

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

As Engrossed: H4/9/03

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



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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 (4) "Actual service" means service credit beginning January 1, 2005 in
12 the system;

13 (5) "Purchased service" means service credited for retirement purposes
14 on or before December 31, 2004 in a Municipal Judge Retirement Fund;

15 (6) "Total service" means the sum of actual service and purchased
16 service; and

17 (7) "Average annual salary" means the average of the last three (3)
18 years' salary ending with the most recent year.

19
20 24-8-803. Board of trustees.

21 (a) The administration and control of the Arkansas District Judge
22 Retirement System is vested the Board of Trustees of the Arkansas District
23 Judge Retirement System.

24 (b)(1) The Board of Trustees shall consist of five (5) members.

25 (2) Two (2) members of the board shall be appointed by the
26 Arkansas District Judges Council.

27 (3) Two (2) members of the board shall be appointed by the
28 Governor from a list supplied by the employers.

29 (4) One (1) member shall be a citizen of the State of Arkansas
30 appointed by the Governor, except the citizen shall not have previous service
31 in the judicial system.

32 (5) The members of the board shall serve a term of four (4)
33 years.

34 (6) One (1) of the trustees shall be elected by the board to
35 serve as chairman.

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

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

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

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

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

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

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

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

13

14 24-8-804. Administration.

15 (a)(1) The executive director and administrative staff of the Arkansas
16 Public Employees' Retirement System shall be the Executive Director and
17 administrative staff of the Arkansas District Judge Retirement System.

18 (2) The administrative records of the system shall be maintained
19 within the administrative offices of the Arkansas Public Employees Retirement
20 System.

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

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

27

28 24-8-805. Trust fund.

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

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

36 (c) The funds of the system shall be invested and reinvested in

1 accordance with the following procedure:

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

4 (2) If the board employs investment counsel with authority to
5 execute transactions, the counsel or money manager shall have full power to
6 hold, purchase, sell, assign, transfer, or dispose of any of the moneys or
7 investments of the system under this subchapter and under the investment
8 policy of the board;

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

13 (4) At each regular meeting, the board shall examine each
14 written report received from the investment counsel since the last regular
15 meeting;

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

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

21
22 24-8-806. Annual actuarial valuation and monetary distribution.

23 (a) An actuarial valuation shall be made annually to determine if the
24 Arkansas District Judge Retirement System is meeting the financial objectives
25 of state-supported retirement systems.

26 (b) The provisions of this subchapter are contingent upon, and shall
27 only remain in effect, if the disbursement of fine revenues continue under
28 the law as it existed upon the effective date of this subchapter.

29
30 24-8-807. Membership generally.

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

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

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

3 (c)(1) Any former municipal judge who is eligible to receive a
4 retirement benefit for service as municipal judge, as provided by law prior
5 before the effective date of this subchapter, and any former municipal judge
6 who is receiving a retirement benefit as provided by law for service as
7 municipal judge shall participate, on and after January 1, 2005, in the
8 Arkansas District Judge Retirement System and have their benefits
9 administered by this system.

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

16
17 24-8-808. Contributions - Members - Refund.

18 (a) The contribution of each member of the Arkansas District Judge
19 Retirement System shall be five percent (5%) of each member's annual salary
20 for service rendered on or after January 1, 2005.

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

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

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

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

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

1
2 24-8-809. Contributions - Government Entity

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

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

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

12 (2) A statement of the penalty shall be sent to the
13 participating employer.

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

19
20 24-8-810. Additional funding for retirement benefits.

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

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

28 (c) If the local municipal judge retirement fund does not have
29 sufficient money available to pay the amount determined in subsection (a) of
30 this section to the system on January 1, 2005, then the remaining amount of
31 actuarially determined accrued liability shall be paid on or before December
32 31 each year after for up to the next thirty (30) years based on a thirty
33 year amortization period.

34 (d)(1) If the amount in the municipal judge retirement fund is greater
35 than the actuarially determined amount of the liabilities to be transferred
36 to the Arkansas District Judges Retirement System, that excess may be

1 retained by the sponsoring government entity for the sole purpose of paying
2 for the retirement benefits of District Court Judges.

3 (2) If at any time in the future an obligation to fund the
4 Arkansas District Judge's Retirement System no longer exists, then any excess
5 shall be retained by the sponsoring government entity.

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

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

12 (2) The amount in subdivision (e)(1) of this section is
13 multiplied by the number of years of eligible service and then divided by the
14 greater of either the number of years of service needed to be eligible to
15 retire or the current years of eligible service; and

16 (3) The service years shall be determined under the law before
17 the effective date of this subchapter.

18 (f) The accrued benefit determined under subsection (e) of this
19 section for any retiree or surviving spouse who is receiving benefits on
20 December 31, 2004 shall be the amount that they are receiving or entitled to
21 receive on that date.

22
23 24-8-811. Contributions - Cessation upon maximum benefit eligibility.

24 When a District judge has sufficient service in the system to qualify
25 for the maximum benefit provided by this subchapter, no further contributions
26 are required.

27
28 24-8-812. Actual service requirement.

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

31 (b)(1) Eligibility for benefits will be based on actual service in the
32 Arkansas District Judge Retirement System plus the equivalent service
33 purchased from the Municipal Judge and Clerk Retirement System as of January
34 1, 2005.

35 (2) This subchapter is not intended to decrease the benefits
36 earned or increase the eligibility requirements for members who were

1 participants in a local plan, as authorized by law, prior to January 1, 2005.

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

4
5 24-8-813. Eligibility for benefits - Retirement generally.

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

8 (1) Twenty (20) years of total service upon reaching age fifty (50);

9 (2) Sixteen (16) years of total service upon reaching age sixty (60);

10 or

11 (3) Eight (8) years of total service upon reaching age sixty-five
12 (65).

13
14 24-8-814. Eligibility for benefits - Early retirement.

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

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

23
24 24-8-815. Eligibility for benefits - Disability retirement.

25 (a) Any member of the Arkansas District Judge Retirement System who
26 has served a minimum of five (5) consecutive years as a member of the system
27 shall receive retirement benefits if any incapacitating disability as
28 determined by the Board of Trustees of the system shall occur during any term
29 for which the judge has been elected.

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

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

35
36 24-8-816. Retirement and survivors' benefits generally.

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

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

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

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

11 (c)(1) Survivors' benefits shall be fifty percent (50%) of the amount
12 of the retirement benefits of an active district judge or a judge who has
13 retired under the provisions of a local plan before January 1, 2005.

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

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

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

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

28 (ii) The other one-half (1/2) of the survivors'
29 benefits shall be paid to the guardian of the minor children during the
30 period of minority;

31 (iii) When all of the children cease to be minors,
32 then the survivors benefits paid to the minor children shall be paid to the
33 spouse; and

34 (C) If the deceased judge is not survived by an eligible
35 spouse but is survived by minor children, then the survivors' benefits under
36 subsection (a) of this section, shall be payable to the guardian of the minor

1 children during the period of minority.

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

4
5 24-8-817. Eligibility for benefits – Deferred vested retirement.

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

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

12
13 24-8-818. Restrictions on benefits.

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

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

19
20 24-8-819. Redetermination of benefits.

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

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

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

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

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

35 (1) The numerator shall be the average of the consumer price
36 index for the twelve (12) calendar months in the calendar year immediately

1 preceding July 1, but in no event an amount less than the denominator; and

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

5
6 24-8-820. Limitation on benefit enhancement.

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

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

14
15 24-8-821. Reciprocal system.

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

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

20 (c) In establishing eligibility for a benefit from the system, the
21 credited service under all reciprocal systems shall be totaled and the total
22 credited service shall be used in determining eligibility for a system
23 benefit.

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

27 (e) Wherever this system provides a benefit amount which is not
28 dependent on length of credited service, the benefit amount shall be reduced
29 to the proportion that system-credited service bears to total reciprocal
30 system-credited service.

31
32 SECTION 2. Arkansas Code Title 24, Chapter 8, Subchapter 3 is amended
33 to add an additional section to read as follows:

34 24-8-321. Funds closed.

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

