

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995

# A Bill

HOUSE BILL 1561

4 By: Representative B. Wood  
5  
6

## 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 UNDERFUNDED ARKANSAS MUNICIPAL FIRE AND  
11 POLICE RELIEF AND PENSION FUNDS; TO PRESCRIBE AN EFFECTIVE  
12 DATE; AND FOR OTHER PURPOSES."  
13

## Subtitle

14 "TO CREATE A GUARANTEE FUND FOR  
15 UNDERFUNDED MUNICIPAL FIRE AND POLICE  
16 RELIEF AND PENSION FUNDS"  
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code § 24-11-203(a) is 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  
24 pension review board for all municipal fire and police pension funds  
25 established under Acts 1921, No. 491 and Acts 1937, No. 250, which shall  
26 oversee all requests for benefit increases and review the annual accountant\_s  
27 reports and biennial actuarial valuations required by this subchapter, and  
28 which shall oversee, invest, and administer the Arkansas Fire and Police  
29 Pension Guarantee Fund as established by law."  
30

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. Administration of Underfunded Plans.

35 (a) Some of the municipal fire and police pension funds established

1 under Acts 1921, No. 491 and Acts 1937, No. 250 may run out of funds before  
2 all of the promised benefits have been paid to their members, retirants, and  
3 beneficiaries. The purpose of this section is to provide a method for the  
4 funding of benefits in certain underfunded plans.

5 (b) Biennially, in conjunction with the actuarial valuations required  
6 by § 24-11-205, the Arkansas Fire and Police Pension Review Board shall  
7 identify those plans which are projected to deplete their assets within ten  
8 (10) years after the valuation date. A plan so identified shall be declared  
9 a projected insolvent fund.

10 (c) The Arkansas Fire and Police Pension Review Board shall notify the  
11 board of trustees of each projected insolvent fund of its funded status and  
12 the options that are available to the fund to protect the benefits of its  
13 members, retirants, and beneficiaries."  
14

15 SECTION 3. Title 24, Chapter 11, Subchapter 2 of the Arkansas Code of  
16 1987, Annotated, is hereby amended to add a new § 24-11-209 to read as  
17 follows:

18 "24-11-209. Arkansas Fire and Police Guarantee Fund.

19 (a) On and after January 1, 1995, the Arkansas Fire and Police Pension  
20 Guarantee Fund shall be created and established for the purpose of providing  
21 a state fund to provide financial assistance to certain municipal fire and  
22 police pension funds established under Act 1921, No. 491 and Act 1937,  
23 No. 250.

24 (b) Some of the municipal fire and police pension funds established  
25 under Acts 1921, No. 491 and Acts 1937, No. 250 may run out of funds before  
26 all of the promised benefits have been paid to their members, retirants, and  
27 beneficiaries. The Arkansas Fire and Police Pension Guarantee Fund may  
28 assist the municipal fund, in accordance with the following:

29 (1) A municipal fire or police pension fund may receive  
30 financial assistance from the Arkansas Fire and Police Pension Guarantee Fund  
31 if the assistance is approved by the Arkansas Fire and Police Pension Review  
32 Board and if the fund complies with subdivision (b)(2) of this section:

33 (2) If a municipal fire or police pension fund is to receive  
34 financial assistance from the Arkansas Fire and Police Pension Guarantee Fund  
35 then:

1 (A) The municipal fire or police pension fund must apply,  
2 in writing, for financial assistance to the Arkansas Fire and Police Pension  
3 Guarantee Fund.

4 (B) Upon receipt of the application the Arkansas Fire and  
5 Police Pension Review Board shall notify the board of trustees of the fund,  
6 in writing that the fund will receive financial assistance from the Arkansas  
7 Fire and Police Pension Guarantee Fund if all of the provisions of this  
8 section are met.

9 (C) In order to receive any financial assistance from the  
10 Arkansas Fire and Police Pension Guarantee Fund, the local fund must be  
11 receiving a dedicated millage of one (1) mill.

12 (D) Any benefits (including refunds of active member  
13 contributions to terminating members) due after the date the local fund is  
14 receiving assistance from the Arkansas Fire and Police Pension Guarantee  
15 Fund, shall not exceed the minimum amount provided by law.

16 (E) The Arkansas Fire and Police Pension Review Board may  
17 review the medical condition of all persons receiving a disability pension  
18 from the local fund. If the Arkansas Fire and Police Pension Review Board  
19 finds that a person receiving a disability pension from the local fund is no  
20 longer disabled, and as a result is no longer entitled to a disability  
21 pension, the person shall no longer receive a benefit from the local fund.

22 (c)(1) On and after January 1, 1995, the Arkansas Fire and Police  
23 Pension Guarantee Fund shall receive a portion of the taxes levied on  
24 insurers for the support of fire and police retirement programs by  
25 §§ 23-60-101 et seq., and §§ 24-11-301 - 24-11-303, 24-11-801 - 24-11-807,  
26 24-11-809, 24-11-810, 24-11-813, 24-11-818 - 24-11-821, 26-57-601 -  
27 26-57-605, 26-57-607, or any other state fund designated for support of fire  
28 and police retirement programs in political subdivisions. The amount  
29 received by the Arkansas Fire and Police Pension Guarantee Fund shall be  
30 based upon the taxes that are levied on insurers but are not allocated to  
31 cities, towns, or fire protection districts qualified to participate in the  
32 distribution of the taxes, and shall be the amount so provided in § 24-11-302  
33 and 24-11-809.

34 (2) If a fire or police retirement program, or the political  
35 subdivision supporting a retirement program, does not receive a portion of

1 the taxes levied on insurers for the support of fire and police retirement  
2 programs, due to § 24-11-202, the taxes shall be paid into the Arkansas Fire  
3 and Police Pension Guarantee Fund.

4 (3) The Arkansas Fire and Police Pension Review Board shall  
5 report to the General Assembly on the condition of the Arkansas Fire and  
6 Police Pension Guarantee Fund. The report shall be due by December 31 of  
7 each even numbered year. The report shall include the amount of financial  
8 assistance provided during the last two (2) years and the expected tax  
9 allocation for the next two (2) years.

10 (d) The maximum financial assistance that an eligible municipal fire  
11 or police pension fund can receive in any year from the Arkansas Fire and  
12 Police Pension Guarantee Fund is the remainder, if any, of the amount of the  
13 item in subdivision (d)(1) of this section after subtracting the amount equal  
14 to the sum of all the items of subdivision (d)(2) of this section as follows:

15 (1) is the actuarially recommended contribution for the year  
16 determined as if the fund were providing the minimum benefits required by  
17 law; and

18 (2)(A) twelve percent (12%) of the covered salaries [or one  
19 dollar (\$1.00) per month for each volunteer firefighter];

20 (B) the dollar amount of the millage that would be  
21 produced if one (1) mill was contributed to the plan;

22 (C) for police pension funds only, ten percent (10%) of  
23 fines and forfeitures under § 24-11-413(a)(5) in the prior year; and

24 (D) the amount of state insurance turnback funds allocated  
25 to the fund in the prior year.

26 (e) The Arkansas Fire and Police Pension Review Board shall annually  
27 *recommend to the Chief Fiscal Officer of the State* which pension funds shall  
28 receive financial assistance from the Arkansas Fire and Police Pension  
29 Guarantee Fund and the amount of the assistance. The Arkansas Fire and  
30 Police Pension Review Board shall take into consideration the amount of  
31 income expected by the Arkansas Fire and Police Pension Guarantee Fund when  
32 determining the amount of financial assistance available to the local funds,  
33 *and considering whether the local fund would be better served by*  
34 *consolidating into the Arkansas Local Police and Fire Retirement System*  
35 *(LOPFI)*. The Arkansas Fire and Police Pension Review Board shall *recommend*

1 financial assistance from the Arkansas Fire and Police Pension Guarantee Fund  
2 according to the following priorities:

3 (1) projected insolvent funds which are not expected to have  
4 enough funds to provide benefits for the current year;

5 (2) projected insolvent funds which are expected to deplete  
6 their funds within the next three (3) years;

7 (3) projected insolvent funds which are expected to deplete  
8 their funds within the next ten (10) years;

9 (4) funds that are determined to be actuarially unsound by the  
10 Arkansas Fire and Police Pension Review Board; and

11 (5) other pension funds covering municipal police officers and  
12 firefighters in Arkansas, without regard to subsection (d) of this section,  
13 or without regard to subsection (b)(2)(C) of this section for funds  
14 administered by the Arkansas Local Police and Fire Retirement System.

15 (f) The executive director and staff of the Arkansas Fire and Police  
16 Pension Review Board shall serve as the executive director and staff of the  
17 Arkansas Fire and Police Pension Guarantee Fund. Any expenses required to  
18 administer the Arkansas Fire and Police Pension Guarantee Fund shall be  
19 determined and paid by the Arkansas Fire and Police Pension Review Board out  
20 of the Arkansas Fire and Police Pension Guarantee Fund."

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22 SECTION 4. Arkansas Code § 24-11-301 is amended to read as follows:

23 "24-11-301. Appropriation of tax revenues from foreign insurers.

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

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

3 (c) The payment for the administrative and actuarial expenses of the  
4 Arkansas Fire and Police Pension Review Board shall be made prior to the  
5 disbursements to the eligible political subdivisions."  
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7 SECTION 5. Arkansas Code § 24-11-302 is amended to read as follows:

8 "24-11-302. Cities and towns qualified to participate - Reports.

9 (a) Each city or town having a police officers\_ pension and relief  
10 fund which is organized pursuant to any existing statute of this state and  
11 each city or town which covers its police department under the Arkansas Local  
12 Police and Fire Retirement System shall be qualified to participate in the  
13 distribution of the funds described and appropriated by this subchapter.

14 (b) The Arkansas Fire and Police Pension Review Board, created by  
15 § 24-11-203, is directed, and it shall be its duty, to identify those cities  
16 and towns to certify them to the Insurance Commissioner on or before  
17 December 15, 1985, indicating that they are qualified to participate in the  
18 distribution of those funds described and appropriated by this subchapter.

19 (c) The eligibility of these subdivisions shall be continuous without  
20 recertification unless otherwise directed by the pension review board.

21 (d)(1) For each city or town which covers its entire police department  
22 under the Arkansas Local Police and Fire Retirement System, the board of  
23 trustees shall provide certification to the Insurance Commissioner on or  
24 before December 15 of the calendar year in which coverage began.

25 (2) The eligibility of the cities or towns shall be continuous  
26 without recertification unless otherwise directed by the board of trustees.

27 (e) Each city and town qualified by either the Arkansas Fire and  
28 Police Pension Review Board or the Board of Trustees of the Arkansas Local  
29 Police and Fire Retirement System shall then be entitled to receive that  
30 portion of the tax as described and appropriated by this subchapter that is  
31 collected during the forthcoming calendar year, arising from such insurance  
32 as shall be written upon every motor vehicle principally garaged in that  
33 qualified city or town.

34 (f) The Insurance Commissioner shall advise all companies subject to  
35 the tax of the name of each qualified city or town.

1 (g) The companies shall report to the Insurance Commissioner, at the  
2 time of filing their respective annual statements, those premiums from motor  
3 vehicle owners for insurance against the perils described in this subchapter  
4 and shall identify that qualified city or town in which the subject of the  
5 insurance is principally garaged.

6 (h) All taxes that are levied on insurers but are not allocated to  
7 cities or towns qualified to participate in the distribution of the taxes,  
8 may be allocated to the Arkansas Fire and Police Pension Guarantee Fund.  
9 *Funds may be distributed by the Chief Fiscal officer of the State upon the*  
10 *recommendation of the Arkansas Fire and Police Pension Review Board."*

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12 SECTION 6. Arkansas Code § 24-11-809 is amended to read as follows:

13 "24-11-809. Appropriations of insurance premium tax generally.

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

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

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

32 (2) In the case of homeowners\_ policies, forty-five percent  
33 (45%);

34 (3) In the case of auto physical damage policies, nine percent  
35 (9%); and

1                   (4) In the case of inland marine policies, fifteen percent  
2 (15%).

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

11                   (2) Thereafter, and before April 1 in each calendar year, the  
12 Insurance Commissioner shall certify to the Auditor of State the names of the  
13 towns, cities, and fire protection districts having organized fire  
14 departments which qualify for participation in the taxes distributed for  
15 firemen's relief and pension funds, and the amount of taxes paid in the  
16 preceding year by the companies described in this section upon the premiums  
17 described in this section.

18                   (3) All taxes that are levied on insurers but are not allocated  
19 to cities, towns, and fire protection districts qualified to participate in  
20 the distribution of the taxes, *may* be allocated to the Arkansas Fire and  
21 Police Pension Guarantee Fund. *Funds may be distributed by the Chief Fiscal*  
22 *Officer of the State upon the recommendation of the Arkansas Fire and Police*  
23 *Pension Review Board.*

24                   (4) The payment for the administrative and actuarial expenses of  
25 the Arkansas Fire and Police Pension Review Board shall be made prior to the  
26 disbursements to the eligible political subdivisions."  
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28                   SECTION 7. This act shall be effective on and after and retroactive to  
29 January 1, 1995.  
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31                   SECTION 8. All provisions of this act of general and permanent nature  
32 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
33 Revision Commission shall incorporate the same in the Code.  
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35                   SECTION 9. If any provisions of this act or the application thereof to



1 any person or circumstance is held invalid, the invalidity shall not affect  
2 other provisions or applications of the act which can be given effect without  
3 the invalid provisions or application, and to this end the provisions of this  
4 act are declared to be severable.

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6 SECTION 10. All laws and parts of laws in conflict with this act are  
7 hereby repealed.

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*/s/Rep. B. Wood*

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