

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL 1627

4 **By: Representatives B. Wood and McGinnis**

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For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 24, CHAPTER 11,
9 OF THE ARKANSAS CODE OF 1987, ANNOTATED, TO CREATE A
10 GUARANTEE FUND FOR ALL ARKANSAS MUNICIPAL FIRE AND POLICE
11 RELIEF AND PENSION FUNDS; TO PRESCRIBE AN EFFECTIVE DATE;
12 AND FOR OTHER PURPOSES."

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Subtitle

15 "AN ACT TO CREATE A GUARANTEE FUND FOR ALL MUNICIPAL FIRE
16 AND POLICE RELIEF AND PENSION FUNDS."

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

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20 SECTION 1. Subsection (a) of Arkansas Code § 24-11-203 is hereby
21 amended to read as follows:

22 "(a) The purpose of this section, which creates and establishes the
23 Arkansas Fire and Police Pension Review Board, is to establish a state pension
24 review board for all municipal fire and police pension funds established under
25 Acts 1921, No. 491 and Acts 1937, No. 250, which shall oversee all requests
26 for benefit increases, review the annual accountant's reports and biennial
27 actuarial valuations required by this subchapter, and oversee, invest, and
28 administer the Arkansas Fire and Police Pension Guarantee Fund established in
29 § 24-11-208."

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31 SECTION 2. Title 24, Chapter 11, Subchapter 2 of the Arkansas Code of
32 1987, Annotated, is hereby amended to add a new § 24-11-208 to read as
33 follows:

34 "24-11-208. Arkansas Fire and Police Guarantee Fund.

35 (a) The purpose of this section, which creates and establishes the

1 Arkansas Fire and Police Pension Guarantee Fund effective January 1, 1994, is
2 to establish a state fund to pay the benefits due from insolvent municipal
3 fire and police pension funds established under Act 1921, No. 491 and Act
4 1937, No. 250.

5 (b) Some of the municipal fire and police pension funds established
6 under Acts 1921, No. 491 and Acts 1937, No. 250 may run out of funds before
7 all of the promised benefits have been paid to their members, retirants, and
8 beneficiaries. In such situations, the Arkansas Fire and Police Pension
9 Guarantee Fund shall assist the insolvent fund, in accordance with the
10 following:

11 (1) An eligible municipal fire or police pension fund will be
12 declared insolvent by the Arkansas Fire and Police Pension Review Board if

13 (A) There should not be sufficient money in the fund to pay
14 each person the full amount to which he may be entitled, and

15 (B) The Arkansas Fire and Police Pension Guarantee Fund
16 contains sufficient funds to assist the insolvent fund.

17 (2) If an eligible municipal fire or police pension fund is
18 declared insolvent by the Arkansas Fire and Police Pension Review Board, then:

19 (A) The Arkansas Fire and Police Pension Review Board shall
20 notify the board of trustees of such fund, in writing, that such fund is
21 insolvent, and that such fund will be covered by the Arkansas Fire and Police
22 Pension Guarantee Fund.

23 (B) All assets, if any, of such fund shall be transferred
24 to the Arkansas Fire and Police Pension Guarantee Fund within thirty (30) days
25 of the receipt of the notification required in subdivision (b)(2)(A) of this
26 section.

27 (C) A list of all retirants and beneficiaries, if any, of
28 such fund shall be sent to the Arkansas Fire and Police Pension Review Board
29 within thirty (30) days of the receipt of the notification required in
30 subdivision (b)(2)(A) of this section. Such list shall contain the name,
31 address, monthly benefit due, type of retirement, and any income tax
32 withholding instructions, of each retirant and beneficiary, and any other
33 information as may be required by the Arkansas Fire and Police Pension Review
34 Board.

35 (D) Any revenues received by such fund (for example, from

1 insurance premium taxes, local taxes, millage, fines, active member
2 contributions, etc.) shall be sent to the Arkansas Fire and Police Pension
3 Guarantee Fund within thirty (30) days of the receipt of such revenues.

4 (E) Any benefits (including refunds of active member
5 contributions to terminating members) due after the date such fund is covered
6 by the Arkansas Fire and Police Pension Guarantee Fund shall be paid out of
7 the Arkansas Fire and Police Pension Guarantee Fund. Such benefits shall not
8 exceed the minimum amount provided by law. Any expenses required to
9 administer the Arkansas Fire and Police Pension Guarantee Fund shall be paid
10 out of the Arkansas Fire and Police Pension Guarantee Fund.

11 (F) The Arkansas Fire and Police Pension Review Board shall
12 have the authority to determine whether or not persons applying for benefits
13 from such fund are eligible for such benefits, determine the amount of such
14 benefits, and pay such benefits out of the Arkansas Fire and Police Pension
15 Guarantee Fund. The assets of the Arkansas Fire and Police Pension Guarantee
16 Fund shall be invested by the Arkansas Local Police and Fire Retirement
17 System. The board of trustees of such fund shall not have the authority to
18 invest the assets of such fund, determine whether or not persons applying for
19 or receiving benefits from such fund are eligible for such benefits, but shall
20 cooperate with the Arkansas Fire and Police Pension Review Board regarding
21 such matters.

22 (G) The Arkansas Fire and Police Pension Review Board shall
23 review the medical condition of all persons receiving a disability pension
24 from such fund. If the Arkansas Fire and Police Pension Review Board finds
25 that a person receiving a disability pension from such fund is no longer
26 disabled, and as a result is no longer entitled to a disability pension, such
27 person will not receive a benefit from the Arkansas Fire and Police Pension
28 Guarantee Fund.

29 (3) If the Arkansas Fire and Police Pension Review Board
30 determines that a municipal fire or police pension fund whose benefits are
31 being paid by the Arkansas Fire and Police Pension Guarantee Fund can afford
32 to start paying on its own, then:

33 (A) Any future revenues received by such fund shall remain
34 in that fund, and not be transferred to the Arkansas Fire and Police Pension
35 Guarantee Fund.

1 (B) Such fund shall resume making monthly benefit payments
2 to its retirants and beneficiaries, and the Arkansas Fire and Police Pension
3 Guarantee Fund shall cease making such payments.

4 (C) The Arkansas Fire and Police Pension Review Board shall
5 relinquish the authority to invest the assets of such fund, determine whether
6 or not persons applying for benefits from such fund are eligible for such
7 benefits, and determine the amount of such benefits, and such authority shall
8 return to the board of trustees of such fund.

9 (c) Funding for the Arkansas Fire and Police Pension Guarantee Fund.

10 (1) Effective January 1, 1994, the Arkansas Fire and Police
11 Pension Guarantee Fund shall receive a portion of the taxes levied on insurers
12 for the support of fire and police retirement programs by § 23-60-101 et seq.,
13 and §§ 24-11-301 - 24-11-303, 24-11-801 - 24-11-807, 24-11-809, 24-11-810, 24-
14 11-813, 24-11-816, 24-11-818 - 24-11-821, 26-57-601 - 26-57-605, 26-57-607, or
15 any other state fund designated for support of fire and police retirement
16 programs in political subdivisions.

17 (2) The Arkansas Fire and Police Pension Review Board shall
18 notify the Insurance Department of the percentage of such taxes to be paid
19 into the Arkansas Fire and Police Pension Guarantee Fund. The percentage of
20 such taxes to be paid to the Arkansas Fire and Police Pension Guarantee Fund
21 shall be one and one-half percent (1 1/2%), but not less than one hundred five
22 thousand dollars (\$105,000), each year. The Arkansas Fire and Police Pension
23 Review Board shall review the adequacy of this percentage and recommend
24 increases or decreases in the percentage to the General Assembly.

25 (3) If a fire or police retirement program, or the political
26 subdivision supporting such program, does not receive a portion of the taxes
27 levied on insurers for the support of fire and police retirement programs, due
28 to § 24-11-202, such taxes shall be paid into the Arkansas Fire and Police
29 Pension Guarantee Fund.

30 (4) The Arkansas Fire and Police Pension Review Board shall
31 report to the General Assembly on the condition of the Arkansas Fire and
32 Police Pension Guarantee Fund. Such report shall be due by December 31 of
33 each even numbered year. Such report shall include the value of the Arkansas
34 Fire and Police Pension Guarantee Fund and the expected tax allocation for the
35 next two (2) years.

1 (5) If the Arkansas Fire and Police Pension Review Board
2 determines that the Arkansas Fire and Police Pension Guarantee Fund is
3 overfunded, the excess assets of the Arkansas Fire and Police Pension
4 Guarantee Fund, such excess being determined by the Arkansas Fire and Police
5 Pension Review Board after consultation with its actuary, shall be returned to
6 each political subdivision with a municipal fire or police pension fund, using
7 the pro rata basis of §§ 24-10-409, 24-11-302, and 24-11-810.

8 (d) In order to be an eligible municipal fire or police pension fund
9 that can be covered by Arkansas Fire and Police Pension *Guarantee Fund*, a fund
10 must be receiving a dedicated millage of at least one (1) mill.

11 (e) The executive director and staff of the Arkansas Fire and Police
12 Pension Review Board shall serve as executive director and staff for the
13 Arkansas Fire and Police Pension Guarantee Fund."

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15 SECTION 3. Arkansas Code § 24-11-301 is hereby amended to read as
16 follows:

17 "24-11-301. Appropriation of tax revenues from foreign insurers.

18 (a) Sixty-six and two-thirds percent (66 2/3%) of the total tax
19 revenues derived from premium taxes paid to the State of Arkansas by alien and
20 foreign insurance companies upon premiums collected by the insurance companies
21 upon insurance contracts written on motor vehicles, the licensed address of
22 which is a qualified city or town wherein the motor vehicles are insured
23 against the perils of physical damage or the owner or operators of the motor
24 vehicles are insured against legal liability arising out of the use,
25 ownership, or operation of the motor vehicles, is appropriated and set aside
26 for the use and benefit of all duly qualified police officers' pension and
27 relief funds and for the administrative and actuarial expenses of the Arkansas
28 Fire and Police Pension and Review Board and the Arkansas Fire and Police
29 Pension Guarantee Fund.

30 (b) The amount of the tax revenues attributable to the fire peril of
31 physical damage insurance shall not be included.

32 (c) The payment to the review board and the Arkansas Fire and Police
33 Pension Guarantee Fund shall be made prior to the disbursements to the
34 eligible political subdivisions."

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1 SECTION 4. Arkansas Code § 24-11-809 is hereby amended to read as
2 follows:

3 "24-11-809. Appropriations of insurance premium tax generally.

4 (a) There is appropriated and set aside for the use and benefit of duly
5 constituted firemen's relief and pension funds and for the administrative and
6 actuarial expenses of the Arkansas Fire and Police Review Board and the
7 Arkansas Fire and Police Pension Guarantee Fund the annual taxes of two and
8 one-half percent (2 1/2%) on all foreign and alien premiums collected by all
9 insurance companies, corporations, or associations incorporated under the laws
10 of any state or nation and doing business in the State of Arkansas, after all
11 cancellations and dividends to policyholders are deducted as provided by §§
12 23-60-102, 24-11-809, 26-57-601 - 26-57-605, and 26-57-607, upon real and
13 personal property insured against the perils of fire and extended coverage,
14 tornado, windstorm, cyclone, and hail, except upon growing crops, and located
15 in or at cities, towns, and fire protection districts in the State of Arkansas
16 coming within the provisions of this act.

17 (b) In the case of multiperil policies with a single premium for both
18 the property and casualty coverages, the portion of the taxable premium shall
19 be as follows:

20 (1) In the case of commercial multiperil policies, seventy
21 percent (70%);

22 (2) In the case of homeowners' policies, forty-five percent
23 (45%);

24 (3) In the case of auto physical damage policies, nine percent
25 (9%); and

26 (4) In the case of inland marine policies, fifteen percent (15%).

27 (c) (1) The Insurance Commissioner is directed, and it shall be his
28 duty, to embody in his annual statement the names of all cities, towns, and
29 fire protection districts entitled to receive the tax paid by the insurance
30 companies. He shall require the companies to report at the time of making his
31 annual statements the amount of premiums received and the amount of taxes paid
32 by the companies during the year ending December 31, upon real and personal
33 property insured against the perils recited, in each and all of the several
34 cities, towns, and fire protection districts named in his report.

35 (2) Thereafter, and before April 1 in each calendar year, the

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