

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 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H2/11/05

# A Bill

HOUSE BILL 1210

5 By: Representative Mathis  
6  
7

## For An Act To Be Entitled

9 AN ACT TO ALLOW MEMBERS OF THE GENERAL ASSEMBLY  
10 TO VEST IN THE ARKANSAS PUBLIC EMPLOYEES'  
11 RETIREMENT SYSTEM WITH FIVE (5) YEARS OF ACTUAL  
12 SERVICE; AND FOR OTHER PURPOSES.  
13

## Subtitle

15 TO ALLOW MEMBERS OF THE GENERAL ASSEMBLY  
16 TO VEST IN THE ARKANSAS PUBLIC  
17 EMPLOYEES' RETIREMENT SYSTEM WITH FIVE  
18 (5) YEARS OF ACTUAL SERVICE.  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code § 24-4-101(28), concerning the definition of  
24 "normal retirement age" for purposes of the Arkansas Public Employees'  
25 Retirement System is amended to read as follows:

26 (28) "Normal retirement age" means, for a member, the youngest  
27 of the following ages:

28 (A) Age sixty (60) and with twenty (20) or more years of  
29 actual service for a contributory member; or

30 (B) Age sixty-five (65) with five (5) or more years of  
31 actual service, ~~except for a member of the General Assembly who must have ten~~  
32 ~~(10) or more years of actual service if he or she only has service as a~~  
33 ~~member of the General Assembly;~~

34 (C) If the provisions of § 24-4-521 are used to determine  
35 any portion of total credited service, then the age upon completion of  
36 thirty-five (35) years of credited service, but in no event to an age younger



1 than fifty-five (55);

2 (D) For a noncontributory member with credited service for  
3 employment as a public safety employee or as a sheriff, age sixty-five (65)  
4 reduced by one (1) month for each two (2) months of such credited service,  
5 but in no event to an age younger than fifty-five (55), except in the case of  
6 a sheriff who has a minimum of ten (10) years of actual service as a sheriff  
7 or who has eight (8) years of actual service as a sheriff and a minimum of  
8 two (2) years of service in another state-supported retirement system, for  
9 whom the minimum retirement age shall be fifty-two (52);

10 (E) The age upon completion of twenty-eight (28) years of  
11 credited service, if the provisions of § 24-4-521 are not used to determine  
12 any portion of such credited service;

13 (F) For a member of the General Assembly with twelve (12)  
14 years of actual service, ten (10) of which must be as a member of the General  
15 Assembly, at age fifty-five (55). A member of the General Assembly who was  
16 either serving in the General Assembly on July 1, 1979, or held an elected  
17 office on July 1, 1979, shall be eligible to retire with seventeen and one-  
18 half (17 1/2) years of actual service regardless of age;

19 (G) An elected state constitutional officer shall be  
20 eligible to retire with twenty-eight (28) years of credited service at age  
21 fifty-five (55); and

22 (H) Notwithstanding subdivision (28)(C) of this section,  
23 in the case of a deputy sheriff who has a minimum of twenty-five (25) years  
24 of actual service as a deputy sheriff, the minimum retirement age shall be  
25 fifty-two (52);

26

27 SECTION 2. Arkansas Code § 24-4-301(a), concerning membership in the  
28 Arkansas Public Employees' Retirement System, is amended to read as follows:

29 (a)(1) Except as set forth in this subsection, all state employees, as  
30 defined in § 24-4-101(17) and (44), shall become members of the Arkansas  
31 Public Employees' Retirement System as a condition of employment.

32 (2)(A)(i)(a) A person who is first elected as a member of the  
33 General Assembly on or after July 1, 1999, shall have his or her employment  
34 covered as a regular state employee member in lieu of coverage under special  
35 provisions relating to General Assembly members or to elected officials.

36 (b) However, if the member's only service

1 under an Arkansas retirement plan is service as a member of the General  
2 Assembly, the member must have ~~ten (10)~~ five (5) or more years of actual  
3 service to be eligible for benefits.

4 (ii)(a) A person who was first elected as a member  
5 of the General Assembly before July 1, 1999, may elect to have his or her  
6 employment covered as a regular state employee member in lieu of coverage  
7 under special provisions relating to General Assembly members or to elected  
8 officials. The member may make the election at any time.

9 (b) However, if the member's only service  
10 under an Arkansas retirement plan is service as a member of the General  
11 Assembly, then the member must have ~~ten (10)~~ five (5) or more years of actual  
12 service to be eligible for benefits.

13 (B) Any member of the General Assembly who was serving in  
14 that capacity at the commencement of the Eighty-fourth General Assembly and  
15 who had elected not to participate in the Arkansas Public Employees'  
16 Retirement System under the provisions of § 24-4-301(a)(2)(A) prior to its  
17 amendment by Acts 2003, No. 1403, may elect to participate and receive  
18 current credit in the system. The member is eligible to receive prior service  
19 credit for the time he or she was first elected to the General Assembly until  
20 the date of election to participate provided that:

21 (i) The member pays, or causes to be paid, all  
22 employer contributions based on the employer's normal cost from the most  
23 recent actuarial valuation and the compensation that would have been paid had  
24 he or she been a member of the system during that time and regular interest  
25 on the employer contributions computed from the date the service was rendered  
26 to the date payment is received by the system;

27 (ii) The payment shall be made in a lump sum; and

28 (iii) The member may pay for all prior service, or a  
29 portion of the prior service, consisting of one (1) year increments.

30

31 SECTION 3. Arkansas Code § 24-4-508(a), concerning eligibility for  
32 benefits in the Arkansas Public Employee's Retirement System, is amended to  
33 read as follows:

34 (a) Any member may voluntarily retire upon his or her written  
35 application filed with the Board of Trustees of the Arkansas Public  
36 Employees' Retirement System setting forth at what time, not less than thirty

1 (30) days nor more than ninety (90) days subsequent to the execution and  
2 filing of the application, that he or she desires to be retired if that  
3 member has:

4 (1) Twenty-eight (28) or more years of credited service  
5 regardless of age;

6 (2) Attained or attains age sixty (60) and has twenty (20) or  
7 more years of actual contributory service; or

8 (3) Attained or attains age sixty-five (65) and has five (5) or  
9 more years of actual service, ~~except for a member of the General Assembly who~~  
10 ~~must have ten (10) or more years of actual service if he or she only has~~  
11 ~~service as a member of the General Assembly.~~

12  
13 SECTION 4. Arkansas Code § 24-4-510 is amended to read as follows:

14 24-4-510. Eligibility for benefits - Deferred and early annuities.

15 (a)(1)(A) Any member or former member with sufficient years of actual  
16 service to qualify for a vested termination annuity who has not attained his  
17 or her normal retirement age may retire with an early annuity provided for in  
18 subsection (b) of this section upon his or her written application to the  
19 plan setting forth at what time, not less than thirty (30) days nor more than  
20 ninety (90) days subsequent to the execution and filing of his or her  
21 application, he or she desires to be retired.

22 (B) The member or former member eligible for a vested  
23 termination annuity must have at least five (5) years of actual service and  
24 be within ten (10) years of normal retirement age, ~~except for members of the~~  
25 ~~General Assembly who must have at least ten (10) years of actual service and~~  
26 ~~be within ten (10) years of normal retirement age.~~

27 (2)(A) Upon early retirement, a member shall receive a certain  
28 percentage of an annuity for life provided for in § 24-4-601. The percentage  
29 shall be one hundred percent (100%) reduced by one-half of one percent (0.5%)  
30 multiplied by the number of months by which the member's age at early  
31 retirement is younger than his or her normal retirement age, using what his  
32 or her normal retirement age would have been under the provisions of § 24-4-  
33 508 if he or she had continued covered employment from the time of early  
34 retirement.

35 (B)(i) However, if the member or former member has at  
36 least twenty-five (25) years of actual service but less than twenty-eight

1 (28) years of actual service and has not reached age sixty-five (65), then  
2 upon early retirement the member shall receive a percentage of a life annuity  
3 as provided in § 24-4-601. The percentage shall be one hundred percent (100%)  
4 reduced by one percent (1%) multiplied by the number of months by which the  
5 time of early retirement precedes the earlier of either the completion of  
6 twenty-eight (28) years of actual service or the attainment of age sixty-five  
7 (65).

8 (ii) If the reduction set forth under this  
9 subdivision (a)(2)(B) is greater than the reduction that would have otherwise  
10 been imposed except for this subdivision (a)(2)(B), then the lesser reduction  
11 shall apply.

12 (3) The early annuity shall be effective the first day of the  
13 calendar month next following the later of termination of public employer  
14 employment or thirty (30) days after receipt by the Board of Trustees of the  
15 Arkansas Public Employees' Retirement System of the written application.

16 (b)(1) A member who terminates covered employment before attaining his  
17 or her normal retirement age for a reason other than death or early  
18 retirement or disability retirement shall be entitled to an annuity computed  
19 in accordance with the provisions of subdivision (b)(2) of this section as it  
20 provides at time of last termination of employment, subject to the member's  
21 satisfying all of the following conditions:

22 (A) ~~Except for members of the General Assembly, who must~~  
23 ~~have at least ten (10) years of actual service, the~~ The member has five (5)  
24 or more years of total actual service with the Arkansas Public Employees'  
25 Retirement System or in combination with reciprocal systems under the  
26 provisions of §§ 24-2-401 - 24-2-405, and 24-2-407. In establishing the  
27 minimum total credited service, periods of credited service covering the same  
28 calendar time shall be counted only once. However, both service in the  
29 Arkansas Public Employees' Retirement System as a member of the General  
30 Assembly and service in another reciprocal system during the same period of  
31 time may be counted to meet the service requirements for benefits from the  
32 reciprocal systems, subject to the following:

33 (i) The provisions of § 24-4-521 may not be used to  
34 meet the service requirements; and

35 (ii) The benefit payable by a reciprocal system will  
36 be based on the credited service in that system and on the final average

1 compensation under that system;

2 (B) If a member has fewer years of service than the final  
3 average compensation requirement in a reciprocal system, then "final average  
4 compensation" means the monthly average of pay to the member during his or  
5 her total years of service in that system;

6 (C) The member lives to his or her annuity starting date;  
7 and

8 (D) The member makes written application for retirement in  
9 accordance with this section.

10 (2)(A) A contributory member with twenty (20) or more years of  
11 actual service who left or leaves the employ of a public employer prior to  
12 the member's attainment of age sixty (60) for any reason except his or her  
13 retirement or death shall be entitled to an annuity provided for in § 24-4-  
14 601, but only if the member does not withdraw his or her accumulated  
15 contributions from the members' deposit account.

16 (B) The member's annuity shall begin the first day of the  
17 calendar month next following the month after his or her attainment of age  
18 sixty (60) upon written application filed with the Board of Trustees of the  
19 Arkansas Public Employees' Retirement System setting forth at what time, not  
20 less than thirty (30) days nor more than ninety (90) days subsequent to the  
21 execution and filing of the application, the member desires to be retired.

22 (3)(A) A contributory member who has at least five (5) years but  
23 less than twenty (20) years of actual service who leaves the employ of a  
24 public employer prior to his or her attainment of age sixty-five (65) for any  
25 reason except his or her retirement or death and who does not withdraw his or  
26 her accumulated contributions from the members' deposit account shall be  
27 entitled to an annuity provided for in § 24-4-606.

28 (B) A noncontributory member who has at least five (5)  
29 years but less than twenty-eight (28) years of actual service who leaves the  
30 employ of a public employer prior to the attainment of age sixty-five (65)  
31 for any reason except retirement or death shall be entitled to an annuity  
32 provided for in § 24-4-606.

33 (C) The member's annuity shall begin the first day of the  
34 calendar month next following the month of attainment of age sixty-five (65)  
35 upon written application filed with the board setting forth at what time, not  
36 less than thirty (30) days nor more than ninety (90) days subsequent to the

1 execution and filing thereof, the member desired to be retired.

2 (4) The monthly amount of vested termination annuity shall be  
3 computed in the same manner as a normal annuity amount provided for in § 24-  
4 4-601, but it shall be based upon the member's credited service and final  
5 average compensation at the time of termination of employment covered by the  
6 Arkansas Public Employees' Retirement System.

7 (5) The member shall have the right to elect an option provided  
8 for in § 24-4-606.

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10 SECTION 5. Arkansas Code § 24-4-511(a), concerning disability  
11 retirement benefits of the Arkansas Public Employees' Retirement System, is  
12 amended to read as follows:

13 (a)(1)(A) ~~Except for members of the General Assembly who need at least~~  
14 ~~ten (10) years of actual service, any~~ Any active member with five (5) or more  
15 years of actual service, including actual service for at least eighteen (18)  
16 of the twenty-four (24) calendar months immediately preceding his or her  
17 disability, who becomes totally and permanently physically or mentally  
18 incapacitated for any suitable job or position as an employee as a result of  
19 a personal injury or disease may be retired by the Board of Trustees of the  
20 Arkansas Public Employees' Retirement System upon written application filed  
21 with the board by or on behalf of the member.

22 (B) This may occur only if after a medical examination of  
23 the member made by or under the direction of a physician or physicians  
24 designated by the board, the physician reports to the board in writing that  
25 the member is physically or mentally totally incapacitated for any suitable  
26 job or position, that the incapacity will probably be permanent, and that the  
27 member should be retired.

28 (2) Upon filing the proper application and meeting the  
29 requirements stated in this section, the disability annuity shall be  
30 effective the first day of the calendar month next following the later of  
31 either the member's termination of active membership or the onset date of the  
32 qualifying disability.

33  
34 SECTION 6. Arkansas Code § 24-4-521(b)(4), concerning credited service  
35 in the Arkansas Public Employees' Retirement System, is amended to read as  
36 follows:

1           (4)(A) Noncontributory employment as a member of the General  
2 Assembly shall be credited at the regular rate for crediting service, except  
3 that at least ~~ten (10)~~ five (5) years of actual service shall be required to  
4 meet the retirement eligibility requirements of §§ 24-4-510, 24-4-511, and  
5 24-4-609, and at least five (5) years of actual service shall be required to  
6 meet the eligibility requirements of § 24-4-608.

7           (B) A member of the General Assembly who at any time has  
8 served at least six (6) months during a two-year term in the General Assembly  
9 shall be credited with no more than one (1) year's actual service.

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11           SECTION 7. Arkansas Code § 24-4-710 is amended to read as follows:

12           24-4-710. Contributory credited service for General Assembly members  
13 and state constitutional officers dying in office - Surviving spouse  
14 benefits.

15           (a) Any member of the General Assembly or a state constitutional  
16 officer who dies before completing a term of office to which the person was  
17 elected shall continue to accrue credited service in the Arkansas Public  
18 Employees' Retirement System during the remainder of the term for which the  
19 person was elected.

20           (b) The surviving spouse of a member or former member of the General  
21 Assembly or of a state constitutional officer or former state constitutional  
22 officer who, by virtue of the provisions of this section or any other law,  
23 has five (5) years or more of credited service in any capacity in the system,  
24 ~~except for a member of the General Assembly who must have had ten (10) or~~  
25 ~~more years of credited service if he or she only has service as a member of~~  
26 ~~the General Assembly,~~ shall be entitled upon reaching the required age to a  
27 surviving spouse benefit in the amount prescribed by law under the division  
28 of the system in which the deceased member was receiving benefits or would  
29 have been entitled under this section to receive benefits if the member had  
30 lived to retirement age.

31           (c) Nothing contained in this section is intended to, nor shall  
32 anything in this section be construed to, permit any member or former member  
33 of the General Assembly or any constitutional officer or former  
34 constitutional officer or any spouse of the member or officer to earn  
35 credited service in any retirement system after the expiration of the term of  
36 office to which the member was elected.



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2 SECTION 8. Arkansas Code Title 24, Chapter 4, Subchapter 7 is amended to add  
3 an additional section to read as follows:

4 24-4-749. Eligibility for benefits - Members of the General Assembly.

5 (a) A member of the General Assembly is eligible for a benefit from  
6 the Arkansas Public Employees' Retirement System when the member has five (5)  
7 or more years of actual service as provided in §§ 24-4-101(28), 24-4-301(a),  
8 24-4-508(a), 24-4-510, 24-4-511(a), 24-4-521(b)(4), and 24-4-710.

9 (b) The provisions of this section and §§ 24-4-101(28), 24-4-301(a),  
10 24-4-508(a), 24-4-510, 24-4-511(a), 24-4-521(b)(4), and 24-4-710 shall apply  
11 to any person serving as a member of the General Assembly on or after July 1,  
12 1997.

13  
14 SECTION 9. EMERGENCY CLAUSE. It is found and determined by the  
15 General Assembly of the State of Arkansas that since July 1, 1997, state  
16 employees who are members of the Arkansas Public Employees' Retirement System  
17 are eligible for benefits after five (5) years of actual service; that  
18 members of the General Assembly must have ten (10) years of actual service  
19 before they are eligible for benefits from the Arkansas Public Employees'  
20 Retirement System; that in order for a more fair and equitable treatment of  
21 all members of the Arkansas Public Employees' Retirement System, members of  
22 the General Assembly should vest after five (5) years of actual service; and  
23 that for the proper administration of this act, its provisions should become  
24 effective at the beginning of the next fiscal year. Therefore, an emergency  
25 is declared to exist and this act being necessary for the preservation of the  
26 public peace, health, and safety shall become effective on July 1, 2005.

27  
28 /s/ Mathis  
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