

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 86th General Assembly
3 Regular Session, 2007
4

A Bill

SENATE BILL 80

5 By: Senator J. Jeffress
6 By: Representative Norton
7

For An Act To Be Entitled

10 AN ACT CONCERNING CONTRIBUTORY AND
11 NONCONTRIBUTORY STATUS IN THE ARKANSAS TEACHER
12 RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT CONCERNING CONTRIBUTORY AND
15 NONCONTRIBUTORY STATUS IN THE ARKANSAS
16 TEACHER RETIREMENT SYSTEM.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 24-7-406 is amended to read as follows:

23 24-7-406. Retirement fund assets accounts - Members' deposit account -
24 Contributions.

25 (a)(1) The members' deposit account shall be the account in which shall
26 be accumulated at regular interest the members' contributions to the Arkansas
27 Teacher Retirement System and from which shall be paid refunds of accumulated
28 contributions and transfers as provided in this act. However, employer
29 contributions which are paid by an employee instead of an employer shall be
30 credited to the members' deposit account. Those contributions shall be
31 subject to refund under the same conditions that regular member contributions
32 are refundable.

33 (2) Upon a member's retirement, his or her accumulated
34 contributions standing to his or her credit in the members' deposit account
35 shall be transferred to the retirement reserve account.

36 (3) In the event survivor benefits become payable on account of



1 the death of a member, his or her accumulated contributions standing to his
2 or her credit in the members' deposit account shall be transferred to the
3 survivor benefit account.

4 (b)(1) Except as provided otherwise in this section, the contributions
5 of a member to the system shall be the amounts set forth in this subsection.

6 (2) Each member who first became a member July 1, 1971, or later
7 shall contribute to the system six percent (6%) of his or her salary.

8 (3) Member contributions before July 1, 1969, shall be in
9 accordance with provisions in force before July 1, 1969.

10 (4)(A) For each member who first became a member before July 1,
11 1971, member contributions for the period after June 30, 1969, shall be six
12 percent (6%) of the first seven thousand eight hundred dollars (\$7,800) of
13 his or her annual salary unless he or she shall have elected, in accordance
14 with rules and regulations established by the Board of Trustees of the
15 Arkansas Teacher Retirement System, to contribute six percent (6%) of his or
16 her full salary for the period after June 30, 1969.

17 (B) If the election is made before July 1, 1984, the member
18 must contribute to the system the difference between full salary member
19 contributions and member contributions based on seven thousand eight hundred
20 dollars (\$7,800) annual covered salary retroactive to July 1, 1969, or to the
21 actual date of employment, whichever is later, plus interest from the dates
22 the added contributions would
23 normally have been received by the system to the date of the actual added
24 contributions.

25 (C) If the election is made July 1, 1984, or later, the
26 member must contribute to the system both the added member contributions and
27 the added employer contributions which would have been paid to the system had
28 the member's full salary always been covered, plus interest from the dates
29 the added contributions would normally have been received by the system to
30 the date of the actual added contributions.

31 (D) The interest and added employer contributions shall be
32 considered member contributions for purposes of the system. However, any
33 former active member who returns to covered employment on or after July 1,
34 1995, and who elects to make contributions to the system, shall contribute on
35 his or her full salary.

36 (5) Members who left covered employment before July 1, 1985, and

1 who had annual compensation of seven thousand eight hundred dollars (\$7,800)
2 or less shall have, upon their return to covered employment, full salary
3 considered for purposes of the system.

4 (6) Contributions shall be required on all salary earned in
5 covered employment during the fiscal year in which membership begins.

6 (c)(1)(A)(i) Each employer shall deduct the member contributions
7 provided for in this section from the salary of each member on every payroll,
8 for every payroll period, from the date of his or her entrance into the
9 system until he or she retires, and the employer shall remit the
10 contributions to the system.

11 (ii) Compensation in excess of the limitations set
12 forth in section 401(a)(17) of the Internal Revenue Code shall be
13 disregarded. The limitation on compensation for eligible employees shall not
14 be less than the amount which was allowed to be taken into account under the
15 system as in effect on July 1, 1993. For this purpose, an "eligible employee"
16 is an individual who was a member of the system before the first plan year
17 beginning after December 31, 1995.

18 (B) A member who is receiving remuneration under both a
19 regular contract and a purchased contract, or under both a regular contract
20 and a contract won through litigation, shall have only the greater of the two
21 (2) amounts considered as salary for the purposes of the system.

22 (C)(i) Should the employer fail at any time to report the
23 salary of a member and remit the contributions to the system, the system
24 shall have the right to collect from the employee and the employer the
25 contributions due, if any, from each, together with interest beginning with
26 the subsequent fiscal year.

27 (ii) In no case shall a member be given credit for
28 service rendered until any contributions and interest due from each are paid
29 in full.

30 (2) The member's contributions provided for in this section shall
31 be made notwithstanding that the minimum salary provided by law for any
32 member shall be thereby changed.

33 (3)(A) Each member shall be deemed to consent and agree to the
34 deductions made and provided for in this section.

35 (B) Payment of his or her salary less the deductions shall
36 be a full and complete discharge and acquittance of all claims and demands

1 whatsoever for the services rendered by the member during the period covered
2 by the payment, except as to benefits provided by the system.

3 (4) The members' contributions, so deducted from their salaries,
4 shall be remitted to the system in such manner and form and in such frequency
5 and shall be accompanied by such supporting data as the board shall prescribe
6 from time to time.

7 (d)(1) In addition to the contributions deducted from the salaries of a
8 member, as provided in this section, a member may deposit in the system, by a
9 single contribution or by an increased rate of contributions as approved by
10 the board, the amounts he or she may have received therefrom and not repaid
11 thereto, together with interest from the date of withdrawal to the date of
12 repayment.

13 (2) In no case shall a member be given credit for service
14 rendered prior to the date he or she received payments until he or she
15 returns to the system all amounts due from him or her.

16 ~~(e)(1) A retirant may elect to make additional contributions to the
17 system in order to provide himself or herself with additional benefits if he
18 or she retired after June 30, 1970, and is still receiving a system annuity
19 and he or she had not contributed on his or her full salary for the period
20 after June 30, 1969.~~

21 ~~(2) By written election made after June 1, 1981, the retirant may
22 contribute on his or her full salary in the same manner as provided in
23 subsection (b) of this section for members, but interest must be added to the
24 additional contributions for the period from the date the relevant salary was
25 paid to the date the contributions are received by the system.~~

26 ~~(3) When the contributions and interest are received, the monthly
27 annuity of the retirant shall be recalculated to be the annuity amount which
28 would be payable if the contributions had all been paid by the effective date
29 of retirement.~~

30 ~~(4) The resulting increase in the monthly annuity shall be
31 effective for the calendar month after the date the payment of contributions
32 and interest is completed.~~

33 ~~(f)~~(e)(1)(A) Active members as of July 1, 1999, shall elect by written
34 election filed with the system in accordance with rules and regulations
35 adopted by the board to eliminate future member contributions or to make
36 member contributions, otherwise provided for in this section.

1 (B)(i) The election shall be irrevocable and shall be made
2 on or before July 1, 2000.

3 (ii) If no election is made, then the member's status
4 on June 30, 2000, shall be in effect and shall be irrevocable.

5 (2)(A) For an inactive member who enters the system after June
6 30, 1999, the election shall be made within one (1) year of the effective
7 date the member is considered an active member.

8 (B)(i) The election shall be effective the earlier of:

9 (a) The preparation of the payroll containing
10 the first salary payment upon reentry; or

11 (b) The July 1 next following the date the
12 election is filed with the system.

13 (ii) If no election is made within one (1) year, then
14 the member's status prior to reentry will remain in effect.

15 (3)(A)(i) If the election is to eliminate member contributions,
16 then the election shall apply only to future member salaries and shall not
17 change the status of any member contributions made before the election.

18 (ii) Beginning July 1, 1999, an active member who has
19 previously elected to eliminate member contributions may change credited
20 service on which no member contributions have been paid to member
21 contributions credited service by paying the additional member contributions
22 due plus interest from the dates the contributions would have been received
23 by the system to the date of the payment in full.

24 (B)(i) If the effect of the election is to require member
25 contributions, then the election shall apply only to future member salaries
26 and shall not change any member contribution requirements existing before the
27 election.

28 (ii) If a member has previously contributed on only
29 the first seven thousand eight hundred dollars (\$7,800) of his or her annual
30 salary, then he or she cannot contribute on full future salaries until he or
31 she has made added contributions on past full salaries as provided in
32 subsection (b) of this section.

33 (4)(A)(i) After July 1, 1999, all new members shall make the
34 member contributions otherwise provided for in this section. ~~However, From~~
35 July 1, 1999, through June 30, 2007, new members who are under contract with
36 a covered employer for one hundred eighty (180) days or less shall have one

1 (1) year to make an irrevocable election to make member contributions.

2 (ii) Effective July 1, 2005, any active member whose
3 status later changes from nonteacher status to teacher status under contract
4 for one hundred eighty-one (181) days or more shall make the member
5 contributions otherwise provided for in this section regardless of an earlier
6 election to be noncontributory.

7 (B) Through June 30, 2007,~~New~~ new members who are not under
8 contract with a covered employer shall not make member contributions.

9 (5)(A) Effective From July 1, 2005, and each July 1 thereafter
10 through June 30, 2007, active members who have previously elected to
11 eliminate member contributions may make an irrevocable election to make
12 future contributions to the system.

13 (B) If the election is made:

14 (i) Before the preparation of the first salary
15 payment to the member in the fiscal year, the election shall become effective
16 immediately; and

17 (ii) After the preparation of the first payroll
18 containing the first salary payment to the member in the fiscal year, the
19 election shall become effective July 1 of the next fiscal year.

20 (6)(A)(i) Effective July 1, 2007, new members who are under
21 contract with a covered employer for one hundred eighty one (181) days or
22 more shall make member contributions under this section.

23 (ii) Effective July 1, 2007, persons reentering the
24 system who left as contributory members shall reenter as contributory members
25 and shall make member contributions under this section.

26 (B)(i) Effective July 1, 2007, new members who are under
27 contract with a covered employer for one hundred eighty (180) days or less
28 and new members who are not under contract with a covered employer may make
29 an irrevocable election to make future member contributions under this
30 section.

31 (ii) Effective July 1, 2007, and each July 1
32 thereafter, active members who have previously been noncontributory, whether
33 by election or otherwise, may make an irrevocable election to make future
34 member contributions under this section.

35 (iii) Effective July 1, 2007, inactive members or
36 rescinding retirees reentering the System may make an irrevocable election to

1 make future member contributions under this section at the time of
 2 reemployment regardless of previous noncontributory status.

3 (iv) If the election is made:

4 (a) Before the preparation of the first salary
 5 payment to the member in the fiscal year, the election shall become effective
 6 immediately; and

7 (b) After the preparation of the first payroll
 8 containing the first salary payment to the member in the fiscal year, the
 9 election shall become effective July 1 of the next fiscal year.

10 (C) If the board determines that a member's contributions
 11 may not be treated as employer contributions under the Internal Revenue Code
 12 or the Income Tax Act of 1929, § 26-51-101 et seq., the board may exclude the
 13 member's participation under this subdivision ~~(f)~~~~(5)~~(e).

14 ~~(g)~~(f)(1) Employees who are eligible for membership in the system under
 15 § 24-7-202, who are or have been erroneously enrolled in the Arkansas Public
 16 Employees' Retirement System, whose membership in that system is cancelled
 17 and whose employee or employer contributions are refunded by that system
 18 under §§ 24-2-301 - 24-2-305, shall make member contributions to the system
 19 as provided in subdivision (b)(2) of this section.

20 (2) If such an employee becomes an active member of the
 21 contributory plan of this system, he or she may establish contributory credit
 22 for all or part of his or her service that is cancelled by the system by
 23 paying both the employee and employer contributions required by this system
 24 plus interest.

25 ~~(h)~~(g)(1)(A) Each employer shall pay the member contributions under
 26 this section from the salary earned by a member after June 30, 1997, and
 27 those contributions shall then be treated as employer contributions in
 28 determining tax treatment under the provisions of the Internal Revenue Code
 29 and the Income Tax Act of 1929, § 26-51-101 et seq.

30 (B) If a member elects to purchase past service credits
 31 under § 24-7-501(b), § 24-7-502(b)(5), § 24-7-610, § 24-7-611, or §§ 24-7-602
 32 - 24-7-607 through payroll deductions, the employer shall pay the amount
 33 required to purchase such past service credits from the employee's salary
 34 earned after the employee signs an irrevocable payroll authorization
 35 prescribed by the board, and those purchases shall then be treated as
 36 employer contributions in determining tax treatment under the provisions of

1 the Internal Revenue Code and the Income Tax Act of 1929, § 26-51-101 et
 2 seq.

3 (2) Each employer shall continue to withhold federal and state
 4 income taxes based upon those contributions as income of the member until the
 5 Internal Revenue Service or the federal courts rule that, pursuant to section
 6 414(h) of the Internal Revenue Code, the contributions shall not be included
 7 as gross income of the member until they are distributed or made available to
 8 the member.

9 (3) The employer shall pay these member contributions from the
 10 same source of funds used in paying the salary to the member. The employer
 11 may pay these contributions by a reduction in the cash salary of the member,
 12 by a setoff against future salary increases, or by a combination of a
 13 reduction in salary and a setoff against future salary increases.

14 (4) If member contributions are paid by the employer as provided
 15 under this subsection, they shall be treated for all purposes of the system
 16 in the same manner and to the same extent possible as member contributions
 17 made prior to the date the employer began payment of the member's
 18 contributions hereunder.

19 (5) Whenever member contributions are required to be paid by the
 20 employer under this subsection, the employee shall not have the option of
 21 choosing to receive the contributed amounts directly instead of having them
 22 paid by the employer.

23
 24 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 25 General Assembly of the State of Arkansas that the current laws applicable to
 26 the Arkansas Teacher Retirement System regarding contributory and
 27 noncontributory status require revision; that revisions are necessary to
 28 ensure the effective and efficient operation of the system; and that the most
 29 effective time to make changes to the retirement system is at the beginning
 30 of the state's fiscal year. Therefore, an emergency is declared to exist and
 31 this act being immediately necessary for the preservation of the public
 32 peace, health, and safety shall become effective on July 1, 2007.

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