

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 87th General Assembly  
3 Regular Session, 2009  
4  
5 By: Senator G. Jeffress  
6  
7

As Engrossed: S2/5/09  
**A Bill**

SENATE BILL 165

**For An Act To Be Entitled**

9 AN ACT TO ADJUST THE AMOUNT OF TIME FROM THIRTY  
10 (30) DAYS TO ONE HUNDRED EIGHTY (180) DAYS THAT A  
11 RETIRED MEMBER OF THE ARKANSAS TEACHER RETIREMENT  
12 SYSTEM SHALL REMAIN RETIRED BEFORE RECEIVING  
13 BENEFITS; TO CLARIFY VARIOUS SECTIONS OF ARKANSAS  
14 CODE TITLE 24, CHAPTER 7 PERTAINING TO THE  
15 TERMINATION OF COVERED EMPLOYMENT REQUIREMENTS;  
16 AND FOR OTHER PURPOSES.

**Subtitle**

18 TO ADJUST THE AMOUNT OF TIME A RETIRED  
19 MEMBER OF THE ARKANSAS TEACHER  
20 RETIREMENT SYSTEM SHALL REMAIN RETIRED  
21 BEFORE RECEIVING BENEFITS.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 24-7-502(a), concerning the amount of time  
28 a member of the Arkansas Teacher Retirement System is required to be  
29 terminated from employment before becoming eligible for retirement benefits,  
30 is amended to read as follows:

31 (a)(1) A member of the Arkansas Teacher Retirement System ~~must~~ shall  
32 terminate covered employment to be eligible for retirement.

33 (2) Effective July 1, 2009, A a member shall not be terminated  
34 from employment for ~~retirement~~ purposes of retirement eligibility if within  
35 ~~thirty (30)~~ one hundred eighty (180) days of the ~~person's~~ member's effective  
36 date of retirement the ~~person~~ member ~~returns to a position that would~~



1 ~~otherwise be covered by the system:~~

2 (A) Becomes employed with an employer covered by the  
3 system; and

4 (B) Has not attained the system's normal retirement age.

5 (3) A ~~person failing~~ member who fails to meet the termination  
6 requirement of this subsection shall forfeit ~~the person's~~ all retirement  
7 benefits until the termination requirement is met.

8 (4)(A) A member shall repay to the system any retirement  
9 benefits that are paid to the member by the system during the waiting period  
10 of one hundred eighty (180) in subdivision (a)(2) of this section.

11 (B) The system may require the repayment of retirement  
12 benefits from the member indirectly under the system's standard withholding  
13 rule.

14 (5) For a member who fails to meet the termination requirement  
15 in subdivisions (a)(1) and (2) of this section, the member shall immediately  
16 become an active member of the system upon reemployment by a covered  
17 employer.

18  
19 SECTION 2. Arkansas Code § 24-7-701(a), concerning voluntary  
20 retirement, is amended to read as follows:

21 (a)(1) Except as provided under subdivision (a)(2) of this section, an  
22 active member who either attains ~~age~~ sixty (60) years of age and has five (5)  
23 or more years of actual and reciprocal service or who has twenty-eight (28)  
24 or more years of credited service regardless of age may voluntarily retire  
25 upon written application filed with the Board of Trustees of the Arkansas  
26 Teacher Retirement System.

27 (2)(A) A member shall ~~terminate covered employment~~ meet the  
28 termination of covered employment requirements under § 24-7-502 to be  
29 eligible for retirement except if the member has attained normal retirement  
30 age.

31 ~~(B) A member shall not be terminated from employment for~~  
32 ~~retirement purposes if the person returns to a position that would otherwise~~  
33 ~~be covered by the Arkansas Teacher Retirement System within thirty (30) days~~  
34 ~~of the person's effective date of retirement.~~

35 ~~(C)~~ A person failing to meet the termination of employment  
36 requirements of this subsection shall forfeit retirement benefits until the

1 requirements are met.

2

3 SECTION 3. Arkansas Code § 24-7-702(a), concerning early voluntary  
4 retirement, is amended to read as follows:

5 (a)(1) Except as provided under subdivision (a)(2) of this section, an  
6 active or inactive member who has twenty-five (25) or more years of credited  
7 service but has not attained ~~age~~ sixty (60) years of age and is not eligible  
8 for retirement under ~~the provisions of~~ § 24-7-701 may voluntarily retire  
9 early upon written application filed with the Board of Trustees of the  
10 Arkansas Teacher Retirement System.

11 (2)(A) A member shall ~~terminate~~ meet the termination of covered  
12 employment requirements under § 24-7-502 to be eligible for retirement except  
13 if the member has attained normal retirement age.

14 (B) ~~A member shall not be terminated from employment for~~  
15 ~~retirement purposes if the person returns to a position that would otherwise~~  
16 ~~be covered by the Arkansas Teacher Retirement System within thirty (30) days~~  
17 ~~of the person's effective date of retirement.~~

18 (C) ~~A person failing~~ A member who fails to meet the  
19 termination of covered employment requirements ~~of this~~ under subsection (a)  
20 of this section shall forfeit retirement benefits until the requirements are  
21 met.

22

23 SECTION 4. Arkansas Code § 24-7-704(a)(1)(B), concerning a disability  
24 retirement, is amended to read as follows:

25 (B)~~(i)~~ An active member who has met the eligibility  
26 requirement of subdivision (a)(1)(A) of this section shall ~~terminate~~ meet the  
27 termination of covered employment requirements under § 24-7-502 to be  
28 eligible for disability retirement benefits.

29 ~~(ii)~~ ~~If a member returns to work in a position~~  
30 ~~covered by the Arkansas Teacher Retirement System within thirty (30) days of~~  
31 ~~the person's effective date of disability retirement, then the member shall~~  
32 ~~not be considered terminated from employment for retirement purposes and~~  
33 ~~shall forfeit disability retirement benefits until the termination~~  
34 ~~requirements are met.~~

35

36 SECTION 5. Arkansas Code § 24-7-704(c)(5), concerning a disability

1     retirant returning to full-time service, is amended to read as follows:

2             (5)(A) If a disability retirant returns to full-time service as  
3 defined by rules determined by the board prior to attaining sixty (60) years  
4 of age, his or her disability retirement shall terminate.

5             (B) If a disability retirant returns to full-time service  
6 as defined by rules promulgated by the board after attaining sixty (60) years  
7 of age, the retirant shall be treated as if he or she retired under § 24-7-  
8 701 and is subject to the limitations applicable to age and service  
9 retirants.

10  
11            SECTION 6. Arkansas Code § 24-7-708 is amended to read as follows:

12            24-7-708. ~~Conditions subjecting annuities to limitations~~ Employment of  
13 retired members by covered employers.

14            (a) ~~Except as provided in subsections (f) and (g) of this section, if~~  
15 ~~a retirant is an employee of a public employer whose employees are covered by~~  
16 ~~the Arkansas Teacher Retirement System, then, for each twelve month period~~  
17 ~~ending June 30, the amount of his or her system annuity shall be subject to~~  
18 ~~the limitations equivalent to twice the limitations imposed by the social~~  
19 ~~security retirement test~~ Effective July 1, 2009, after terminating employment  
20 under § 24-7-502 or reaching the age of normal retirement, a retirant may:

21                 (1) Accept employment with an employer covered by the system  
22 without a limitation of his or her retirement annuity; and

23                 (2) Continue to receive his or her monthly retirement annuity.

24            (b) ~~For each year ending June 30, the social security retirement test~~  
25 ~~to be considered shall be the test in effect for the calendar year beginning~~  
26 ~~the January 1 immediately preceding June 30. The retirant's earnings shall be~~  
27 ~~his or her remuneration for the employment for the year ending June 30~~  
28 Employers covered by the system that hire an employee who meets the  
29 conditions under subsection (a) of this section shall report the hiring of  
30 the retirant to the system in a time and a manner that the system may  
31 reasonably require.

32            (c) ~~The Board of Trustees of the Arkansas Teacher Retirement System~~  
33 ~~shall establish equivalent limitations by appropriate rules and regulations.~~

34            (d) ~~Receiving remuneration as an employee from any private employer or~~  
35 ~~as a member of the General Assembly shall not affect payment of an annuity.~~

36            (e) ~~During any period of employment in a position covered by the~~

1 ~~system, a A retirant that receives monthly benefits and is employed by a~~  
2 ~~covered employer shall not accrue additional-credited service credit.~~

3 ~~(f)(1) In accordance with rules and regulations adopted by the State~~  
4 ~~Board of Education, the Department of Education may request of the board of~~  
5 ~~trustees or its designee a waiver of the conditions subjecting annuities to~~  
6 ~~limitations. If approved by the board of trustees or its designee, the waiver~~  
7 ~~shall be effective for a one year period, with the option to renew annually~~  
8 ~~for up to a total of six (6) years as requested by the department.~~

9 ~~(2) A waiver of the conditions subjecting annuities to~~  
10 ~~limitations may be requested if the retirant is hired by a public school~~  
11 ~~district due to a shortage of certified teachers in a critical academic area~~  
12 ~~in which the retirant is certified.~~

13 ~~(3) The critical academic areas in which there is a shortage of~~  
14 ~~certified teachers shall be determined annually by the State Board of~~  
15 ~~Education.~~

16 ~~(4) School districts shall maintain audit files identifying~~  
17 ~~personnel granted a waiver and documenting the reasons for the waiver.~~

18 ~~(5) Beginning July 1, 2005, for any retired member employed in a~~  
19 ~~position covered by the system pursuant to a waiver, an amount equal to the~~  
20 ~~combined employer and employee contribution rate or rates to the system on~~  
21 ~~behalf of the member shall recommence at the rate in effect at the time of~~  
22 ~~the employment and shall be remitted by the employer.~~

23 ~~(d)(1) For a retired member employed in a position covered by the~~  
24 ~~system, the covered employer shall remit the contributions on all salary paid~~  
25 ~~to the retirant in an amount equal to the employer contribution rate in~~  
26 ~~effect for the period of employment.~~

27 ~~(2) Contributions shall be paid by the employer and are not the~~  
28 ~~responsibility of the retirant.~~

29 ~~(e)(1) The Board of Trustees of the Arkansas Teacher Retirement System~~  
30 ~~shall adopt rules to carry out the provisions of this section.~~

31 ~~(2) A covered employer that employs retirants is subject to the~~  
32 ~~rules adopted by the board.~~

33 ~~(g)(1) A retired member entering into a position of employment with the~~  
34 ~~Department of Education is exempt from this section and shall be employed~~  
35 ~~with no limitations placed on his or her earnings.~~

36 ~~(2) For any retired member returning to work under subdivision~~

1 ~~(g)(1) of this section, the employer and employee contribution rate to the~~  
 2 ~~system on behalf of the member shall recommence at the rate in effect at the~~  
 3 ~~time of the employment and shall be remitted by the employer.~~

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 5 SECTION 7. Arkansas Code § 24-7-1303(a)(3)(A), concerning the  
 6 contributions to the Teacher Deferred Retirement Option Plan, is amended to  
 7 read as follows:

8 (a)(3)(A)(i) Beginning September 1, 2003, for members  
 9 whose effective date in the Teacher Deferred Retirement Option Plan is before  
 10 September 1, 2003, the employer contribution rate to the system on behalf of  
 11 all members in the Teacher Deferred Retirement Option Plan shall recommence  
 12 at the rate of:

13 ~~(i)(a)~~ One percent (1%) for the period from July 1,  
 14 2003, through June 30, 2005;

15 ~~(ii)(b)~~ Three percent (3%) for the period from July  
 16 1, 2005, through June 30, 2007;

17 ~~(iii)(c)~~ Six percent (6%) for the period from July  
 18 1, 2007, through June 30, 2009+.

19 ~~(iv)(ii)~~ Nine percent (9%) for the period from July  
 20 1, 2009, through June 30, 2011;

21 - - ~~(v)~~ Twelve percent (12%) for the period from July 1,  
 22 2011, through June 30, 2013; and

23 - - ~~(vi)~~ After July 1, 2013, the percentage rate  
 24 established by the entity having the authority to set the employer  
 25 contribution rate for the system pursuant to § 24-7-401. After July 1, 2009,  
 26 the Board of Trustees of the Arkansas Teacher Retirement System shall set the  
 27 employer contribution rate for the system's covered employers pursuant to §  
 28 24-7-401.

29  
 30 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the  
 31 General Assembly of the State of Arkansas that certain provisions of the  
 32 Arkansas Teacher Retirement System Act are badly in need of revision and  
 33 updating to bring them into conformance with sound public pension policy;  
 34 that such revision and updating is of great importance to members of the  
 35 Arkansas Teacher Retirement System and to other citizens of the State of  
 36 Arkansas; and that this act is immediately necessary in order to maintain an

1 orderly system of benefits for the members of the Arkansas Teacher Retirement  
2 System. Therefore, an emergency is declared to exist and this act being  
3 necessary for the preservation of the public peace, health, and safety shall  
4 become effective on July 1,2009.

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*/s/ G. Jeffress*