuarial appropriateness of the increase.

26 (e) The board may reduce the decade increase formula under § 24-7-1503  
27 proportionately on a one-to-one formula basis for each decade when the  
28 reduction is actuarially feasible to implement.

29 (f) The ad hoc benefit increase is a one-time adjustment and shall  
30 also be used to increase the base amount of a ~~retirant's~~ retiree's benefits  
31 when calculating any future additional benefit increases.

32

33 SECTION 61. EMERGENCY CLAUSE. It is found and determined by the  
34 General Assembly of the State of Arkansas that the operations of a state  
35 public retirement system are complex; that the Arkansas Teacher Retirement  
36 System must be able to meet the needs of its members as anticipated by the

General Assembly; that certain provisions of the Arkansas Teacher Retirement System Act need revision and updating to bring them into conformance with sound public pension policy and actuarial requirements; that the revisions and updates are of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that as the Arkansas Teacher Retirement System operates on a fiscal year of July 1 to June 30, a July 1, 2023, effective date is necessary in order to allow the provisions within this act to begin on the first day of the fiscal year and to allow for a structured and proper administration of the procedures referenced in this act; that the updates and revisions to the Arkansas Teacher Retirement System Act are of great importance for actuarial purposes and for the improvement and protection of member benefits under the Arkansas Teacher Retirement System; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. 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, 2023.

/s/Warren

APPROVED: 2/21/23

State of Arkansas

As Engrossed: H2/16/23

94th General Assembly

# A Bill

Regular Session, 2023

HOUSE BILL 1186

By: Representative A. Collins

By: Senator K. Hammer

## For An Act To Be Entitled

AN ACT TO AMEND AND UPDATE THE LAW CONCERNING ANNUITY  
OPTIONS UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM;  
TO ALLOW A RETIRANT TO DESIGNATE BOTH SURVIVING  
SPOUSE AND DEPENDENT CHILDREN AS OPTION BENEFICIARIES  
UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO  
CLARIFY WHEN A SURVIVING SPOUSE OF A DISABILITY  
RETIRANT IS ENTITLED TO BEGIN RECEIVING PAYMENTS  
UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO  
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND AND UPDATE THE LAW CONCERNING  
ANNUITY OPTIONS UNDER THE ARKANSAS  
TEACHER RETIREMENT SYSTEM; AND TO DECLARE  
AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-706(a)(2), concerning a member's  
annuity election and criteria that must be met for a member's nominated  
beneficiary to receive an annuity in accordance with the Option A – 100%  
Survivor Annuity option under the Arkansas Teacher Retirement System, is  
amended to read as follows:

(2) The member may ~~nominate~~ designate a beneficiary one (1) or  
more beneficiaries, in accordance with one (1) of the following options:

(A) Option A – 100% Survivor Annuity.



(i) Under Option A, upon the death of a ~~retirant~~ retiree, his or her reduced annuity shall be continued throughout the life of and paid to such person as he or she shall have nominated as provided under subdivision (a)(4) of this subsection to the persons that he or she nominates by written designation executed and filed with the Board of Trustees of the Arkansas Teacher Retirement System before the date the first payment of his or her annuity becomes due.

(ii)(a) ~~The person designated as a beneficiary by the retirant shall be:~~ The designated beneficiary or beneficiaries of a retiree shall be either:

(1) The retiree's spouse;

(2) One (1) or more of the retiree's children who qualify as a dependent child under subdivision (a)(2)(A)(ii)(c) of this section; or

(3) Both the retiree's spouse and one (1) or more of the retiree's children who qualify as a dependent child under subdivision (a)(2)(A)(ii)(c) of this section.

~~(a)(b) The retirant's spouse for not less than one (1) year immediately preceding the first payment due date; or spouse of a retiree may be designated as the retiree's beneficiary if the retiree has been married to the spouse for at least one (1) year immediately preceding the first annuity payment due date.~~

~~(b)(c) A dependent child of the retirant who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction~~ A child of a retiree qualifies as a dependent child and may be designated as an Option A beneficiary of the retiree if the child has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;

SECTION 2. Arkansas Code § 24-7-706(a)(2)(B), concerning the Option B – 50% Survivor Annuity option under the Arkansas Teacher Retirement System, is amended to read as follows:

(B) Option B – 50% Survivor Annuity.

(i) Under Option B, upon the death of a ~~retirant~~ retiree, one-half ( $\frac{1}{2}$ ) of his or her reduced annuity shall be continued throughout the life of and paid to such person as he or she has nominated as

1 provided under subdivision (a)(4) of this subsection to the persons that he  
2 or she nominates by written designation executed and filed with the board  
3 before the date the first payment of his or her annuity becomes due.

4 ~~(ii)(a) The person designated as a beneficiary by~~  
5 ~~the retirant shall be.~~ The designated beneficiary or beneficiaries of a  
6 retiree shall be either:

7 (1) The retiree's spouse;

8 (2) One (1) or more of the retiree's  
9 children who qualify as a dependent child under subdivision (a)(2)(B)(ii)(c)  
10 of this section; or

11 (3) Both the retiree's spouse and one  
12 (1) or more of the retiree's children who qualify as a dependent child under  
13 subdivision (a)(2)(B)(ii)(c) of this section.

14 ~~(a)(b) The retirant's spouse for not less than~~  
15 ~~one (1) year immediately preceding the first payment due date; or~~ The spouse  
16 of a retiree may be designated as the retiree's beneficiary if the retiree  
17 has been married to the spouse for at least one (1) year immediately  
18 preceding the first annuity payment due date.

19 ~~(b)(c) A dependent child of the retirant who~~  
20 ~~has been adjudged physically or mentally incapacitated by a court of~~  
21 ~~competent jurisdiction~~ A dependent child of a retiree may be designated as an  
22 Option B beneficiary of the retiree if the dependent child has been adjudged  
23 physically or mentally incapacitated by a court of competent jurisdiction; or  
24

25 SECTION 3. Arkansas Code § 24-7-706(a), concerning annuity options  
26 under the Arkansas Teacher Retirement System, is amended to add new  
27 subdivisions to read as follows:

28 (4)(A)(i) Upon the death of a retiree, if both a spouse and one  
29 (1) dependent child are designated as the retiree's Option A beneficiaries,  
30 the retiree's reduced annuity shall be paid in equal shares to the spouse and  
31 the dependent child.

32 (ii) Upon the death of a retiree, if both a spouse  
33 and more than one (1) dependent child are designated as the retiree's Option  
34 A beneficiaries, the spouse shall receive fifty percent (50%) of the  
35 retiree's reduced annuity and the remaining fifty percent (50%) of the  
36 retiree's reduced annuity shall be paid in equal shares to the dependent



1 children.

2 (iii) Upon the death of a retiree, if more than one  
3 (1) dependent child is designated as the retiree's Option A beneficiary and a  
4 spouse is not designated as the retiree's Option A beneficiary, the retiree's  
5 reduced annuity shall be paid in equal shares to each dependent child  
6 designated as the retiree's Option A beneficiary.

7 (B)(i) Upon the death of a retiree, if both a spouse and  
8 one (1) dependent child are designated as the retiree's Option B  
9 beneficiaries, one-half (1/2) of the retiree's reduced annuity shall be paid  
10 in equal shares to the spouse and the dependent child.

11 (ii) Upon the death of a retiree, if both a spouse  
12 and more than one (1) dependent child are designated as the retiree's Option  
13 B beneficiaries, the spouse shall receive fifty percent (50%) of one-half  
14 (1/2) of the retiree's reduced annuity and the remaining fifty percent (50%)  
15 of one-half (1/2) of the retiree's reduced annuity shall be paid in equal  
16 shares to the dependent children.

17 (iii) Upon the death of a retiree, if more than one  
18 (1) dependent child is designated as the retiree's Option B beneficiary and a  
19 spouse is not designated as the retiree's Option B beneficiary, the retiree's  
20 reduced annuity shall be paid in equal shares to each dependent child  
21 designated as the retiree's Option B beneficiary.

22 (5) If both a spouse and one (1) or more dependent children are  
23 designated as the Option A or Option B beneficiaries of a retiree and annuity  
24 payments to either the spouse or one (1) or more of the dependent children  
25 have begun, the following shall apply:

26 (A) A dependent child's portion of the annuity shall not  
27 revert to the spouse or any other dependent children if the dependent child:

28 (i) Predeceases the spouse or any other dependent  
29 children; or

30 (ii) Otherwise becomes ineligible to continue  
31 receiving annuity payments; and

32 (B) The spouse's portion of the annuity shall not revert  
33 to any dependent child if the spouse:

34 (i) Predeceases one (1) or more dependent children;  
35 or

36 (ii) Otherwise becomes ineligible to continue

1 receiving annuity payments.

2  
3 SECTION 4. Arkansas Code § 24-7-706(d), concerning the ability of a  
4 residue beneficiary under § 24-7-709 to cancel the form of annuity in effect  
5 and elect Option A – 100% Survivor Annuity option under certain conditions,  
6 is amended to add additional subdivisions to read as follows:

7 (4) A surviving spouse who is eligible to receive an annuity  
8 under this section may elect to receive a lump-sum distribution of the  
9 retiree's residue in lieu of the spousal annuity if:

10 (A) The retiree did not designate one (1) or more  
11 dependent children as a beneficiary; and

12 (B) The surviving spouse files a written waiver of his or  
13 her right to the spousal annuity with the system.

14 (5) If a residue beneficiary elects the Option A – 100% Survivor  
15 Annuity under this subsection and is the surviving spouse of a disability  
16 retiree, the same procedures used under § 24-7-710 to determine when an  
17 active member's surviving spouse is entitled to begin receiving benefit  
18 payments shall be used to determine when the residue beneficiary is entitled  
19 to begin receiving benefit payments.

20  
21 SECTION 5. Arkansas Code § 24-7-706, concerning annuity options, is  
22 amended to add an additional subsection to read as follows:

23 (g) A retiree's effective retirement date and the date when survivor  
24 benefits under this section are payable shall be determined by the law in  
25 effect at the time of the retiree's death.

26  
27 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the  
28 General Assembly of the State of Arkansas that the operations of a state  
29 public retirement system are complex; that the Arkansas Teacher Retirement  
30 System must be able to meet the needs of its members as anticipated by the  
31 General Assembly; that certain provisions of the Arkansas Teacher Retirement  
32 System Act need revision and updating to bring them into conformance with  
33 sound public pension policy and actuarial requirements; that the current  
34 provisions of the Arkansas Teacher Retirement System Act do not allow a  
35 retirant to provide for both his or her surviving spouse and dependent  
36 children in the event of the retirant's death by designating both his or her

1 surviving spouse and dependent children as option beneficiaries; that the  
2 current provisions of the Arkansas Teacher Retirement System Act do not  
3 clearly address when the surviving spouse of a disability retirant is  
4 entitled to begin receiving benefit payments; that the revisions and updates  
5 are of great importance to members of the Arkansas Teacher Retirement System  
6 and to other citizens of the State of Arkansas; that the Arkansas Teacher  
7 Retirement System operates on a fiscal year of July 1 to June 30; that a July  
8 1, 2023, effective date is necessary to allow the provisions within this act  
9 to begin on the first day of the fiscal year to provide for the proper  
10 administration of the procedures referenced in this act; that the updates and  
11 revisions to the Arkansas Teacher Retirement System Act are of great  
12 importance for actuarial purposes and for the improvement and protection of  
13 member benefits under the Arkansas Teacher Retirement System; and that this  
14 act is necessary in order to maintain an orderly system of benefits for the  
15 members of the Arkansas Teacher Retirement System. Therefore, an emergency  
16 is declared to exist, and this act being necessary for the preservation of  
17 the public peace, health, and safety shall become effective on July 1, 2023.

18  
19 */s/A. Collins*

20  
21  
22 **APPROVED: 3/2/23**  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36