

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Bookout

A Bill

SENATE BILL 478

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE § 24-2-401, 24-2-402, AND
24-3-303 TO MAKE THE ARKANSAS JUDICIAL RETIREMENT SYSTEM A
RECIPROCAL SYSTEM WITH THE OTHER STATE SUPPORTED
RETIREMENT SYSTEMS IN ARKANSAS; TO DECLARE AN EMERGENCY;
AND FOR OTHER PURPOSES."

Subtitle

"TO MAKE THE ARKANSAS JUDICIAL
RETIREMENT SYSTEM A RECIPROCAL SYSTEM
WITH THE OTHER STATE SUPPORTED
RETIREMENT SYSTEMS IN ARKANSAS."

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

SECTION 1. Arkansas Code § 24-2-401 is amended to read as follows:
"24-2-401. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) Reciprocal system means the Teacher Retirement System of
Arkansas in operation June 30, 1957, and continued by §§ 24-7-202 - 24-7-205,
24-7-301 - 24-7-305, 24-7-401 - 24-7-411, 24-7-501, 24-7-502, 24-7-601 -
24-7-604, 24-7-606, 24-7-701 - 24-7-713, 24-7-715, and 24-7-716; the Arkansas
State Highway Employees' Retirement System, established by § 24-5-103; the
Arkansas Public Employees' Retirement System, established by § 24-4-103; the
Arkansas State Police Retirement System, established by § 24-6-203 or the
Arkansas Judicial Retirement System, as established by §§ 24-8-201 et seq.;

(2) State employer means the public employer whose employees are
covered under the Teacher Retirement System of Arkansas, the public employer
whose employees are covered under the Arkansas State Highway Employees'

1 Retirement System, the public employer whose employees are covered under the
2 Arkansas Public Employees' Retirement System, the public employer whose
3 employees are covered under the Arkansas State Police Retirement System or
4 the public employer whose employees are chancery, circuit, and Court of
5 Appeals judges, and Supreme Court justices, whether, elected or appointed to
6 office, covered under the Arkansas Judicial Retirement System;

7 (3) Public safety service covered by the Arkansas Public Employees'
8 Retirement System means service as a public safety member as defined in
9 § 24-3-102."

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11 *SECTION 2. Arkansas Code § 24-2-402 is amended to read as follows:*

12 *"24-2-402. Deferred annuity - Eligibility.*

13 *If a member of a reciprocal system left or leaves a position covered by*
14 *a reciprocal system, if an employee in a position covered by a reciprocal*
15 *system left the employ of a state employer before the latter position was*
16 *covered by a reciprocal system, or if an employee in a position later covered*
17 *by a reciprocal system leaves that position before it is covered by a*
18 *reciprocal system, which in this section in each case is called the*
19 *'preceding system', and if that person entered or enters a position covered*
20 *by a reciprocal system, which in this section is called the 'succeeding*
21 *system', and if the person is a member of the succeeding system after July 1,*
22 *1975, then he shall be entitled to a deferred annuity payable by the*
23 *preceding system subject to the following conditions:*

24 (1) *He has credited service acquired in the employ of the preceding*
25 *state employer;*

26 (2)(A) *He does not withdraw his accumulated contributions from the*
27 *preceding reciprocal system or, if he has withdrawn his accumulated*
28 *contributions, he deposits with the preceding reciprocal system the amount he*
29 *withdrew, together with interest from the date of withdrawal to the date of*
30 *repayment at the rate in effect for the preceding reciprocal system, but that*
31 *deposit must be made while he is an active member of a reciprocal system;*

32 (B) *In addition to the forfeited credited service, the active*
33 *member of a reciprocal system shall receive credit for his previous*
34 *employment with a public employer upon his paying the prescribed employee and*
35 *employer contributions based upon the rate in effect during the previous*

1 employment, together with regular interest from the dates for the previous
2 service to the date of repayment;

3 (C) The provisions for determining a year of service credit
4 shall be the prevailing regulations of each reciprocal system;

5 (3) He qualifies for age and service retirement in the succeeding
6 reciprocal system using his credited service in force with the preceding
7 reciprocal system plus his credited service acquired in the employ of
8 succeeding state employers to meet the minimum service requirements of the
9 succeeding systems;

10 (4)(A) His annuity payable by the preceding reciprocal system shall be
11 upon the basis of the annuity formula of the preceding reciprocal system,
12 exclusive of any minimum amount at the time the person begins to receive
13 monthly retirement benefits from that system;

14 (B) The final average compensation to be used to determine
15 monthly benefits payable to that person shall be that of the reciprocal
16 system which furnishes the highest final average salary at the time of
17 retirement, but each reciprocal system shall use the method of computing
18 final average salary stipulated by its law and compensation in the Arkansas
19 Judicial Retirement System shall not be used to determine final average
20 compensation;

21 (C) Any person retiring on or after July 1, 1982, with credited
22 service in more than one (1) reciprocal system shall have his benefits
23 recomputed based on the provisions of this section;

24 (5)(A) It is the expressed intention of this subdivision to provide
25 the same death-in-service benefits that would have been payable had the
26 member died while an active member of a reciprocal retirement system;

27 (B) A member who dies in service while a member of one (1)
28 reciprocal system shall be considered as currently employed by all systems in
29 which the member retains credited service;

30 (C) If a member has accrued credited service under the
31 provisions of this subchapter but dies before retirement or before becoming
32 eligible to retire, then the benefits payable shall be those provided by the
33 reciprocal retirement system named in this subchapter, with each system being
34 responsible for the payment of the death-in-service benefits provided by the
35 applicable provisions of its retirement laws;

1 (D) If death-in-service benefits are payable by more than one
2 (1) reciprocal system to eligible survivors of a deceased member, the
3 survivors shall not receive more, as a percent of the deceased member's final
4 pay or as a minimum dollar amount, than the largest amount payable by any
5 single reciprocal system;

6 (E) Each reciprocal system that has a minimum benefit provision
7 in its plan shall pay only a proportionate share of that minimum amount based
8 on the ratio of service in that system to the total service in all reciprocal
9 systems;

10 (6) Upon termination of public safety service with all Arkansas
11 governmental units, a public safety employee whose public safety service was
12 covered at different times by the Arkansas Public Employees' Retirement
13 System and by the Arkansas Local Police and Fire Retirement System shall
14 receive retirement benefits based upon public safety service covered by
15 either system if all of the following conditions are satisfied:

16 (A) The total of public safety service credit in the Arkansas
17 Public Employees' Retirement System and the Arkansas Local Police and Fire
18 Retirement System is at least twenty (20) years, provided the provisions of §
19 24-3-301(b) are not used to meet the service requirements; and

20 (B) The benefit payable by each system shall be based upon the
21 service credit with that system, the benefit program the system had in effect
22 at the time the member terminated service covered by the system, and his
23 service and pay covered by the system while the service was being rendered;

24 (7) Both service in the Arkansas Public Employees' Retirement System
25 as a member of the General Assembly and service in another reciprocal system
26 during the same period of time may be counted to meet the service
27 requirements for benefits from the reciprocal system subject to the
28 following:

29 (A) The benefit payable by a reciprocal system will be based on
30 the credited service in that system and the final average compensation under
31 that system. However, nothing in this subdivision shall diminish the General
32 Assembly member's right to a benefit for which he is qualified under the
33 provisions of § 24-4-706; and

34 (B) If a member has less than five (5) years of service credited
35 in a reciprocal system, then "final average compensation" means the monthly

1 average of pay to him during his total years of service in that system.

2 (8) If the preceding or succeeding reciprocal system is the Arkansas
3 Judicial Retirement System, the benefit payable by Judicial Retirement System
4 shall be determined by multiplying one-half (1/2) of the annual salary
5 payable to the last judicial office held by the following fraction:

6 (A) The numerator shall be the number of the actual years of
7 service credited in the Arkansas Judicial Retirement System as a justice of
8 the Supreme Court or judge of the circuit or chancery courts or the Court of
9 Appeals;

10 (B) the denominator shall be fourteen (14) years.

11 In no instance shall the benefit payable by the Judicial Retirement
12 System exceed one half (1/2) of the annual salary payable to the last
13 judicial office held."

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15 SECTION 3. Arkansas Code § 24-3-303 is amended to read as follows:

16 "24-3-303. Credited service - Reciprocity.

17 (a)(1) Upon the retirement of a member whose credited service results
18 from employment covered by more than one (1) named plan, or the Teacher
19 Retirement System or the Arkansas State Highway Employees' Retirement System
20 or the Arkansas Judicial Retirement System, the amount of his annuity shall
21 be based upon his total credited service in force at the time of his
22 retirement, exclusive of any minimums.

23 (2) Each named plan or retirement system shall be responsible
24 financially for only that portion of the annuity based upon the credited
25 service in the plan or system.

26 (3) The final average compensation on which benefits shall be
27 determined shall be based on the period of total credited service for the
28 named plans, the Teacher Retirement System, and the Arkansas State Highway
29 Employees' Retirement System, with each plan or system computing the final
30 average compensation by the method as determined by its laws. *Compensation*
31 *for credited service in the Arkansas Judicial Retirement System shall not be*
32 *used to determine final average compensation.*

33 (4) The final average compensation for persons receiving
34 benefits from the Arkansas State Highway Employees' Retirement System shall
35 be based on the final average compensation at the date of termination of

1 employment covered by that system.

2 (5) The benefit program to be applied to each portion of
3 credited service shall be the benefit program in effect in each plan or
4 system at the time of retirement.

5 (b)(1) Upon the retirement on disability or death-in-service of a
6 member of either the Arkansas Public Employees' Retirement System, the
7 Arkansas Teacher Retirement System, the Arkansas State Highway Employees'
8 Retirement System, the Arkansas Judicial Retirement System, or the Arkansas
9 State Police Retirement System who has credited service in more than one of
10 the plans, an annuity shall be payable based upon his total credited service
11 with all systems in force at the time of retirement, with each system being
12 responsible for the payment of such disability or death-in-service benefits
13 as provided by the applicable provisions of each system's laws.

14 (2) If the greatest benefit payable to a survivor is a minimum
15 percent of the deceased member's final pay or a minimum dollar amount, then
16 each reciprocal system that has a minimum benefit provision in its plan shall
17 only pay a proportionate share of the minimum amount based on the ratio of
18 service in the system to the total service in all reciprocal systems.

19 (3) A member who dies in service while a member of one (1)
20 reciprocal system shall be considered as currently employed by all systems in
21 which the member has credited service at the time of death.

22 (c) Any person retiring on or after July 1, 1982, with credited
23 service in more than one (1) reciprocal system shall have his benefits
24 recomputed based on the provisions of this section.

25 (d) It is the intent of this section to provide reciprocal service
26 credits, as provided by §§ 24-2-401 - 24-2-405, between contributory and
27 noncontributory members of the Arkansas Public Employees' Retirement System,
28 the Arkansas Teacher Retirement System, the Arkansas Judicial Retirement
29 System, the Arkansas State Highway Employees' Retirement System, and the
30 Arkansas State Police Retirement System."

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32 SECTION 4. All provisions of this act of general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

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1 SECTION 5. If any provisions of this act or the application thereof to
2 any person or circumstance is held invalid, the invalidity shall not affect
3 other provisions or applications of the act which can be given effect without
4 the invalid provisions or application, and to this end the provisions of this
5 act are declared to be severable.

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

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10 SECTION 7. Emergency. It is hereby found and determined by the
11 Eightieth General Assembly of the State of Arkansas that the Arkansas
12 Judicial Retirement System is not a reciprocal system with other state
13 supported retirement systems; that this creates an inequitable situation for
14 public officials are members of the Judicial Retirement System and who later
15 become members of another state supported retirement system; and that it is
16 necessary to change the laws of Arkansas to correct this inequity.
17 Therefore, in order to promote equity between the public retirement systems
18 of Arkansas, an emergency is hereby declared to exist, and this act being
19 necessary for the immediate preservation of the public peace, health, and
20 safety, shall be in full force and effect from and after its passage and
21 approval.

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/s/Bookout

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