

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: S2/12/97 S2/27/97 S3/10/97 S3/20/97

A Bill

SENATE BILL 236

5 By: Senator Hopkins and Representative Whorton
6
7

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 24-5-118 TO REMOVE A
10 RETIREMENT OPTION NO LONGER AVAILABLE AND TO PROVIDE FOR
11 SPOUSAL BENEFITS UPON THE DEATH OF A RETIRANT; TO DECLARE
12 AN EMERGENCY; AND FOR OTHER PURPOSES."
13

Subtitle

14 "TO REMOVE A RETIREMENT OPTION NO LONGER
15 AVAILABLE AND TO PROVIDE FOR SPOUSAL
16 BENEFITS UPON THE DEATH OF A RETIRANT."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code 24-5-118 is amended to read as follows:

23 24-5-118. Benefits - Annuity options.

24 (a) Before the date the first payment of an annuity becomes due, but
25 not thereafter, a person about to become a retirant may elect, in lieu of a
26 straight life annuity as set forth in [§] 24-5-115, to have the annuity reduced
27 and to nominate a beneficiary, as provided by Option A or Option B, ~~or a~~
28 ~~spouse in Option C.~~

29 (1) Option A. (A) Under Option A, an annuity payable to the
30 retirant shall be reduced to ninety percent (90%) of the annuity otherwise
31 payable and shall be paid to the retirant for life or for one hundred twenty
32 (120) monthly payments, whichever is longer.

33 (B) If the retirant dies before having received one hundred
34 twenty (120) monthly payments of the reduced annuity, the reduced annuity to
35 which the retirant would have been entitled, if living, shall be paid for the
36 remainder of the one hundred twenty-month period to such person as the

1 deceased retirant shall have nominated by written designation, duly executed
2 and filed with the Board of Trustees of the Arkansas State Highway Employees'
3 Retirement System.

4 (C) If the beneficiary does not survive the retirant, the
5 retirant may name another beneficiary, or failing to name a beneficiary, the
6 annuity reserve for the annuity for the remainder of the one hundred
7 twenty-month period shall be paid to the retirant's estate.

8 (D) If the beneficiary survives the retirant but dies
9 before the end of the one hundred twenty-month period, the annuity reserve for
10 the annuity for the remainder of the one hundred twenty-month period shall be
11 paid to the beneficiary's designated beneficiary.

12 (2) Option B. (A)(i) Under Option B, an annuity payable to the
13 retirant shall be reduced to eighty-five percent (85%) of the annuity
14 otherwise payable if the retirant's age and his beneficiary's age are the same
15 on the first payment due date, and the annuity shall be decreased by one-half
16 of one percent (0.5%) for each year, or fraction thereof, that the
17 beneficiary's age is less than the retirant's age, or shall be increased by
18 one-half of one percent (0.5%), up to a maximum of ninety-five percent (95%),
19 for each year, or fraction thereof, that the beneficiary's age is more than
20 the retirant's age.

21 (ii) Upon the retirant's death, one-half (1/2) of the
22 reduced annuity to which the retirant would have been entitled, if living,
23 shall be paid to the surviving beneficiary for the remainder of his life, if
24 the beneficiary was either the retirant's spouse for at least two (2) years
25 immediately preceding the first payment due date of the retired member's
26 annuity or another person age forty (40) years or older on such first payment
27 due date receiving more than one-half (1/2) of his support from the retirant
28 for at least two (2) years immediately preceding the first payment due date of
29 the retired member's annuity.

30 (iii) If both the retirant and his named beneficiary die
31 before the annuity payments have amounted to the sum of the member's
32 accumulated contributions and interest that is vested at the date of
33 retirement, the difference between the benefits paid and the member's
34 contribution account at the date of retirement shall be paid to the estate of
35 the person to whom the last annuity preceding death was paid.

36 (iv) If no annuities had been paid prior to the member's

1 death, then the balance in the member's account shall be paid to the member's
2 estate.

3 (B)(i) Should the eligible beneficiary of a member retirant
4 who selected Option B predecease the member retirant, or if divorce or other
5 marriage dissolution occur, or should the beneficiary who is not a spouse
6 cease to be a qualified beneficiary, then the retirant, by written
7 notification to the Arkansas State Highway Employees' Retirement System, may
8 cancel Option B chosen at retirement and return to a straight life annuity, to
9 be effective the month following receipt of the notification by the system.

10 (ii) The straight life annuity so elected shall then be the
11 amount of the Option B annuity at the date of notification, less any increase
12 that is excluded from the base annuity, multiplied by a fraction, the
13 numerator of which is one hundred (100) and the denominator of which is the
14 percentage of the straight life annuity that the retirant received at the date
15 of retirement, plus the non-base increase that was excluded in the
16 computation. The effect of the foregoing shall be that the retirant's monthly
17 annuity, after cancellation of Option B, shall be the same amount that it
18 would have been had a straight life annuity been selected at the date of
19 retirement.

20 (iii) No further changes in benefit options for retirants
21 shall be permitted.

22 ~~(3) Option C. (A)(i) Retirants who retired prior to March 10, 1971, and~~
23 ~~who have been married to their present spouses for no less than sixteen (16)~~
24 ~~years on March 10, 1985, may elect to cancel their straight life annuity by~~
25 ~~written notification to the system no later than six (6) months following July~~
26 ~~1, 1985, and elect Option C.~~

27 ~~(ii) The annuity for this option shall be effective from the first day~~
28 ~~of the month following receipt of notification of electing Option C.~~

29 ~~(iii) Under Option C, the annuity payable to the retirant for the month~~
30 ~~preceding the electing of this option shall be reduced to eighty-five percent~~
31 ~~(85%) if the retirant's date of birth and the retirant's spouse's date of~~
32 ~~birth are identical and shall be decreased by one-half of one percent (0.5%)~~
33 ~~for each year, or fraction thereof, that the retirant's spouse's age is less~~
34 ~~than the retirant's age, or shall be increased by one-half of one percent~~
35 ~~(0.5%), up to a maximum of ninety-five percent (95%), for each year, or~~
36 ~~fraction thereof, that the retirant's spouse's age is more than the retirant's~~

1 age.

2 ~~—— (iv) Upon the retirant's death, one-half (1/2) of the reduced monthly~~
3 ~~annuity that the retirant was receiving shall be paid to the beneficiary~~
4 ~~spouse for the remainder of his life.~~

5 ~~—— (B)(i) Should the eligible beneficiary spouse predecease the member~~
6 ~~retirant or if divorce or other marriage dissolution should occur, then the~~
7 ~~retirant may, by written notification to the system, cancel Option C and~~
8 ~~return to a straight life annuity, to be effective the month following receipt~~
9 ~~of the notification by the system.~~

10 ~~—— (ii) The straight life annuity so elected shall then be the amount of~~
11 ~~Option C at the date of notification, less any increase that is excluded from~~
12 ~~the base annuity after the month Option C was elected, multiplied by a~~
13 ~~fraction, the numerator of which is one hundred (100) and the denominator of~~
14 ~~which is the percentage of the annuity that the retirant received when first~~
15 ~~electing Option C, plus the non-base increase that was excluded in the~~
16 ~~computation.~~

17 ~~—— (iii) The retirant's monthly annuity, after cancellation of Option C,~~
18 ~~shall thus be the same amount that it would have been had Option C not been~~
19 ~~selected.~~

20 ~~—— (C) The base annuity for those selecting Option C shall be the amount~~
21 ~~of the reduced annuity first received under Option C, plus any subsequent~~
22 ~~increases that are added to this amount before the consumer price index~~
23 ~~increase as provided for in ^A 24-5-119(a) is applied.~~

24 ~~—— (b)(1) If a member has accrued ten (10) years of creditable service but~~
25 ~~dies before he has retired or become eligible to retire and to exercise an~~
26 ~~option, his beneficiary may elect either to withdraw the deceased member's~~
27 ~~accumulated contributions, with interest, or to leave the contributions on~~
28 ~~deposit and, on the earliest date the deceased member would have become~~
29 ~~eligible for voluntary retirement, with the creditable service at the date of~~
30 ~~death, exercise either Option A or Option B and receive the annuity applicable~~
31 ~~under the chosen option. However, the annuity paid or payable to the~~
32 ~~beneficiary electing Option A shall be for not more than one hundred twenty~~
33 ~~(120) months.~~

34 ~~—— (2) If the member's named beneficiary elects Option A and dies before the~~
35 ~~end of the one hundred twenty-month period, the annuity reserve for the~~
36 ~~annuity for the remainder of the one hundred twenty-month period shall be paid~~

1 ~~in a lump sum to the beneficiary's estate.~~

2 ~~— (3) If the member's named beneficiary elects Option B and dies before the~~
3 ~~annuity payments have amounted to the sum of the member's accumulated~~
4 ~~contribution account at the date of the first annuity payment, the difference~~
5 ~~between the benefits received by the beneficiary and the contribution account~~
6 ~~shall be paid in a lump sum to the beneficiary's estate.~~

7 (b) If an active member with five (5) or more years of credited
8 service, including credited service for the year immediately preceding his
9 death, dies in employer service before retirement, the applicable benefits
10 provided in this section shall be paid upon written application to the board.

11 It is the intent of this section to include all surviving spouses or
12 beneficiaries, regardless to the time of the death of the member.

13 (c) The effective date of the benefits provided in this section shall
14 in no event be prior to the first day succeeding the members death.

15 (d) A members surviving spouse, who was married to the member at least
16 the one (1) year immediately preceding his death, shall receive an annuity
17 computed in the same manner in all respects as if the member had:

18 (1) Retired the date of his death with entitlement to an annuity
19 provided for in § 24-5-115;

20 (2) Elected the Option A survivor annuity provided for in § 24-5-
21 118(a)(1); and

22 (3) Nominated his spouse as joint beneficiary provided for in §
23 24-5-118(a)(2)(A).

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25 SECTION 2. No benefit enhancement provided for by this act shall be
26 implemented if it would cause the publicly supported retirement systems
27 unfunded actuarial accrued liabilities to exceed a thirty (30) year
28 amortization. No benefit enhancement provided for by this act shall be
29 implemented by any publicly supported system which has unfunded actuarial
30 accrued liabilities being amortized over a period exceeding thirty (30) years
31 until the unfunded actuarial accrued liability is reduced to a level less than
32 the standards prescribed by § 24-1-101 et seq.

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34 SECTION 3. All provisions of this act of a general and permanent nature
35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
36 Revision Commission shall incorporate the same in the Code.

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

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

SECTION 6. EMERGENCY. It is found and determined by the General Assembly of the State of Arkansas that Arkansas Code 24-5-118 contains language describing a retirement option that is no longer available and does not set forth the spouses benefits upon the death of the retirant. Therefore, in order to more effectively administer retirement funds an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

/s/Hopkins