

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 1231

5 By: Representative R. Smith
6
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS DISTRICT JUDGE'S
10 RETIREMENT SYSTEM; TO CLOSE THE MUNICIPAL JUDGES
11 AND CLERKS RETIREMENT SYSTEMS; AND FOR OTHER
12 PURPOSES.
13

Subtitle

15 TO CREATE THE ARKANSAS DISTRICT JUDGE'S
16 RETIREMENT SYSTEM.
17
18

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

21 SECTION 1. Arkansas Code Title 24, Chapter 8, is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 8. District Judge's Retirement System.

24 24-8-801. Public policy.

25 (a) It is declared to be the state's public policy that District
26 Judges and former Municipal Judges may retire or be retired when that course
27 appears to be in the best interest of the official concerned and for the
28 public welfare.

29 (b) Factors to considered for retirement are:

30 (A) Physical disability;

31 (B) Advanced age; or

32 (C) Other infirmities calculated to materially impair the
33 conduct judicial duties.

34 (c) The Arkansas District Judge Retirement System is established under
35 this subchapter to provide sufficient retirement and survivors' benefits for
36 the District Judges of the state to attract and retain highly capable members



1 of the legal profession for service in the state judiciary.

2
3 24-8-802. Definitions.

4 As used in this subchapter:

5 (1) "Board" means the Board of Trustees of the Arkansas District
6 Judge's Retirement System;

7 (2) "Municipal judge retirement fund" means a local Municipal Judge
8 and Clerk Retirement Fund established by a local government under Arkansas
9 Code Title 24, Chapter 8, Subchapters 3, 4, or 5;

10 (3) "System" means the Arkansas District Judge's Retirement System.

11
12 24-8-803. Board of trustees.

13 (a) The administration and control of the Arkansas District Judge
14 Retirement System is vested the Board of Trustees of the Arkansas District
15 Judge Retirement System.

16 (b)(1) The members of the board shall be five (5) persons appointed by
17 the Arkansas District Judges' Council.

18 (2) The members shall serve at the pleasure of the council.

19 (3) One (1) of the members shall be elected by the board to
20 serve as chairman.

21 (c) The duties of the board are to:

22 (1) Make all rules and regulations to implement this subchapter;

23 (2) Provide administrative direction and control of the
24 executive director and staff as necessary;

25 (3) Appoint an actuary, or firm of actuaries, to be a technical
26 advisor to the board on the operation of the system on an actuarial basis;

27 (4) Assign duties to the actuary to perform; and

28 (5) Appoint professional investment counsel to be the board's
29 investment advisor and money manager.

30 (d) The board shall meet at least once during a calendar quarter and
31 at other times as necessary at the call of the chairman.

32 (e) The board shall serve without pay but may receive expense
33 reimbursement of actual expenses as state employees under § 25-16-902.

34
35 24-8-804. Administration.

36 (a)(1) The executive director and administrative staff of the Arkansas

1 Public Employees' Retirement System shall be the Executive Director and
 2 administrative staff of the Arkansas District Judge Retirement System.

3 (2) The administrative records of the system shall be maintained
 4 within the administrative offices of the Arkansas Public Employees Retirement
 5 System.

6 (b) All costs of administering the system shall be paid from the
 7 system, but no payment for the expenses shall be made unless authorized by
 8 the board of trustees.

9 (c) There will be an initial grant from the state treasury to
 10 establish the administrative systems, personnel needs, and establish a trust
 11 fund.

12
 13 24-8-805. Trust fund.

14 (a) In addition to the Arkansas District Judge Retirement System in
 15 the State Treasury, a bank trust fund or funds may be established and
 16 maintained in a federally insured depository institution designated by the
 17 board of trustees of the system.

18 (b) The board shall be the trustees of the funds, subject to the other
 19 provisions of this subchapter and may employ professional investment counsel
 20 with authority to execute transactions.

21 (c) The funds of the system shall be invested and reinvested in
 22 accordance with the following procedure:

23 (1) From time to time the board shall formulate the policy to be
 24 followed in future investment activity;

25 (2) If the board employs investment counsel with authority to
 26 execute transactions, the counsel or money manager shall have full power to
 27 hold, purchase, sell, assign, transfer, or dispose of any of the moneys or
 28 investments of the system under this subchapter and under the investment
 29 policy of the board;

30 (3) At least semiannually, the investment counsel shall file
 31 with the board a written report setting forth, for the period since its last
 32 report, all investments purchased and sold, all receipts and disbursements,
 33 and any other transactions concerning system moneys;

34 (4) At each regular meeting, the board shall examine each
 35 written report received from the investment counsel since the last regular
 36 meeting;

1 (5) The board may direct a specific investment activity and
 2 shall be fully responsible for the direction; and

3 (6) Investment activity shall be subject to the terms,
 4 conditions, limitations, and restrictions imposed by law upon state public
 5 employee retirement plans in the making and disposing of their investments.

6
 7 24-8-806. Annual actuarial valuation.

8 An actuarial valuation shall be made annually to determine if the
 9 Arkansas District Judge Retirement System is meeting the financial objectives
 10 of state-supported retirement systems.

11
 12 24-8-807. Membership generally.

13 (a) If elected or appointed to office, all District Court Judges shall
 14 participate in the Arkansas District Judge Retirement System beginning
 15 January 1, 2005.

16 (b)(1) A District Court Judge who is covered by the Arkansas Public
 17 Employees Retirement System on December 31, 2004 will continue to be covered
 18 by that system on January 1, 2005.

19 (2) The successor judge of that district court shall be covered
 20 by the Arkansas District Judge Retirement System.

21 (c)(1) Any former municipal judge who is eligible to receive a
 22 retirement benefit for service as municipal judge, as provided by law prior
 23 before the effective date of this subchapter, and any former municipal judge
 24 who is receiving a retirement benefit as provided by law for service as
 25 municipal judge shall participate, on and after January 1, 2005, in the
 26 Arkansas District Judge Retirement System and have their benefits
 27 administered by this system.

28 (2) A surviving spouse of a municipal judge who is eligible to
 29 receive a survivor's benefit, as provided by law on December 31, 2004, and
 30 any surviving spouse of a municipal judge who is receiving a retirement
 31 benefit as provided by law shall participate, on and after January 1, 2005,
 32 in the Arkansas District Judge Retirement System and have their benefit
 33 administered by this system.

34
 35 24-8-808. Contributions - Members - Refund.

36 (a) The contribution of each member of the Arkansas District Judge

1 Retirement System shall be five percent (5%) of each member's annual salary
 2 for service rendered on or after January 1, 2005.

3 (b) If a District judge ceases to be a member prior to qualifying for
 4 retirement benefits, the judge shall be refunded all contributions paid by
 5 the judge into the system.

6 (c)(1) For purposes of deferring federal and state income tax and
 7 pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code,
 8 26 U.S.C. § 414(h) (2), as adopted by § 26-51-414, the government entity
 9 which pays the salary of the judge shall pick up the members' contributions
 10 to the District Judge Retirement Fund as required by this section and payable
 11 on or after January 1, 2005.

12 (2)(A) Member contributions paid by the applicable government
 13 entity shall be paid from the same source of funds used for the payment of
 14 salary to a member.

15 (B) A deduction shall be made from each member's salary,
 16 equal to the amount of the member's contribution paid by the employer.

17 (3) For all other purposes, member contributions paid by the
 18 applicable government entity shall be considered member contributions.

19
 20 24-8-809. Contributions - Government Entity

21 (a)(1) The government entity which pays the salary of a District
 22 Judge, as employer, shall make contributions to the Arkansas District Judge
 23 Retirement System as a percent of the salary of the active District Judge
 24 based on the most recent actuarial cost report.

25 (2) These contributions will begin January 1, 2005.

26 (b)(1) If any participating public employer fails to file with the
 27 system the retirement report by the date established by the board, the system
 28 shall impose a penalty of one hundred fifty dollars (\$150) for each time the
 29 report is late.

30 (2) A statement of the penalty shall be sent to the
 31 participating employer.

32 (3) If the penalty is not received by the last business day of
 33 the month in which the report was due, then the system shall cause the amount
 34 to be transferred from any moneys due the participating public employer from
 35 the office of the Treasurer of State or the Department of Education as
 36 provided in § 19-5-106(a)(5).

24-8-810. Additional funding for retirement benefits.

(a) The government entity that has established a local municipal judge's retirement fund shall be required to contribute an amount of money that represent the actuarially determined accrued liability for those judges and former judges who are covered by the local fund on December 31, 2004.

(b) The assets in the local municipal judge retirement fund, not to exceed the amount in subsection (a) of this section, shall be paid to the Arkansas District Judges Retirement System on January 1, 2005.

(c) If the local municipal judge retirement fund does not have sufficient money available to pay the amount determined in subsection (a) of this section to the system on January 1, 2005, then the remaining amount of actuarially determined accrued liability shall be paid on or before December 31 each year after for up to the next fifteen (15) years based on a fifteen-year amortization period.

(d) If the amount in the municipal judge retirement fund is greater than the actuarially determined amount of the liabilities to be transferred to the Arkansas District Judges Retirement System, that excess may be retained by the sponsoring government entity for the sole purpose of paying for the retirement benefits of District Court Judges.

(e) The accrued benefit used to determine the accrued liability under this section shall be determined by:

(1) Calculating the benefit that the judge would be eligible to receive on December 31, 2004, as provided by law before the effective date of this subchapter, if the judge were eligible to begin receiving benefits on January 1, 2005;

(2) The amount in subdivision (e)(1) of this section is multiplied by number of years of eligible service and then divided by the greater of the number of years of service needed to be eligible to retire and the current years of eligible service.

(3) The service years are determined under law before the effective date of this subchapter.

24-8-811. Contributions - Cessation upon maximum benefit eligibility.

When a District judge has sufficient service in the system to qualify for the maximum benefit provided by this subchapter, no further contributions

1 are required.

2
3 24-8-812. Actual service requirement.

4 (a) Benefits under this subchapter shall be based on actual service in
5 the Arkansas District Judge Retirement System beginning January 1, 2005.

6 (b)(1) Eligibility for benefits will be based on actual service in the
7 Arkansas District Judge Retirement System plus the equivalent service
8 purchased from the Municipal Judge and Clerk Retirement System as of January
9 1, 2005.

10 (2) This subchapter is not intended to decrease the benefits
11 earned or increase the eligibility requirements for members who were
12 participants in a local plan, as authorized by law, prior to January 1, 2005.

13 (3) The benefits earned and those eligibility requirements shall
14 transfer to the Arkansas District Judge Retirement System.

15
16 24-8-813. Eligibility for benefits - Retirement generally.

17 Any district judge shall be eligible for a retirement benefit if the
18 judge has served at least:

19 (1) Twenty (20) years upon reaching age fifty (50);

20 (2) Sixteen (16) years upon reaching age sixty (60); or

21 (3) Eight (8) years upon reaching age sixty-five (65).

22
23 24-8-814. Eligibility for benefits - Early retirement.

24 (a) Any member of the Arkansas District Judge Retirement System who
25 has eight (8) years or more of actual service in the system may elect to
26 retire and receive retirement benefits at any time after reaching age
27 sixty-two (62) and before reaching age sixty-five (65).

28 (b) The retirement benefits of a member electing to retire before age
29 sixty-five (65) with less than sixteen (16) years of actual service shall be
30 reduced six percent (6%) for each full year, and proportionately for any part
31 of a year that the judge retires before reaching age sixty-five (65).

32
33 24-8-815. Eligibility for benefits - Disability retirement.

34 (a) Any member of the Arkansas District Judge Retirement System who
35 has served a minimum of five (5) consecutive years as a member of the system
36 shall receive retirement benefits if any incapacitating disability as

1 determined by the Board of Trustees of the system shall occur during any term
 2 for which the judge has been elected.

3 (b)(1) A judgment of disability shall not be granted by the board
 4 unless the board is reasonably assured of a judge's permanent physical or
 5 mental incapacity to perform the duties of the judicial office.

6 (2) The board shall act only upon proper certification of
 7 incapacity by two (2) or more physicians.

8
 9 24-8-816. Retirement and survivors' benefits generally.

10 (a) The retirement benefits to be paid an eligible and qualified
 11 member or retiree under this subchapter shall be the sum of subdivisions
 12 (a)(1) and (2) of this section:

13 (1) Two and five-tenths percent (2.5%) of average annual salary
 14 multiplied by the number of years of actual service;

15 (2) The accrued benefit from the municipal judge retirement
 16 funds as of December 31, 2004 that was purchased and defined under § 24-8-
 17 810.

18 (b) The benefit in subsection (a) of this section shall not exceed
 19 eighty percent (80%) of average annual salary.

20 (c)(1) Survivors' benefits shall be fifty percent (50%) of the amount
 21 of the retirement benefits.

22 (2) Upon the death of an active district judge who has served at
 23 least three (3) years, the judge's survivors shall receive a sum equal to
 24 fifty percent (50%) of the retirement benefits provided in subsection (a) of
 25 this section.

26 (3) Survivors' benefits shall be payable as follows:

27 (A) If the deceased judge is survived by a spouse to whom
 28 the judge was married for not less than one (1) year and with whom the judge
 29 was living at the time of death, and if the decedent is not survived by any
 30 minor child or children, then the spouse shall draw for life or until
 31 remarriage a sum equal to fifty percent (50%) of the benefits provided in
 32 subsection (a) of this section;

33 (B)(i) If the decedent is survived by both an eligible
 34 spouse and minor children, then one-half (1/2) of the survivors' benefits
 35 shall be paid to the spouse for life or until remarriage;

36 (ii) The other one-half (1/2) of the survivors'

1 benefits shall be paid to the guardian of the minor children during the
 2 period of minority;

3 (iii) When all of the children cease to be minors,
 4 then the survivors benefits paid to the minor children shall be paid to the
 5 spouse; and

6 (C) If the deceased judge is not survived by an eligible
 7 spouse but is survived by minor children, then the survivors' benefits under
 8 subsection (a) of this section, shall be payable to the guardian of the minor
 9 children during the period of minority.

10 (d) Average annual salary as used in this section is the average of
 11 the last three (3) years salary ending with the most current year.

12
 13 24-8-817. Eligibility for benefits – Deferred vested retirement.

14 (a) Any member of the Arkansas District Judge Retirement System who
 15 has served a minimum of eight (8) years of service shall be eligible for a
 16 deferred vested retirement benefit.

17 (b) This deferred vested benefit is accrued under § 24-8-816 and is
 18 payable beginning on the first of the month after the member has reached the
 19 age of sixty-five (65).

20
 21 24-8-818. Restrictions on benefits.

22 (a) The sections of this subchapter are complementary, except no
 23 person may take benefits under two (2) or more sections of this subchapter at
 24 the same time.

25 (b) Retirement and survivors' benefits shall be measured by the
 26 average annual salary under § 24-8-816(d).

27
 28 24-8-819. Redetermination of benefits.

29 (a) The provisions of this subsection shall only apply to benefits
 30 provided for members of the Arkansas District Judge Retirement System for
 31 service rendered after January 1, 2005.

32 (b)(1) Each July 1, the system shall redetermine the amount of each
 33 monthly benefit which has been payable by the system for at least twelve (12)
 34 full calendar months.

35 (2) The redetermined amount shall be payable for the following
 36 twelve (12) calendar months.

1 (c) Subject to the maximum stated in this subsection (c) of this
2 section, the redetermined amount shall be the amount of benefit payable as of
3 the immediately preceding July 1, increased by three percent (3%).

4 (d) In no event shall the redetermined amount be more than the amount
5 of the benefit payable as of the immediately preceding July 1 multiplied by
6 the following fraction:

7 (1) The numerator shall be the average of the consumer price
8 index for the twelve (12) calendar months in the calendar year immediately
9 preceding July 1, but in no event an amount less than the denominator; and

10 (2) The denominator shall be the average of the consumer price
11 index for the twelve (12) calendar months in the calendar year second
12 preceding the redetermination date.

13
14 24-8-820. Limitation on benefit enhancement.

15 (a) No enhancement of benefits under § 24-8-816 shall be implemented
16 if it would cause the system's unfunded actuarial accrued liabilities to
17 exceed a thirty-year amortization.

18 (b) No enhancement of benefits under § 24-8-816 shall be implemented
19 by this system if it has unfunded actuarial liabilities being amortized over
20 a period exceeding thirty (30) years until the unfunded actuarial liability
21 is reduced to a level less than the standards prescribed by § 24-1-101.

22
23 24-8-821. Reciprocal system.

24 (a) The Arkansas District Judge Retirement System is a reciprocal
25 system under §§ 24-2-401 - 24-2-404.

26 (b) There is no reciprocal service with the local municipal judge
27 retirement systems before the effective date of this subchapter.

28 (c) In establishing eligibility for a benefit from the system, the
29 credited service under all reciprocal systems shall be totaled and the total
30 credited service shall be used in determining eligibility for a system
31 benefit.

32 (d) In determining the amount of a benefit from this system, there
33 shall be used only the credited service under this system and the benefit
34 formula of this system.

35 (e) Wherever this system provides a benefit amount which is not
36 dependent on length of credited service, the benefit amount shall be reduced

1 to the proportion that system-credited service bears to total reciprocal
2 system-credited service.

3
4 SECTION 2. Arkansas Code Title 24, Chapter 8, Subchapter 3 is amended
5 to add an additional section to read as follows:

6 24-8-321. Funds closed.

7 (a) The Municipal Judge and Clerk Retirement Funds defined in this
8 Subchapter 3 are closed effective December 31, 2004.

9 (b) There will be no new members in these funds after December 31,
10 2004.

11
12 SECTION 3. Arkansas Code Title 24, Chapter 8, Subchapter 4 is amended
13 to add an additional section to read as follows:

14 24-8-410. Funds closed.

15 (a) The Municipal Judge and Clerk Retirement Funds defined in this
16 Subchapter 4 are closed effective December 31, 2004.

17 (b) There will be no new members in these funds after December 31,
18 2004.

19
20 SECTION 4. Arkansas Code Title 24, Chapter 8, Subchapter 5 is amended
21 to add an additional section to read as follows:

22 24-8-506. Funds closed.

23 (a) The Municipal Judge and Clerk Retirement Funds defined in this
24 Subchapter 5 are closed effective December 31, 2004.

25 (b) There will be no new members in these funds after December 31,
26 2004.