

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL

1055

By: Representative Maddox

"AN ACT TO AMEND SECTIONS 3, 5 AND 9 OF ACT 427 OF 1973, AS AMENDED [ARK. STATS. 80-1438, 80-1440 AND 80-1443], THE ARKANSAS TEACHER'S RETIREMENT LAW; TO REPEAL ACT 55 OF 1959 AND ACT 469 OF 1961; TO SPECIFY THE NUMBER OF TRUSTEES NEEDED FOR A QUORUM; TO CLARIFY PURCHASE OF OVERSEAS SERVICE; TO PROVIDE FOR A LUMP SUM DISTRIBUTION OF A DECEASED ACTIVE MEMBER'S ACCOUNT; AND FOR OTHER PURPOSES."

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

SECTION 1. Subsection 3.05 of Section 3 of Act 427 of 1973, as amended, the same being Arkansas Statutes 80-1438 (3.05), is hereby amended to read as follows:

"3.05. The Board shall hold regular meetings, at least quarterly. Six (6) trustees, of whom at least one (1) shall be an ex officio trustee constitute a quorum at any meeting of the Board. Each trustee shall be entitled to one (1) vote on each question before the Board and at least six (6) concurring votes shall be required for a decision by the Board at any meeting. The board shall adopt its own rules of procedure, and shall keep a record of its proceedings. All meetings of the Board shall be public."

SECTION 2. Subsection 5.04 of Section 5 of Act 427 of 1973, as amended, the same being Arkansas Statutes 80-1440 (5.04), is hereby amended to read as follows:

"5.04. 'Overseas service' means service in an American-type overseas school, sponsored and approved by either the United States Department of State or the Department of Defense. From and after July 1, 1979, a member of the Arkansas Teacher Retirement System may receive membership service credit for service in an overseas school subject to the following conditions:

(a) To be eligible for overseas service credit, a member must have a minimum of ten (10) years membership service in a position covered by the Teacher Retirement System.

(b) The overseas service credit to be granted shall be limited to service for which no benefit could be paid by another system similar in purpose to this system, except social security. The maximum overseas service to be credited to any member shall be 5 years.

(c) To be eligible for a year of overseas service credit, a member must have rendered at least one hundred twenty (120) days of service. Fractions of years of service may be credited in keeping with Board policies as provided by Subsection 5.01.

(d) Contributions must be paid on his salary in the overseas school. The member shall pay the member contribution rate. For each year of the member's service overseas, employer contributions shall be based upon the employer contribution rate in effect for such year; employer contributions may be paid either by the employer or by the member. If contributions were not paid to the system promptly, as service was rendered, regular interest shall be added to such delayed contributions from the date of service to the date of payment."

SECTION 3. Subsection 9.11 of Section 9 of Act 427 of 1973, as amended, the same being Arkansas Statutes 80-1443 (9.11), is hereby amended to read as follows:

"9.11. (a) If an active member with five (5) or more years of credited service, including credited service to the year immediately preceding his death, dies in employer service before retirement, the applicable benefits provided in the subsection shall be paid.

(b) His surviving spouse, who was married to the member at least the two (2) years immediately preceding his death, shall receive an annuity computed in the same manner in all respects as if such member had (i) retired the date of his death with entitlement to an annuity provided for in subsection 9.03, notwithstanding that he might not have attained age 60 years or acquired 10 years of credited service, (ii) elected Option A - 100% Survivor Annuity provided for in subsection 9.04 and (iii) nominated such spouse as joint beneficiary; provided that if at the time of the member's death there are no dependent children and the surviving spouse who would otherwise receive the

annuity under this paragraph has filed with the system a signed written waiver of his right to the annuity and that waiver was in effect at the time of the member's death, a lump sum distribution of the deceased member's accumulated contributions, plus regular interest, may be made to any beneficiary or beneficiaries so designated by the member before death. If such member had satisfied the age and service requirements provided for in subsection 9.01 or had acquired 20 years of credited service, such spouse annuity shall commence immediately and be payable for her life; or, if such member had acquired 15 years credited service but had not attained age 60 years, such spouse annuity shall commence at the later of age 50 or her age at his death and be payable until the earlier of her remarriage or death; otherwise, such spouse annuity shall commence at the later of age 62 or her age at his death and be payable until the earlier of her remarriage or death. Such spouse annuity shall not be less than the greater of (i) 10 percent of the deceased member's covered salary at the time of death or (ii) \$50 monthly; provided, these amounts shall apply if the member had no member non-contributory service of the type specified in subsection 9.03(a) (6). If the member had only such non-contributory credited service, then the amounts shall be six percent (6%), instead of ten percent (10%), and \$31, instead of \$50; or, if the member had a mixture of credited service, the minimum amount shall be prorated between the all contributory minimum amount and the all non-contributory minimum amount according to the relationship between such non-contributory credited service and his total credited service. In any event, however, as long as the surviving spouse has in her care any of the deceased member's dependent children receiving a benefit provided for in (c) of this subsection, there shall be payable to her a spouse annuity of not less than the minimum amount determined according to the preceding sentence.

(c) His dependent child or dependent children shall each receive an annuity of the greater of (i) ten percent (10%) of such member's covered salary at time of death or (ii) \$50 monthly; provided, while there are 3 or more such dependent children, each dependent child shall receive an annuity of an equal share of the greater of (i) twenty-five percent (25%) of such covered salary or (ii) \$125 monthly; provided further, these amounts shall apply if the member had no member non-contributory credited service of the type specified in subsection 9.03 (a) (6). If the member had only such non-contributory credited service, then the amounts shall be six percent (6%), instead of ten per-

cent (10%), and \$31, instead of \$50, and sixteen percent (16%), instead of twenty-five percent (25%), and \$79, instead of \$125; or if the member had a mixture of credited service, the amounts payable shall be prorated between the all contributory amounts and the all non-contributory amounts according to the relationship between such non-contributory credited service and his total credited service.

A child shall be dependent child until his death or his marriage or his attainment of age 18, whichever comes first; provided, the age 18 maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school or college or university, but in no event beyond his attainment of age 23; provided further, the age 18 maximum shall be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction (or by the Board), for as long as such incompetency exists. Upon a child ceasing to be a dependent child, his annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(d) If, at the time of such member's death, there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of (i) ten percent (10%) of such covered salary or (ii) \$50 monthly; provided, the Board finds that such parent was dependent for at least fifty percent (50%) of his financial support upon such member; provided further, these amounts shall apply if the member had no member non-contributory service of the type specified in subsection 9.03 (a) (6). If the member had only such non-contributory credited service, then the amounts shall be six percent (6%), instead of ten percent (10%), and \$31, instead of \$50; or, if the member had a mixture of credited service, the amount shall be prorated between the all contributory amount and the all non-contributory amount according to the relationship between such non-contributory credited service and his total credited service.

(e) In the event all the annuities provided for in this subsection, payable on account of the death of a member, terminate before there has been paid an aggregate amount equal to his accumulated contributions standing to his credit in the members deposit account at the time of his death, the difference between such accumulated contributions and such aggregate amount of annuity payments shall be paid to such persons as he shall have nominated by written designation duly executed and filed with the Board. If there be no

such designated person surviving at termination, such difference shall be payable in the following statutory succession: spouse, children, parents, estate.

(f) Annuities payable under the provisions of this section shall commence the first day of the calendar month next following the later of (i) the date of the member's death or (ii) a later date specified for commencement of annuity payments.

(g) In the event such member had previously received benefits from the System, and has not repaid in full all amounts payable by him to the System, the annuity amounts otherwise provided by this subsection shall be withheld, and used to effect repayment, until the total of such withholdings repays in full all amounts payable by him to the System."

SECTION 4. Act 55 of 1959, the same being Arkansas Statutes 80-1455 and Act 469 of 1961, the same being Arkansas Statutes 80-1453, are hereby repealed.

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 6. EMERGENCY. It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such revision and updating is of great importance to members of the Teacher Retirement System and to other citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987.

