

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

A Bill

SENATE BILL 129

5 By: Senators J. Jeffress, Faris
6 By: Representative Sullivan
7

For An Act To Be Entitled

10 AN ACT TO AMEND CERTAIN ELIGIBILITY AND BENEFIT
11 REQUIREMENTS OF THE ARKANSAS TEACHER RETIREMENT
12 SYSTEM; AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT TO AMEND CERTAIN ELIGIBILITY AND
15 BENEFIT REQUIREMENTS OF THE ARKANSAS
16 TEACHER RETIREMENT SYSTEM.
17
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19

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

22 SECTION 1. Arkansas Code § 24-2-302 is amended to read as follows:
23 24-2-302. Classification of members.

24 Except as otherwise specifically provided in this subchapter, all
25 employees of the State of Arkansas or any of its political subdivisions who
26 are members or become members of a state retirement system shall be members
27 of the retirement system indicated in this section as follows:

28 (1) All eligible employees of the Arkansas State Highway and
29 Transportation Department shall be members of the Arkansas State Highway
30 Employees' Retirement System;

31 (2) All eligible employees of the Department of Arkansas State
32 Police shall be members of the State Police Retirement System;

33 (3) The following persons shall be members of the Arkansas
34 Teacher Retirement System:

35 (A) Any person employed by a school for the purpose of
36 giving instruction and whose employment requires state certification;



1 (B) Any other person employed by a school in a regular or
 2 special position, ~~but specifically excluding employment as a janitor, bus~~
 3 ~~driver, or cafeteria worker;~~

4 (C) Any person employed by any of the following
 5 organizations or agencies, ~~except janitors, bus drivers, and cafeteria~~
 6 ~~workers:~~

7 (i) Arkansas School for the Blind;

8 (ii) Arkansas School for the Deaf;

9 (iii) Arkansas Activities Association;

10 (iv) A local school board;

11 (v) Chief county school officers;

12 (vi) State Board of Education;

13 (vii) Regional educational cooperatives; and

14 ~~(viii) The state surplus property program; and~~

15 ~~(ix)~~ (viii) Arkansas Teacher Retirement System;

16 (D) Any person employed in a position requiring
 17 professional training or certification with an area vocational-technical
 18 school or employed by the Arkansas Educational Television Commission, except
 19 that employees of area vocational-technical schools and the Department of
 20 Workforce Education who have elected to participate in an alternate
 21 retirement plan established by §§ 24-7-901 - 24-7-908 shall be active members
 22 of the alternate retirement plan;

23 (E)(i) Any person employed in a position requiring
 24 professional training or certification with the Arkansas Rehabilitation
 25 Services of the Department of Workforce Education, the Division of State
 26 Services for the Blind of the Department of Human Services, or the Division
 27 of Youth Services of the Department of Human Services except those employees
 28 who have elected coverage under § 24-4-101 et seq.

29 (ii) Membership of employees of the Arkansas
 30 Rehabilitation Services of the Department of Workforce Education and the
 31 Division of State Services for the Blind of the Department of Human Services
 32 shall be subject to the following conditions:

33 (a) Those employees who were employed before
 34 January 1, 1985, and who were members of the Arkansas Teacher Retirement
 35 System on that date shall continue to be members of the Arkansas Teacher
 36 Retirement System, except that in the event the time limit for those

1 employees to change to the noncontributory plan of the Arkansas Public
 2 Employees' Retirement System under § 24-4-522 is extended beyond January 1,
 3 1985, those employees shall have the maximum time allowed by law to elect to
 4 make the change;

5 (b) Those employees who were employed before
 6 January 1, 1985, and are members of the noncontributory plan of the Arkansas
 7 Public Employees' Retirement System on that date shall continue to be members
 8 of the Arkansas Public Employees' Retirement System; and

9 (c) Persons whose initial employment by either
 10 the Arkansas Rehabilitation Services of the Department of Workforce Education
 11 or the Division of State Services for the Blind of the Department of Human
 12 Services is on or after January 1, 1985, shall be members of the
 13 noncontributory plan of the Arkansas Public Employees' Retirement System; and

14 (4) All eligible employees of the State of Arkansas or any of
 15 its political subdivisions except those who are members of another legally
 16 established state retirement plan shall be members of the Arkansas Public
 17 Employees' Retirement System.

18

19 SECTION 2. Arkansas Code § 24-7-202 is amended to read as follows:
 20 24-7-202. Definitions.

21 As used in this act, unless the context otherwise requires:

22 (1) "Accumulated contributions" means the total of all amounts
 23 contributed by a member and standing to his or her credit in his or her
 24 individual account in the members' deposit account, together with regular
 25 interest credited thereon;

26 (2) "Active member" means any member rendering service which is
 27 covered by the system;

28 (3) "Actuarial equivalent" means a benefit of equal reserve
 29 value;

30 (4) "Annuity" means an annual amount payable by the system in
 31 equal monthly installments throughout the life of a person or for a temporary
 32 period;

33 (5) "Beneficiary" means any person who is receiving or is
 34 designated to receive a system benefit by reason of the system membership of
 35 another person;

36 (6) "Benefit program" means a schedule of benefits or benefit

1 formulas from which the amounts of system benefits can be determined;

2 (7) "Board" means the Board of Trustees of the Arkansas Teacher
3 Retirement System;

4 (8) "Child of a member" means either a natural child of the
5 member, a child that has been made a child of the member by applicable court
6 action before the death of the member, or a child under the permanent care of
7 the member at the time of the latter's death, which permanent care status
8 shall be determined by evidence satisfactory to the board;

9 (9) "Code" means the federal Internal Revenue Code of 1986, as
10 amended, as it existed on January 1, 2001;

11 (10) "Credited service" means service which is creditable as
12 service by the system;

13 (11) "Employee" means any person employed by a school in a
14 regular or special position;

15 (12) "Employer" means any school, ~~habilitative services~~
16 ~~corporation,~~ or other educational agency participating in the system;

17 (13) "Employment with a school" means, beginning July 1, 1993:

18 (A) Employment with any of the following institutions or
19 agencies:

- 20 (i) Arkansas School for the Blind;
- 21 (ii) Arkansas School for the Deaf;
- 22 (iii) Arkansas Activities Association;
- 23 (iv) A local school board;
- 24 (v) Chief county school officers;
- 25 (vi) The State Board of Education;
- 26 (vii) Regional education cooperatives; and
- 27 ~~(viii) The state Surplus Property Program; and~~
- 28 ~~(ix)~~ (viii) The Arkansas Teacher Retirement System;

29 (B) Employment in a position with any of the following
30 organizations:

- 31 (i) Juvenile training schools;
- 32 (ii) The Arkansas Educational Television Commission;

33 and

34 (iii) Area vocational-technical schools, except
35 those employees of area vocational schools and the Department of Workforce
36 Education who have elected to participate in an alternate retirement plan

1 established by §§ 24-7-901 and 24-7-903 - 24-7-908;

2 (C) Employment by the Arkansas Rehabilitation Services or
3 the Division of State Services for the Blind, except those employees who have
4 elected to participate in the noncontributory plan of the Arkansas Public
5 Employees' Retirement System;

6 (D) Employment in a position with an educationally related
7 agency if the employee is or has been a member of the Arkansas Teacher
8 Retirement System for a minimum of five (5) years and elects to become or
9 remain a member of the system. The employment shall be related to the
10 training of public school employees or school board members, or teaching
11 public school students, or in adult education programs. The employment shall
12 not be related in any manner to private schools. Such an agency shall be
13 approved according to rules and regulations established by the board, shall
14 be considered an employer under subdivision (12) of this section, and shall
15 be responsible for all required employer contributions;

16 (E) Employment in an enterprise privatized by a public
17 school district. If a public school district should privatize any of its
18 services, any individual who is or was employed by the school district in one
19 (1) of those services and who is or has been a member of the Arkansas Teacher
20 Retirement System may elect to remain a member if the board determines
21 pursuant to rules and regulations adopted by the board that the participation
22 of these employees in the system will not in any way impair any legal status
23 of the system, including, but not limited to, its status as a governmental
24 plan pursuant to the federal Internal Revenue Code and the Employee
25 Retirement Income Security Act of 1974, or have a substantial adverse impact
26 on the actuarial soundness of the system and if the private provider assumes
27 all responsibility for the required employer contributions and any fees for
28 obtaining Internal Revenue rulings or Employee Retirement Income Security Act
29 of 1974 opinions; and

30 (F)(i) Employment in positions with educational nonprofit
31 corporations ~~associated with the Community Providers Association in Arkansas~~
32 licensed and regulated by the Division of Developmental Disabilities Services
33 of the Department of Human Services, if the nonprofit corporation has elected
34 to participate in the Arkansas Teacher Retirement System, and if the board
35 determines pursuant to rules and regulations adopted by the board that their
36 participation will not in any way impair any legal status of the system,

1 including, but not limited to, its status as a governmental plan pursuant to
2 the federal Internal Revenue Code and the Employee Retirement Income Security
3 Act of 1974, or have a substantial adverse impact on the actuarial soundness
4 of the system.

5 (ii) The employment shall be related to the training
6 of public school employees or school board members, or teaching public school
7 students, or in adult education programs.

8 (iii) The employment shall not be related in any
9 manner to private schools.

10 (iv) Each nonprofit corporation shall be approved
11 according to rules and regulations established by the board, shall be
12 considered an employer under subdivision (12) of this section, and shall be
13 responsible for all required employer contributions and any fees for
14 obtaining Internal Revenue rulings or Employee Retirement Income Security Act
15 of 1974 opinions;

16 (14)(A)(i) "Final average salary" means, for a member who
17 retires after June 30, 1997, the average of the annual salaries paid him or
18 her during the period of not less than three (3) years nor more than five (5)
19 years of credited service producing the highest annual average with the exact
20 time period to be determined in accordance with the rules and regulations of
21 the Board of Trustees of the Arkansas Teacher Retirement System as is
22 actuarially appropriate for the system, subject to the provisions of
23 subdivision (23)(A) of this section.

24 (ii) Prior to reducing the time period used to
25 determine final average salary, the board shall file relevant information
26 concerning the actuarial appropriateness of the action with the Joint Interim
27 Committee on Public Retirement and Social Security Programs, and the action
28 shall be reviewed by the committee.

29 (B) Should a member have less than the minimum of three
30 (3) years of credited service, "final average salary" means the annual
31 average of salaries paid him or her during his or her total years of credited
32 service, subject to the provisions of subdivision (23)(A) of this section;

33 (15) "Inactive member" means any former active member who is no
34 longer rendering service which is covered by the system and who is not a
35 retirant;

36 (16) "Interest" means the rate or rates per annum, compounded

1 annually, as the board shall adopt from time to time, that will be charged
 2 for the purchase of service credit or to repay a refund, but the rate shall
 3 equal no less than the system's current assumed interest rate assumption;

4 (17) "Member" means any person included in the membership of the
 5 system;

6 (18) "Nonteacher" means any employee except a teacher;

7 (19) "Normal retirement age" means sixty-five (65) years of age;

8 (20) "Regular interest" means the rate or rates per annum,
 9 compounded annually, that the board shall adopt from time to time, that will
 10 be used to compute interest on members' contributions;

11 (21) "Reserve" means the present value of all payments to be
 12 made on account of any system benefit based upon such reasonable tables of
 13 experience and regular interest as the board shall adopt from time to time;

14 (22) "Retirant" means a former member receiving a system annuity
 15 by reason of having been a member;

16 (23) "Retires" means the beginning of annuity payments to a
 17 retirant;

18 (24)(A)(i) "Salary" means the remuneration paid an employee in a
 19 position covered by the system and on which the employer withholds federal
 20 income tax.

21 (ii) Provided, however, compensation in excess of
 22 the limitations set forth in section 401(a)(17) of the Internal Revenue Code
 23 shall be disregarded. The limitation on compensation for eligible employees
 24 shall not be less than the amount which was allowed to be taken into account
 25 under the system as in effect on July 1, 1993. For this purpose, an eligible
 26 employee is an individual who was a member of the system before the first
 27 plan year beginning after December 31, 1995.

28 (iii) However, ~~when a member retires, the current~~
 29 ~~year's salary used in the computation of retirement benefits shall not exceed~~
 30 ~~one hundred ten percent (100%) of the previous year's salary in computing~~
 31 retirement benefits, no salary paid in one (1) of the years which is utilized
 32 in the computation of the member's final average salary shall exceed one
 33 hundred ten percent (110%) of the salary earned in the year preceding that
 34 year used in the computation, unless the increase is a direct result of a
 35 promotion, change in position, incremental increase provided in the school
 36 district salary schedule, or an increase in school revenues.

1 (B) Should a portion of an employee's remuneration be paid
 2 other than in cash, the cash value of the remuneration shall be established
 3 by the system in an amount not to exceed the amount the employee is required
 4 to report for federal income tax purposes.

5 (C)(i) In determining salary, employer pick-up
 6 contributions, cafeteria plans as defined in § 21-5-901, and employee
 7 contributions to tax-sheltered annuities shall be included.

8 (ii) Provided, however, a member may establish
 9 salary earned under a purchase service contract with a covered employer by
 10 paying employee and employer contributions plus interest.

11 (D) Money which is in lieu of remuneration and which is
 12 used by an employer to purchase a qualified tax-sheltered annuity or a life
 13 insurance policy for an employee shall be considered as salary for system
 14 purposes.

15 (E) An employee who is receiving remuneration under both a
 16 regular contract and a purchased contract or under both a regular contract
 17 and a contract won through litigation shall have only the greater of the two
 18 (2) amounts considered as salary for system purposes.

19 (F) Should an employee make a charitable donation or
 20 return any part of his or her salary to his or her employer, the amount of
 21 his or her recurring remuneration otherwise usable as salary shall be reduced
 22 by such amount or amounts to arrive at his or her salary for system purposes.

23 (G) In case of any dispute concerning an employee's salary
 24 for system purposes, the system shall have the power to settle the dispute;

25 (25) "School" means any public school under the control of
 26 school authorities of the state and supported wholly or partially by state
 27 moneys;

28 (26) "Service" means employment rendered as an employee;

29 (27) "Social security" means the federal social security old
 30 age, survivors and disability insurance program;

31 (28) "State" means the State of Arkansas;

32 (29) "System" means the Arkansas Teacher Retirement System;

33 (30)(A) "Teacher" means, beginning July 1, 1989, any person
 34 employed by a school for the purpose of giving instructions and whose
 35 employment requires state certification.

36 (B) In any case of question as to who is a teacher, the

1 board shall have the final power to decide the question; and

2 (31) "Trustee" means a member of the board.

3
4 SECTION 3. Arkansas Code § 24-7-504 is repealed.

5 ~~24-7-504. Authority.~~

6 ~~The Board of Trustees of the Arkansas Teacher Retirement System shall~~
7 ~~have the authority to promulgate such rules and regulations as are necessary~~
8 ~~to provide for the participation of employers that are habilitative services~~
9 ~~corporations authorized under the provisions of § 4-34-101 et seq. Provided,~~
10 ~~however, the board shall not admit or retain any employer whose participation~~
11 ~~in the Arkansas Teacher Retirement System would jeopardize the tax-qualified~~
12 ~~status of the plan under the Internal Revenue Code, or that would subject the~~
13 ~~plan to additional federal requirements, or to any other consequence that the~~
14 ~~board would determine to be detrimental to the system.~~

15
16 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
17 General Assembly of the State of Arkansas that the current laws applicable to
18 the Arkansas Teacher Retirement System are unclear regarding certain
19 eligibility and benefit requirements; that revisions are necessary to ensure
20 the effective and efficient operation of the system; and that the most
21 effective time to make changes to the retirement system is at the beginning
22 of the state's fiscal year. Therefore, an emergency is declared to exist and
23 this act being immediately necessary for the preservation of the public
24 peace, health, and safety shall become effective on July 1, 2005.