

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

As Engrossed: S1/30/07

A Bill

SENATE BILL 90

5 By: Senator Faris
6
7

For An Act To Be Entitled

9 AN ACT TO TRANSFER THE ARKANSAS DISTRICT JUDGE
10 RETIREMENT SYSTEM TO THE ARKANSAS PUBLIC
11 EMPLOYEES' RETIREMENT SYSTEM; AND FOR OTHER
12 PURPOSES.
13

Subtitle

15 TO TRANSFER THE ARKANSAS DISTRICT JUDGE
16 RETIREMENT SYSTEM TO THE ARKANSAS PUBLIC
17 EMPLOYEES' RETIREMENT SYSTEM.
18
19

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

22 SECTION 1. Arkansas Code Title 24, Chapter 4, Subchapter 7 is
23 amended to read as follows:

24 24-4-750. Arkansas District Judge Retirement System abolished –
25 Powers, duties, and plan liabilities transferred to Arkansas Public
26 Employees' Retirement System.

27 (a) The Arkansas District Judge Retirement System, established by §
28 24-8-801 et seq., is abolished, and its powers, duties, and plan liabilities
29 are transferred to the Arkansas Public Employees' Retirement System by a type
30 3 transfer as prescribed in § 25-2-106.

31 (b) For purposes of this act, the Arkansas Public Employees'
32 Retirement System shall be considered a principal department established by
33 Acts 1971, No. 38.

34 (c)(1) The Arkansas Public Employees' Retirement System shall maintain
35 the same process of payments under § 24-4-751.

36 (2) Active members of the Arkansas District Judge Retirement



1 System on the date of the transfer shall continue to accrue the same program
2 of benefits received before the transfer.

3 (3) As employer, the government entity that pays the salary of a
4 district judge shall make contributions to the Arkansas Public Employees'
5 Retirement System as a percent of the salary of the active district judge at
6 the rate previously established to fund the district judge benefit program
7 unless the Arkansas Public Employees' Retirement System's actuary determines
8 that a different required contribution rate should be applied.

9 (d) Each district judge joining the Arkansas Public Employees'
10 Retirement System after the date of transfer shall be deemed an elected
11 official of a city or county and shall receive service credit under § 24-4-
12 101(15)(B).

13
14 SECTION 2. Arkansas Code § 16-10-307(c)(1)(C), concerning the county
15 administration of justice fund, is amended to read as follows:

16 (C) ~~Notwithstanding the creation of the Arkansas District~~
17 ~~Judge Retirement System on January 1, 2005, all~~ All local ordinances of the
18 counties and cities authorized and adopted under § 24-8-318 shall remain in
19 full force and effect.

20
21 SECTION 3. Arkansas Code § 16-10-308(c)(1)(C), concerning the city
22 administration of justice fund, is amended to read as follows:

23 (C) ~~Notwithstanding the creation of the Arkansas District~~
24 ~~Judge Retirement System on January 1, 2005, all~~ All local ordinances of the
25 counties and cities authorized and adopted under § 24-8-318 shall remain in
26 full force and effect.

27
28 SECTION 4. Arkansas Code § 16-17-135(c), concerning counties
29 authorized to employ and compensate district court judges as criminal
30 magistrates, is amended to read as follows:

31 (c) A county, city, or town that contributes to the salary of a
32 district judge may treat the increased payment for magistrate duties as
33 salary to be calculated for purposes of the ~~Arkansas District Judge~~
34 ~~Retirement System, § 24-8-801 et seq.~~ Arkansas Public Employees' Retirement
35 System.

36

1 SECTION 5. Arkansas Code § 19-4-1107(6)(D), concerning supporting
2 documents for the disbursing of state funds, is amended to read as follows:

3 (D) In the case of vouchers written upon the Arkansas Public
4 Employees' Retirement System Fund, the Arkansas Local Police and Fire
5 Retirement System Fund, the State Police Retirement System Fund, the Arkansas
6 Judicial Retirement System Fund, ~~the Arkansas District Judge Retirement~~
7 ~~System,~~ and the Arkansas Teacher Retirement System Fund for retiree benefits,
8 the Auditor of State shall process paper or electronic warrants to pay the
9 vouchers upon certification by the Chief Fiscal Officer of the State that
10 funds are available from the Arkansas Public Employees' Retirement System,
11 the Arkansas Local Police and Fire Retirement System, the State Police
12 Retirement System, the Arkansas Judicial Retirement System, ~~the Arkansas~~
13 ~~District Judge Retirement System,~~ and the Arkansas Teacher Retirement System
14 funds with which to pay the warrants when they shall be presented for
15 payment.

16
17 SECTION 6. Arkansas Code § 24-2-401(3), concerning the definition of
18 "reciprocal system," is amended to read as follows:

19 (3) "Reciprocal system" means:

20 (A) The Arkansas Teacher Retirement System in operation
21 June 30, 1957, and continued by §§ 24-7-202 - 24-7-205, 24-7-301 - 24-7-305,
22 24-7-401 - 24-7-411, 24-7-501, 24-7-502, 24-7-601 - 24-7-604, 24-7-606, 24-7-
23 701, 24-7-702, 24-7-704 - 24-7-713, 24-7-715, and 24-7-716;

24 (B) The Arkansas State Highway Employees' Retirement
25 System, established by § 24-5-103;

26 (C) The Arkansas Public Employees' Retirement System,
27 established by § 24-4-103;

28 (D) The State Police Retirement System, established by §
29 24-6-203;

30 (E) The Arkansas Judicial Retirement System, established
31 by § 24-8-201 et seq.;

32 ~~(F) The Arkansas District Judge Retirement System,~~
33 ~~established by § 24-8-801 et seq.;~~

34 ~~(G)~~(F) An alternate retirement plan for:

35 (i) A college, university, or the Department of
36 Higher Education provided for under § 24-7-801 et seq.; or

1 (ii) A vocational-technical school or the Department
2 of Workforce Education provided for under § 24-7-901 et seq.; or

3 ~~(H)~~(G) The Arkansas Local Police and Fire Retirement
4 System provided for under § 24-10-101 et seq.; and

5
6 SECTION 7. Arkansas Code § 24-2-401(4)(C), concerning the definition
7 of “state employer”, is amended to read as follows:

8 (C) The public employer whose employees are district court
9 judges, whether elected or appointed to office, covered under the ~~Arkansas~~
10 ~~District Judge Retirement System~~ Arkansas Public Employees’ Retirement
11 System; or

12
13 SECTION 8. Arkansas Code § 24-2-402(4)(B), concerning deferred
14 annuities, is amended to read as follows:

15 (B) The final average compensation to be used to determine
16 monthly benefits payable to that person shall be that of the reciprocal
17 system which furnishes the highest final average compensation at the time of
18 retirement, but each reciprocal system shall use the method of computing
19 final average compensation stipulated by its law, and compensation in the
20 Arkansas Judicial Retirement System ~~or the Arkansas District Judge Retirement~~
21 ~~System~~ shall not be used to determine final average compensation.

22
23 SECTION 9. Arkansas Code § 24-2-502(8)(A)(iii), concerning deferred
24 retirement plans under preceding or reciprocal systems, is amended to read as
25 follows:

26 (iii) The final average compensation to be used to
27 determine monthly benefits payable to that person shall be that of the
28 reciprocal system which furnishes the highest final average compensation at
29 the time of retirement, but each reciprocal system shall use the method of
30 computing final average compensation stipulated by its law, and compensation
31 in the Arkansas Judicial Retirement System ~~or the Arkansas District Judge~~
32 ~~Retirement System~~ shall not be used to determine final average compensation.

33
34 SECTION 10. Arkansas Code Title 24, Chapter 4, Subchapter 7 is amended
35 to add an additional section to read as follows:

36 24-4-751. Additional funding for retirement benefits.

1 (a) The government entity that had previously established a local
2 municipal judge's retirement fund shall be required to contribute an amount
3 of money that represents the actuarially determined accrued liability for
4 those judges and former judges who wer covered by the local fund on December
5 31, 2004.

6 (b) The assets in the local municipal judge retirement fund, not to
7 exceed the amount in subsection (a) of this section, shall be paid to the
8 Arkansas Public Employees' Retirement System on January 1, 2008.

9 (c) If the local municipal judge retirement fund does not have
10 sufficient money available to pay the amount determined in subsection (a) of
11 this section to the system on January 1, 2008, then the remaining amount of
12 actuarially determined accrued liability shall be paid on or before December
13 31 each year after for up to the next thirty (30) years based on a thirty-
14 year amortization period.

15 (d)(1) If the amount in the municipal judge retirement fund is greater
16 than the actuarially determined amount of the liabilities to be transferred
17 to the system, that excess may be retained by the sponsoring government
18 entity for the sole purpose of paying the retirement benefits of district
19 judges.

20 (2) If at any time in the future an obligation to fund the
21 system no longer exists, then any excess shall be retained by the sponsoring
22 government entity.

23 (e)(1) The accrued benefit used to determine the accrued liability
24 under this section shall be determined by:

25 (A) Calculating the benefit that the judge would be
26 eligible to receive on December 31, 2004, as provided by law before July 16,
27 2003, if the judge was eligible to begin receiving benefits on January 1,
28 2005; and

29 (B) Multiplying the amount in subdivision (e)(1)(A) of
30 this section by the number of years of eligible service and then dividing by
31 the greater of either the number of years of service needed to be eligible to
32 retire or the current years of eligible service.

33 (2) The service years shall be determined under the law before
34 January 1, 2005.

35 (f) The accrued benefit determined under subsection (e) of this
36 section for any retiree or surviving spouse who is receiving benefits on

1 December 31, 2004, shall be the amount that he or she is receiving or
2 entitled to receive on that date.

3
4 SECTION 11. Arkansas Code § 24-8-318(b), concerning additional funding
5 sources for retirement benefits, is amended to read as follows:

6 (b) ~~Notwithstanding the creation of the Arkansas District Judge~~
7 ~~Retirement System on January 1, 2005, all~~ All ordinances passed pursuant to
8 this section shall remain in full force and effect.

9
10 SECTION 12. Arkansas Code §§ 24-8-801 – 24-8-824 are repealed.

11 ~~24-8-801. Public policy.~~

12 ~~(a) It is declared to be the state's public policy that district~~
13 ~~judges and former municipal judges may retire or be retired when that course~~
14 ~~appears to be in the best interest of the official concerned and for the~~
15 ~~public welfare.~~

16 ~~(b) Factors to be considered for retirement are:~~

17 ~~(A) Physical disability;~~

18 ~~(B) Advanced age; or~~

19 ~~(C) Other infirmities calculated to materially impair the~~
20 ~~conduct of judicial duties.~~

21 ~~(c) The Arkansas District Judge Retirement System is established under~~
22 ~~this subchapter to:~~

23 ~~(1) Provide sufficient retirement and survivors' benefits for~~
24 ~~the district judges of the state; and~~

25 ~~(2) Attract and retain highly capable members of the legal~~
26 ~~profession for service in the state judiciary.~~

27
28 ~~24-8-802. Definitions.~~

29 ~~As used in this subchapter:~~

30 ~~(1) "Actual service" means service credit beginning January 1,~~
31 ~~2005, in the Arkansas District Judge Retirement System;~~

32 ~~(2) "Average annual salary" means the average of the last three~~
33 ~~(3) years' salary ending with the most recent year;~~

34 ~~(3) "Board" means the Board of Trustees of the Arkansas District~~
35 ~~Judge Retirement System;~~

36 ~~(4) "District judge" means:~~

1 (A) ~~A district judge in office on December 31, 2004, who~~
2 ~~is covered under § 24-8-801 et seq.,; or~~

3 (B) ~~A district judge in office on or after January 1,~~
4 ~~2005,;~~

5 (5) ~~"Municipal judge retirement fund" means a local municipal~~
6 ~~judge and clerk retirement fund established by a local government under § 24-~~
7 ~~8-301 et seq., § 24-8-401 et seq., or § 24-8-501 et seq.,;~~

8 (6) ~~"Purchased service" means service credited for retirement~~
9 ~~purposes on or before December 31, 2004, in a municipal judge retirement~~
10 ~~fund,;~~

11 (7) ~~"System" means the Arkansas District Judge Retirement~~
12 ~~System,; and~~

13 (8) ~~"Total service" means the sum of actual service and~~
14 ~~purchased service.~~

15
16 24-8-803. ~~Board of trustees.~~

17 (a) ~~The administration and control of the Arkansas District Judge~~
18 ~~Retirement System are vested in the Board of Trustees of the Arkansas~~
19 ~~District Judge Retirement System.~~

20 (b)(1) ~~The board shall consist of five (5) members, as follows,;~~

21 (A) ~~Two (2) members shall be appointed by the Arkansas~~
22 ~~District Judges Council,; and~~

23 (B) ~~Three (3) members shall be appointed by the Governor,;~~

24 (i) ~~One (1) member shall be from a list supplied by~~
25 ~~municipal employers and compiled by the Arkansas Municipal League,;~~

26 (ii) ~~One (1) member shall be from a list supplied by~~
27 ~~county employers and compiled by the Arkansas Association of Counties,; and~~

28 (iii) ~~One (1) member shall be a citizen of the State~~
29 ~~of Arkansas who shall not have previous service in the judicial system.~~

30 (2) ~~One (1) of the board members shall be elected by the board~~
31 ~~to serve as chair.~~

32 (3)(A) ~~The members of the board shall serve staggered terms.~~

33 (B) ~~At the board's first regular meeting following March~~
34 ~~18, 2005, the members who are on the board on March 18, 2005, shall draw lots~~
35 ~~to determine the length of terms.~~

36 (C) ~~The terms shall be staggered in the following manner,;~~

1 ~~(i) One (1) member's term shall expire December 31,~~
2 ~~2005;~~

3 ~~(ii) One (1) member's term shall expire December 31,~~
4 ~~2006;~~

5 ~~(iii) One (1) member's term shall expire December~~
6 ~~31, 2007; and~~

7 ~~(iv) Two (2) members' terms shall expire December~~
8 ~~31, 2008.~~

9 ~~(D) Subsequent appointments shall be for a term of four~~
10 ~~(4) years, and the members shall serve until their successors are appointed~~
11 ~~and qualified.~~

12 ~~(E) If a vacancy occurs on the board, the vacancy shall be~~
13 ~~filled in the same manner as provided for the initial appointment.~~

14 ~~(c) The duties of the board are to:~~

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

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

18 ~~(3) Appoint an actuary or firm of actuaries to be a technical~~
19 ~~advisor to the board on the operation of the system on an actuarial basis;~~

20 ~~(4) Assign duties to the actuary to perform; and~~

21 ~~(5) Appoint professional investment counsel to be the board's~~
22 ~~investment advisor and money manager.~~

23 ~~(d) The board shall meet at least one (1) time during a calendar~~
24 ~~quarter and at other times as necessary.~~

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

27
28 ~~24-8-804. Administration.~~

29 ~~(a)(1) The executive director and administrative staff of the Arkansas~~
30 ~~Public Employees' Retirement System shall be the executive director and~~
31 ~~administrative staff of the Arkansas District Judge Retirement System.~~

32 ~~(2) The administrative records of the Arkansas District Judge~~
33 ~~Retirement System shall be maintained within the administrative offices of~~
34 ~~the Arkansas Public Employees' Retirement System.~~

35 ~~(b) All costs of administering the Arkansas District Judge Retirement~~
36 ~~System shall be paid from the Arkansas District Judge Retirement System, but~~

1 ~~no payment for the expenses shall be made unless authorized by the Board of~~
2 ~~Trustees of the Arkansas District Judge Retirement System.~~

3 ~~(c) There will be an initial grant from the State Treasury to~~
4 ~~establish administrative systems, personnel needs, and a trust fund for the~~
5 ~~Arkansas District Judge Retirement System.~~

6
7 ~~24-8-805. Trust fund.~~

8 ~~(a) In addition to the Arkansas District Judge Retirement System in~~
9 ~~the State Treasury, a bank trust fund or funds may be established and~~
10 ~~maintained in a federally insured depository institution designated by the~~
11 ~~Board of Trustees of the Arkansas District Judge Retirement System.~~

12 ~~(b) The board shall be the trustee of the funds and shall adhere to~~
13 ~~the prudent investor rule set forth in §§ 24-2-610—24-2-619, as in effect~~
14 ~~on December 31, 2004.~~

15
16 ~~24-8-806. Annual actuarial valuation and monetary distribution.~~

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

20 ~~(b) The provisions of this subchapter are contingent upon and shall~~
21 ~~only remain in effect if the disbursement of fine revenues continues under~~
22 ~~the law as it existed on July 16, 2003.~~

23
24 ~~24-8-807. Membership generally.~~

25 ~~(a) If elected or appointed to office, all district judges shall~~
26 ~~participate in the Arkansas District Judge Retirement System beginning~~
27 ~~January 1, 2005.~~

28 ~~(b)(1) A district judge who is covered by the Arkansas Public~~
29 ~~Employees' Retirement System on December 31, 2004, will continue to be~~
30 ~~covered by that system on January 1, 2005.~~

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

33 ~~(c)(1) Any former municipal judge who is eligible to receive a~~
34 ~~retirement benefit for service as municipal judge as provided by law before~~
35 ~~January 1, 2005, and any former municipal judge who is receiving a retirement~~
36 ~~benefit as provided by law for service as municipal judge shall participate~~

1 on and after January 1, 2005, in the Arkansas District Judge Retirement
2 System and have his or her benefits administered by this system.

3 (2) ~~A surviving spouse of a municipal judge who is eligible to~~
4 ~~receive a survivor's benefit as provided by law on December 31, 2004, and any~~
5 ~~surviving spouse of a municipal judge who is receiving a retirement benefit~~
6 ~~as provided by law shall participate on and after January 1, 2005, in the~~
7 ~~Arkansas District Judge Retirement System and have his or her benefits~~
8 ~~administered by this system.~~

9
10 ~~24-8-808. Contributions—Members—Refund.~~

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

14 (b) ~~If a district judge ceases to be a member prior to qualifying for~~
15 ~~retirement benefits, the judge may be refunded all contributions paid by the~~
16 ~~judge into the system.~~

17 (c)(1) ~~For purposes of deferring federal and state income tax and~~
18 ~~pursuant to the provisions of 26 U.S.C. § 414(h)(2), as adopted by § 26-51-~~
19 ~~414, the government entity that pays the salary of the judge shall pick up~~
20 ~~the member's contributions to the system as required by this section and that~~
21 ~~are payable on or after January 1, 2005.~~

22 (2)(A) ~~Member contributions paid by the applicable government~~
23 ~~entity shall be paid from the same source of funds used for the payment of~~
24 ~~salary to a member.~~

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

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

29 (d)(1) ~~The Board of Trustees of the Arkansas District Judge Retirement~~
30 ~~System shall determine the amount of interest to be paid on members'~~
31 ~~contribution balances.~~

32 (2) ~~The interest rate shall not exceed the assumed rate of~~
33 ~~investment return.~~

34 (e)(1) ~~A member may repay a refund to reestablish service credit with~~
35 ~~the system in the manner prescribed by the board.~~

36 (2) ~~The member must repay the amounts that were withdrawn plus~~

1 ~~interest at the system's assumed rate of investment return from the date of~~
2 ~~withdrawal to the date of repayment.~~

3
4 ~~24-8-809. Contributions—Government entity.~~

5 ~~(a)(1) As employer, the government entity that pays the salary of a~~
6 ~~district judge shall make contributions to the Arkansas District Judge~~
7 ~~Retirement System as a percent of the salary of the active district judge~~
8 ~~based on the most recent actuarial cost report.~~

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

10 ~~(b)(1) If any participating public employer fails to file the~~
11 ~~retirement report with the system by the date established by the Board of~~
12 ~~Trustees of the Arkansas District Judge Retirement System, the system shall~~
13 ~~impose a penalty of one hundred fifty dollars (\$150) for each time the report~~
14 ~~is late.~~

15 ~~(2) A statement of the penalty shall be sent to the~~
16 ~~participating employer.~~

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

21 ~~(c)(1)(A) If any participating public employer fails to remit to the~~
22 ~~system moneys that are required by law to be remitted by the date and at the~~
23 ~~frequency established by the board, the system shall impose a penalty equal~~
24 ~~to the actuarially assumed rate of return on investments of the fund in the~~
25 ~~form of interest on an annual basis on the moneys due.~~

26 ~~(B) The interest penalty is:~~

27 ~~(i) Computed on the actual days of delinquency; and~~

28 ~~(ii) Determined by the system on the date the~~
29 ~~delinquent funds are received.~~

30 ~~(C) A statement of the interest due shall be sent to the~~
31 ~~participating public employer.~~

32 ~~(2) If the interest penalty or delinquent moneys are not~~
33 ~~received by the system on or before the last business day of the month in~~
34 ~~which the moneys were originally due, the system shall cause the sums of~~
35 ~~moneys, including interest, to be transferred from any moneys due the~~
36 ~~participating public employer from the office of the Treasurer of State as~~

1 provided in § 19-5-106(a)(5).
2

3 ~~24-8-810. Additional funding for retirement benefits.~~

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

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

11 ~~(c) If the local municipal judge retirement fund does not have~~
12 ~~sufficient money available to pay the amount determined in subsection (a) of~~
13 ~~this section to the system on January 1, 2005, then the remaining amount of~~
14 ~~actuarially determined accrued liability shall be paid on or before December~~
15 ~~31 each year after for up to the next thirty (30) years based on a thirty-~~
16 ~~year amortization period.~~

17 ~~(d)(1) If the amount in the municipal judge retirement fund is greater~~
18 ~~than the actuarially determined amount of the liabilities to be transferred~~
19 ~~to the system, that excess may be retained by the sponsoring government~~
20 ~~entity for the sole purpose of paying the retirement benefits of district~~
21 ~~judges.~~

22 ~~(2) If at any time in the future an obligation to fund the~~
23 ~~system no longer exists, then any excess shall be retained by the sponsoring~~
24 ~~government entity.~~

25 ~~(e)(1) The accrued benefit used to determine the accrued liability~~
26 ~~under this section shall be determined by:~~

27 ~~(A) Calculating the benefit that the judge would be~~
28 ~~eligible to receive on December 31, 2004, as provided by law before July 16,~~
29 ~~2003, if the judge was eligible to begin receiving benefits on January 1,~~
30 ~~2005; and~~

31 ~~(B) Multiplying the amount in subdivision (e)(1)(A) of~~
32 ~~this section by the number of years of eligible service and then dividing by~~
33 ~~the greater of either the number of years of service needed to be eligible to~~
34 ~~retire or the current years of eligible service.~~

35 ~~(2) The service years shall be determined under the law before~~
36 ~~January 1, 2005.~~

1 ~~(f) The accrued benefit determined under subsection (e) of this~~
2 ~~section for any retiree or surviving spouse who is receiving benefits on~~
3 ~~December 31, 2004, shall be the amount that he or she is receiving or~~
4 ~~entitled to receive on that date.~~

5
6 ~~24-8-811. Contributions—Cessation upon maximum benefit eligibility.~~
7 ~~When a district judge has sufficient service in the Arkansas District~~
8 ~~Judge Retirement System to qualify for the maximum benefit provided by this~~
9 ~~subchapter, no further contributions are required.~~

10
11 ~~24-8-812. Actual service requirement.~~

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

14 ~~(b)(1) Eligibility for benefits shall be based on actual service in~~
15 ~~the Arkansas District Judge Retirement System plus the equivalent service~~
16 ~~purchased from the Municipal Judge and Clerk Retirement System as of January~~
17 ~~1, 2005.~~

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

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

23 ~~(c) Any laws permitting the purchase of nonvested service or providing~~
24 ~~free credited service shall not apply to this subchapter.~~

25 ~~(d) The provisions of §§ 24-2-501 and 24-2-502, concerning free and~~
26 ~~purchased credited service, shall not apply to this subchapter.~~

27
28 ~~24-8-813. Eligibility for benefits—Retirement generally.~~

29 ~~Any district judge shall be eligible for a retirement benefit if the~~
30 ~~judge has served at least:~~

31 ~~(1) Twenty (20) years of total service upon reaching age fifty~~
32 ~~(50);~~

33 ~~(2) Sixteen (16) years of total service upon reaching age sixty~~
34 ~~(60); or~~

35 ~~(3) Eight (8) years of total service upon reaching age sixty-~~
36 ~~five (65).~~

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~~24-8-814. Eligibility for benefits—Early retirement.~~

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

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

~~24-8-815. Eligibility for benefits—Disability retirement.~~

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

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

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

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

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

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

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

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

~~(c)(1) Survivors' benefits shall be fifty percent (50%) of the amount of the retirement benefits of an active district judge or a judge who has~~

1 ~~retired under the provisions of a local plan before January 1, 2005.~~

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

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

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

13 ~~(B)(i) If the decedent is survived by both an eligible~~
14 ~~spouse and minor children, then one half (1/2) of the survivors' benefits~~
15 ~~shall be paid to the spouse for life or until remarriage.~~

16 ~~(ii) The other one half (1/2) of the survivors'~~
17 ~~benefits shall be paid to the guardian of the minor children during the~~
18 ~~period of minority.~~

19 ~~(iii) When all of the children cease to be minors,~~
20 ~~then the survivors' benefits paid to the minor children shall be paid to the~~
21 ~~spouse;~~

22 ~~(C) If the deceased judge is not survived by an eligible~~
23 ~~spouse but is survived by minor children, then the survivors' benefits under~~
24 ~~subsection (a) of this section shall be payable to the guardian of the minor~~
25 ~~children during the period of minority; and~~

26 ~~(D) If a surviving spouse who is receiving survivors'~~
27 ~~benefits under this section remarries and the benefits are discontinued and~~
28 ~~the surviving spouse again becomes unmarried, benefits provided in this~~
29 ~~section for the spouse shall be resumed.~~

30 ~~(d) As used in this section, "average annual salary" means the average~~
31 ~~of the last three (3) years' salary ending with the most current year.~~

32
33 ~~24-8-817. Eligibility for benefits—Deferred vested retirement.~~

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

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

4
5 ~~24-8-818. Restrictions on benefits.~~

6 ~~(a)(1) The sections of this subchapter are complementary.~~

7 ~~(2) However, no person may take benefits under two (2) or more~~
8 ~~sections of this subchapter at the same time.~~

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

11
12 ~~24-8-819. Redetermination of benefits.~~

13 ~~(a) The provisions of this section shall apply only to benefits~~
14 ~~provided for members of the Arkansas District Judge Retirement System for~~
15 ~~service rendered after January 1, 2005.~~

16 ~~(b)(1) Each July 1 the system shall redetermine the amount of each~~
17 ~~monthly benefit that has been payable by the system for at least twelve (12)~~
18 ~~full calendar months.~~

19 ~~(2) The redetermined amount shall be payable for the following~~
20 ~~twelve (12) calendar months.~~

21 ~~(c) The redetermined amount shall be the amount of benefit payable as~~
22 ~~of the immediately preceding July 1 increased by three percent (3%).~~

23
24 ~~24-8-820. Limitation on benefit enhancement.~~

25 ~~(a) No enhancement of benefits under § 24-8-816 shall be implemented~~
26 ~~if it would cause the Arkansas District Judge Retirement System's unfunded~~
27 ~~actuarial accrued liabilities to exceed a thirty year amortization.~~

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

32
33 ~~24-8-821. Reciprocal system.~~

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

36 ~~(b) There is no reciprocal service with the local municipal judge~~

1 ~~retirement systems before January 1, 2005.~~

2 ~~(c) In establishing eligibility for a benefit from the system, the~~
3 ~~credited service under all reciprocal systems shall be totaled, and the total~~
4 ~~credited service shall be used in determining eligibility for a system~~
5 ~~benefit.~~

6 ~~(d) In determining the amount of a benefit from the system, only the~~
7 ~~credited service under the system and the benefit formula of the system shall~~
8 ~~be used.~~

9 ~~(e) Whenever the system provides a benefit amount that is not~~
10 ~~dependent on length of credited service, the benefit amount shall be reduced~~
11 ~~to the proportion that system credited service bears to total reciprocal~~
12 ~~system credited service.~~

13
14 ~~24-8-822. Termination required for retirement.~~

15 ~~(a) A member of the Arkansas District Judge Retirement System must~~
16 ~~terminate covered employment to be eligible for retirement.~~

17 ~~(b) A member is not terminated from employment for retirement purposes~~
18 ~~if the person returns to a position that would otherwise be covered within~~
19 ~~thirty (30) days of the person's effective date of retirement.~~

20 ~~(c) Persons failing to meet termination requirements shall forfeit~~
21 ~~their benefits until the requirements are met.~~

22
23 ~~24-8-823. Benefit provisions—Subjection of annuity rights to process~~
24 ~~of law.~~

25 ~~(a)(1) The right of a person to an annuity, to the return of~~
26 ~~accumulated contributions, the annuity itself, any annuity option, any other~~
27 ~~right accrued or accruing under the provisions of this subchapter, and all~~
28 ~~moneys belonging to a plan shall not be subject to execution, garnishment,~~
29 ~~attachment, the operation of bankruptcy or insolvency laws, or any other~~
30 ~~process of law.~~

31 ~~(2) The rights described in subdivision (a)(1) of this section~~
32 ~~shall not be assignable except when a qualified domestic relations order has~~
33 ~~been filed pursuant to § 9-18-101 et seq., or except as specifically provided~~
34 ~~in this subchapter.~~

35 ~~(b) An employer shall have the right of setoff for any claim arising~~
36 ~~from embezzlement by or fraud of a member, retirant, or beneficiary.~~

1
2 ~~24-8-824. Adjustment of erroneous payments.~~

3 ~~(a)(1) If any change or error in the records of the Arkansas District~~
4 ~~Judge Retirement System or any audit of a member's annuity calculations~~
5 ~~results in any person's receiving more or less than the person is entitled to~~
6 ~~receive had the records or the calculations been correct, the Board of~~
7 ~~Trustees of the Arkansas District Judge Retirement System shall correct the~~
8 ~~error and adjust the payment in accordance with this subchapter so that the~~
9 ~~actuarial equivalent of the benefit to which the person was correctly~~
10 ~~entitled is paid.~~

11 ~~(2) However, no monthly adjustment of less than one dollar~~
12 ~~(\$1.00) shall be made.~~

13 ~~(b) If an overpayment is determined, any subsequent payments shall be~~
14 ~~adjusted to the correct amount.~~

15 ~~(c) If an underpayment is determined, regardless of the date of the~~
16 ~~determination, the system shall pay in a lump sum to the person the total of~~
17 ~~any underpayments made prior to the date of determination, and any subsequent~~
18 ~~payments shall be adjusted to the correct amount.~~

19
20 SECTION 13. Arkansas Code § 24-8-902(a), concerning additional funding
21 for district court clerks, is amended to read as follows:

22 (a) A local government that has established a municipal judge's
23 retirement fund shall contribute an amount of money to the ~~Arkansas District~~
24 ~~Judge Retirement System~~ Arkansas Public Employees' Retirement System that
25 shall represent the actuarially determined accrued liability for those court
26 clerks and former court clerks who are covered by the municipal judge's
27 retirement fund on December 31, 2004.

28
29 SECTION 14. Arkansas Code § 24-8-904 is amended to read as follows:

30 24-8-904. Reciprocal system.

31 (a) Court clerks placed in the Arkansas Public Employees' Retirement
32 System under this subchapter ~~whose past service credit was placed in the~~
33 ~~Arkansas District Judge Retirement System~~ shall be covered by the reciprocal
34 provisions of §§ 24-2-401 - 24-2-404.

35 (b) There is no reciprocal service between the local municipal judge
36 retirement systems and the reciprocal systems listed in § 24-2-401(1) before

1 January 1, 2005.

2 (c) In establishing eligibility for a benefit from each system, the
3 credited service under all reciprocal systems is totaled and the credited
4 service is used in determining eligibility for each system benefit.

5 (d)(1) Only the credited service under that system and the benefit
6 formula of that system are used in determining the amount of a benefit from
7 each system.

8 (2) This subchapter is not intended to decrease the benefits
9 earned nor increase the eligibility requirements for members who were
10 participants in a local plan, as authorized by law, prior to January 1, 2005.

11 (3) The benefits earned and those eligibility requirements shall
12 transfer to the ~~Arkansas District Judge Retirement System~~ Arkansas Public
13 Employees' Retirement System.

14 (e) If a system provides a benefit amount that is not dependent on
15 length of credited service, the benefit amount shall be reduced to the
16 proportion that system-credited service bears to total reciprocal system-
17 credited service.

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/s/ Faris