

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 3/19/87

HOUSE BILL 1312

By: Representative Barclay

"AN ACT TO AMEND SECTION 4 OF ACT 491 OF 1921, AS AMENDED [ARK. STAT. 19-2204], AND SECTIONS 1, 2, AND 3 OF ACT 82 OF 1951, AS AMENDED [ARK. STAT. 19-2221.1 - 19-2221.3], TO CLARIFY THE MEANING OF SALARY FOR PURPOSES OF DETERMINING BENEFITS PAYABLE FROM FIREMEN'S PENSION AND RELIEF FUNDS; FOR MAKING DEDUCTIONS FROM SALARY FOR LOCAL FIRE PENSION FUNDS; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 4 of Act 491 of 1921, as amended, the same being Arkansas Statute 19-2204, is hereby amended to read as follows:

"Section 4. (a) Any person who shall have been duly appointed and enrolled, and has served for a period of twenty (20) years or more in some fire department in the State of Arkansas, as now constituted, five (5) years of which shall have been consecutive, immediately preceding the end of such period, as a member in any capacity or rank whatever, of a regularly constituted fire department of any city or town, which is, or may hereafter be, subject to the provisions of this Act and his service in such fire department shall have ceased, shall be entitled to be retired from such service and shall be entitled to be paid from such fund a monthly pension equal to one-half (1/2) of the salary attached to the rank which he may have held in said fire department preceding the date of such retirement whether said service be performed as a volunteer, or a member of a part or full paid department.

The term salary shall mean recurring pays which are received for a regularly scheduled work week and shall not include payments for unused accrued sick leave or annual leave, or the cash value of any non-recurring or unusual remunerations.

Provided that any such person who shall have completed the period of ser-

vice as provided for in this section shall receive from the Board set up to administer this Act, a certificate showing that he has completed the term of service required and is entitled to participate in all the benefits provided for in this Act upon compliance with and subject to all the other terms and conditions of this Act, whether he sever his connections or continue in service at the expiration of the time as set out above, and said right to participate in the said fund shall become a vested right and shall not be lost by the termination of his services with or without cause.

Provided that any full-paid fire fighter who is already retired shall not receive less than \$250 per month.

Provided further, that any member of a fire department who is eligible for voluntary retirement and who shall continue to work for said department shall receive the sum of \$5.00 per month upon retirement in addition to his regular monthly retirement pay for each continuous year he shall work over and above his twenty (20) years but in no instance shall he receive more than \$25 per month in addition to his retirement pay. In computing the length of service required under this Act for any presently active member of a full paid, part paid or volunteer fire department or any members of said department active as of February 16, 1953, in any city or town coming within the provisions of this Act, in order to make such person eligible for benefits, the total term of service shall be considered regardless of whether such service occurred before or after the passage of Act 491 of 1921, Act 167 of 1943 or Act 68 of 1953, and it is the intention of this Section to begin the computation of the period of service for presently active members of fire departments in said cities and towns or any members active in such fire departments as of February 16, 1953 on the actual day that the person was first duly appointed and enrolled in some fire department in the State of Arkansas. Said method of computation shall be used to compute length of service as far as the basic twenty (20) years of service and shall also be used to compute eligibility for the benefits paid for service over and above the basic twenty (20) years of service.

(b) Provided that, from and after March 1, 1957, a volunteer or part paid fireman, who becomes a full paid member of a fire department in such city or town shall be eligible to retire under this Section on the status of a full paid member only if he shall be employed as a full paid member of said fire department for a period of at least five (5) years immediately prior to

his retirement; provided further that any member of a fire department on the effective date of Act 491 of 1921, who fails to make application and list his qualifications as to participating in the provisions of Act 491 of 1921, within one (1) year period after his service shall have ceased as a member of the fire department shall waive and forfeit all rights to participate in said benefits as provided therein, except that this provision shall not apply to any fireman who shall serve notice to the Board of Trustees at the time of his severance of service as to his intent to waive his benefits temporarily, nor shall it apply to any fireman employed by a fire department in a city or town having a population of not less than 2270 but nor more than 2275 according to the most recent Federal Decennial Census."

SECTION 2. Section 1 of Act 82 of 1951, as amended, the same being Arkansas Statute 19-2221.1, is hereby amended to read as follows:

"Within sixty (60) days from July 1, 1975, each full paid fireman and each part paid fireman whose salary is fifty dollars (\$50.00) or more, per month, each part paid fireman whose salary is less than fifty dollars (\$50.00) per month, and each active volunteer fireman, employed in the fire department by any city or town in this State, who desires that he and his beneficiaries participate in the Firemen's Relief and Pension Fund of such city or town, created under Act 491 of 1921, shall file with secretary of the Board of Trustees of the Firemen's Relief and Pension Fund of such city or town, a statement in writing under oath, that he desires that he and his beneficiaries participate in the benefits from such fund. Such statement shall include the name and age of those persons immediately dependent upon him, and shall authorize the governing body of the city to deduct from his salary such percentage, not less than six percent (6) thereof, as may be approved for deduction by the local Firemen's Pension Board. The statement of an active volunteer fireman shall include a promise and an obligation to pay to said Board of Trustees the sum of twelve (\$12.00) per year. Any municipality or fire protection district in which a Firemen's Pension and Relief Fund is established shall contribute to the Firemen's Pension and Relief Fund an amount computed as follows:

(a) Beginning January 1, 1982, not less than three percent (3%) of the fireman's salary;

(b) Beginning January 1, 1983, not less than four percent (4%) of the fireman's salary;

(c) Beginning January 1, 1984, not less than five percent (5%) of the fireman's salary; and

(d) Beginning January 1, 1985, and thereafter, not less than six percent (6%) of the fireman's salary.

(e) Beginning July 1, 1983 and thereafter, an amount equal to the contribution paid by any volunteer firemen who are members of the Fund.

In the event a former member again becomes an employee of the same fire department where previously employed, such firefighter shall again become a member of the system, and the credited service forfeited by him shall be restored to his credit provided he returns to the fund the amount refunded to him plus interest from the date of withdrawal to the date of repayment. The interest rate to be paid shall be equal to the fund's average investment rate of return as indicated in the last three (3) annual accountant's reports, but in no case less than six percent (6%); said repayment to be made according to such rules and regulations as the Board shall from time to time adopt. Provided, however, that any employee who has become a member of the Arkansas Local Police and Fire Retirement System shall remain a member of that system."

SECTION 3. Section 2 of Act 82 of 1951, as amended, the same being Arkansas Statute 19-2221.2, is hereby amended to read as follows:

"Any fireman who fails or refuses, to make and file the statement required by this Act, or to allow deductions from his salary or to pay the amount herein required, shall forfeit his right to participate in the benefits provided by the Firemen's Relief and Pension Fund, of such city or town; provided, however, this shall not apply to any fireman heretofore retired, who has a vested right to participate in such fund, because he has completed the required length of service, or because of physical or mental disability incurred in the performance of his duty, nor shall this apply to any fireman who has a vested right to participate in such fund because he has completed the required length of service and who has elected to continue in active service."

SECTION 4. Section 3 of Act 82 of 1951, as amended, the same being Arkansas Statute 19-2221.3, is hereby amended to read as follows:

"If any such fireman shall elect not to participate in such fund, his salary shall not be liable for any deductions nor shall he be required to pay

as herein provided. Provided, however, that in the event of the resignation or the discharge from the fire department of any member thereof, all moneys deducted from the salary of such person, or voluntarily paid by such person, shall immediately be returned to him without interest, provided, further, there shall be deducted from such refund the amount which has been expended by the Board of Trustees, as authorized under Section 1 of Act No. 187 of 1947, for the purchase of group insurance and payment of premiums thereon for the benefit of said fireman."

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 the current definition of "salary" is not being applied uniformly by the Boards of Trustees of the local Firemen's Pension and Relief Funds; that such varying application results in inequities to members of the pension system; that inequities in systems affecting firefighters could harm the public health, welfare and safety of this State. Therefore, an emergency is declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/ Dick Barclay

