

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

SENATE BILL 386

4
5 By: Senator Mahony
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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 24-10-602 TO EXTEND
10 THE LOCAL POLICE AND FIRE RETIREMENT SYSTEM (LOPFI)
11 TEMPORARY ANNUITY BENEFIT UNTIL THE AGE THAT UNREDUCED
12 SOCIAL SECURITY BENEFITS ARE PAID AND TO ELIMINATE THE
13 SOCIAL SECURITY DISABILITY REIMBURSEMENT REQUIREMENT;
14 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

16 "TO EXTEND THE LOPFI TEMPORARY ANNUITY
17 BENEFIT UNTIL THE AGE THAT UNREDUCED
18 SOCIAL SECURITY BENEFITS ARE PAID AND TO
19 ELIMINATE THE SOCIAL SECURITY
20 REIMBURSEMENT REQUIREMENT."
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 24-10-602 is amended to read as follows:

27 "24-10-602. Annuity generally.

28 (a) Upon a member's retirement, he shall receive an annuity for life in
29 accordance with the applicable benefit program elected by his employer, as
30 follows:

31 (1) Benefit program 1.

32 (A)(i) For each year of paid service resulting from
33 employment in a position not also covered by social security, two percent (2%)
34 of his final average pay; plus

35 (ii) For each year of paid service resulting from
36 employment in a position also covered by social security, one percent (1%) of

1 his final average pay.

2 (B)(i) In addition, if the member is retiring, as provided
 3 in § 24-10-604, § 24-10-605, § 24-10-606, or § 24-10-607, and if the member's
 4 age at retirement is less than social security's minimum age for an immediate
 5 unreduced retirement benefit ~~and age sixty-two (62) years~~, then the member
 6 shall receive a temporary annuity equal to one percent (1%) of his final
 7 average pay for each year of paid service resulting from employment in a
 8 position also covered by social security. The provisions of this section that
 9 allow a member who retires as provided in § 24-10-607, whose employment was
 10 also covered by social security, and who is thereby eligible for a temporary
 11 annuity, shall be applied retroactively to all persons who retired under those
 12 circumstances on or after October 1, 1989.

13 (ii) The temporary annuity shall terminate at the end
 14 of the calendar month in which the ~~earliest~~ earlier of the following events
 15 occurs:

- 16 (a) The member's death; or
- 17 (b) His attainment of ~~the social security~~
 18 security's minimum age for an immediate unreduced retirement benefit; ~~or~~
- 19 ~~(c) His attainment of age sixty-two (62) years.~~

20 (iii) As a condition of awarding the temporary
 21 annuity for members retiring under § 24-10-607, the board shall require the
 22 disabled member to file any and all appropriate forms and pleadings with the
 23 Social Security Administration, and pursue through the administrative process
 24 a disability determination. The board shall condition the payment of the
 25 temporary annuity that, in the event the disabled member is awarded disability
 26 benefits under the federal Social Security Act, the temporary annuity shall
 27 terminate ~~and that the member shall reimburse the system an amount equal to~~
 28 ~~the after-tax benefits received from social security for the period the member~~
 29 ~~has received the temporary annuity. Provided, that the amount of any~~
 30 ~~reimbursement shall not exceed the total amount of the actual payments~~
 31 ~~received by the member prior to the award of the social security disability~~
 32 ~~benefits.~~

33 (2) Benefit Program 2.

34 (A)(i) For each year of paid service resulting from
 35 employment in a position not also covered by social security, two percent (2%)
 36 of his final average pay; plus

1 (ii) For each year of paid service, rendered on or
 2 after the election date of Benefit Program 2, resulting from employment in a
 3 position also covered by social security, two percent (2%) of his final
 4 average pay.

5 (B) For each year of paid service, rendered before the
 6 election date of Benefit Program 2, resulting from employment in a position
 7 also covered by social security, one percent (1%) of his final average pay.

8 (C)(i) In addition, if the member is retiring, as provided
 9 in § 24-10-604, § 24-10-605, § 24-10-606, or § 24-10-607, and if the member's
 10 age at retirement is less than social security's minimum age for an unreduced
 11 immediate retirement benefit ~~and age sixty-two (62) years~~, then the member
 12 shall receive a temporary annuity equal to one percent (1%) of his final
 13 average pay for each year of paid service, rendered before the election date
 14 of Benefit Program 2, resulting from employment in a position also covered by
 15 social security. The provisions of this section that allow a member who
 16 retires as provided in § 24-10-607, whose employment was also covered by
 17 social security, and who is thereby eligible for a temporary annuity, shall be
 18 applied retroactively to all persons who retired under those circumstances on
 19 or after October 1, 1989.

20 (ii) The temporary annuity shall terminate at the end
 21 of the calendar month in which the ~~earliest~~ earlier of the following events
 22 occurs:

- 23 (a) The member's death; or
- 24 (b) His attainment of ~~the social security~~
 25 security's minimum age for an immediate unreduced retirement benefit; ~~or~~
- 26 ~~(c) His attainment of age sixty-two (62) years.~~

27 (iii) As a condition of awarding the temporary
 28 annuity for members retiring under § 24-10-607, the board shall require the
 29 disabled member to file any and all appropriate forms and pleadings with the
 30 Social Security Administration, and pursue through the administrative process
 31 a disability determination. The board shall condition the payment of the
 32 temporary annuity that, in the event the disabled member is awarded disability
 33 benefits under the federal Social Security Act, the temporary annuity shall
 34 terminate ~~and that the member shall reimburse the system an amount equal to~~
 35 ~~the after-tax benefits received from social security for the period the member~~
 36 ~~has received the temporary annuity. Provided, that the amount of any~~

1 reimbursement shall not exceed the total amount of the actual payments
 2 received by the member prior to the award of the social security disability
 3 benefits.

4 (D) A member who has paid service rendered before the
 5 election date of Benefit Program 2 resulting from employment in a position
 6 also covered by social security may have said paid service treated as though
 7 the paid service had been rendered after the election date of Benefit Program
 8 2 by paying to the system, by a single contribution or by an increased rate of
 9 contributions, as approved by the board, the amounts which the member would
 10 have contributed under § 24-10-404 if said paid service had resulted from
 11 employment in a position not also covered by social security, together with
 12 regular interest to the date of payment;

13 (3) As used in subdivisions (a)(1) and (a)(2) of this section,
 14 social security's minimum age for an immediate unreduced retirement benefit
 15 means one of the following:

16 (A) If the member is retiring as provided in § 24-10-607 and
 17 is in receipt of a disability benefit under the federal Social Security Act,
 18 the age when the social security disability benefit becomes effective; or

19 (B) If the member's retirement is effective before July 1,
 20 1999 as provided in § 24-10-604, § 24-10-605, or § 24-10-606, age sixty-two
 21 (62) years; or

22 (C) If the member's retirement is effective on or after July
 23 1, 1999 as provided in § 24-10-604, § 24-10-605, or § 24-10-606, the minimum
 24 age for the member's receipt of an immediate unreduced social security old age
 25 benefit.

26 ~~(3)(4)~~ In no event shall the total of the amounts computed
 27 pursuant to subdivisions (a)(1) and (2) of this section exceed, at the time of
 28 retirement, eighty percent (80%) of the final average pay, plus the amounts
 29 provided in subdivision ~~(a)(4)~~ (a)(5) of this section for volunteer service;

30 ~~(4)(5)~~ (A) For retirements effective before July 1, 1991, annuity
 31 amounts based upon volunteer service shall be in accordance with system
 32 provisions in force before July 1, 1991.

33 (B)(i) For retirements effective July 1, 1991, and the
 34 twelve (12) calendar months thereafter, the monthly annuity amount for each
 35 year of volunteer service shall be three dollars (\$3.00), to a maximum of one
 36 hundred twenty dollars (\$120) monthly for all volunteer service.

1 (ii) For retirements effective in the twelve (12)
2 calendar months beginning July 1 thereafter, the monthly annuity amount for
3 each year of volunteer service shall be three dollars (\$3.00), increased by
4 any percentage increase in the inflation index for the period from December
5 1990 to the December immediately preceding the July 1, to a maximum for all
6 volunteer service of one hundred twenty dollars (\$120) monthly similarly
7 increased by any percentage increase in the inflation index.

8 (b) If each portion of a member's credited service is not covered by
9 the same benefit program, then his total annuity for life shall be the total
10 of the annuity for life determined under each applicable benefit program.

11 (c) Each employer shall have the credited service of each of its
12 members covered by Benefit Program 1, as provided for in this section, unless
13 such employer shall have elected another benefit program provided for in this
14 section.

15 (d)(1) Each political subdivision may, by majority vote of its
16 governing body, elect from time to time to cover its members who retire in the
17 future under one (1) of the benefit programs provided for in this section.

18 (2) The clerk or secretary of the governing body of the political
19 subdivision shall certify, in a manner and form acceptable to the board, the
20 election of the benefit program to the board within ten (10) days of the vote.

21 (3) The effective date of the political subdivision's benefit
22 program is the first day of the calendar month specified by such governing
23 body, or the first day of the calendar month next following receipt by the
24 board of the certification of election of benefit program, or the effective
25 date of the political subdivision's becoming an employer, whichever is the
26 latest date.

27 (4) Such election of benefit program may be changed from time to
28 time by such vote, but not more often than biennially.

29 (5) If such changed benefit program provides smaller annuities
30 for life than the benefit program previously in effect, then such changed
31 benefit program shall be applicable only to credited service for employment
32 rendered from and after the effective date of such change.

33 (e) Should an employer change its election of benefit program as
34 provided in this section, the employer contributions shall be correspondingly
35 changed effective the same date as the benefit program change.

36 (f) The limitation on increases in an employer's contribution provided

1 by § 24-10-405(h) shall not apply to any contribution increase resulting from
 2 an employer's electing a benefit program which provides larger annuities, and
 3 shall not apply to any contribution increase resulting from the extension of
 4 the payment period for the temporary benefit applicable to retirements on or
 5 after July 1, 1999 as provided in subdivisions (a)(1), (a)(2), and (a)(3) of
 6 this section."

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 8 SECTION 2. No benefit enhancement provided for by this act shall be
 9 implemented if it would cause the publicly supported retirement system's
 10 unfunded actuarial accrued liabilities to exceed a thirty (30) year
 11 amortization. No benefit enhancement provided for by this act shall be
 12 implemented by any publicly supported system which has unfunded actuarial
 13 accrued liabilities being amortized over a period exceeding thirty (30) years
 14 until the unfunded actuarial accrued liability is reduced to a level less than
 15 the standards prescribed by Arkansas Code, Title 24.

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

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

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

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 30 SECTION 6. EMERGENCY CLAUSE. It is hereby found and determined by the
 31 Eighty-second General Assembly that an earlier cutoff of the temporary
 32 annuities provided for by the Local Police and Fire Retirement System can
 33 force a retiree to take an earlier Social Security retirement benefit than
 34 they would otherwise choose, that extending these annuities until a later age
 35 will give more flexibility to the police officers and fire fighters to plan
 36 the age at which they wish to retire, and that the most administratively

efficient time to make changes to retirement system laws is with the beginning of the State's fiscal year. Therefore, 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 July 1, 1999.

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