

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 As Engrossed: S2/5/09 S2/10/09 S2/18/09 S2/24/09

2 87th General Assembly

A Bill

3 Regular Session, 2009

SENATE BILL 165

4

5 By: Senator G. Jeffress

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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 *RETURNING TO*
13 *WORK WITH A COVERED EMPLOYER OF THE ARKANSAS*
14 *TEACHER RETIREMENT SYSTEM*; TO CLARIFY VARIOUS
15 SECTIONS OF ARKANSAS CODE TITLE 24, CHAPTER 7
16 PERTAINING TO THE TERMINATION OF COVERED
17 EMPLOYMENT REQUIREMENTS; AND FOR OTHER PURPOSES.

18

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Subtitle

20 TO ADJUST THE AMOUNT OF TIME A RETIRED
21 MEMBER OF THE ARKANSAS TEACHER
22 RETIREMENT SYSTEM SHALL REMAIN RETIRED
23 BEFORE *RETURNING TO COVERED EMPLOYMENT*.

24

25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27

28 SECTION 1. Arkansas Code § 24-7-502(a), concerning the amount of time
29 a member of the Arkansas Teacher Retirement System is required to be
30 terminated from employment before *returning to work with a covered employer*,
31 is amended to read as follows:

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

34 (2)(A) A *Effective July 2, 2009*, a member shall not be
35 terminated from employment for ~~retirement~~ purposes of retirement eligibility
36 if within ~~thirty (30)~~ one hundred eighty (180) days of the ~~person's~~ member's



1 effective date of retirement the ~~person~~ member returns to a position that
2 would otherwise be covered by the system;

3 (i) Meets both of the following requirements:

4 (a) Becomes employed with an employer covered
5 by the system; and

6
7 (b) Has not attained the system's normal
8 retirement age; or

9 (ii) Does not have total or a combined total of
10 thirty-eight (38) years or more of credited service in the system, T-DROP, or
11 reciprocal service in another eligible state retirement system.

12 (B) If a member has a combined total of thirty-eight (38)
13 years or more of credited service in the system, T-DROP, or reciprocal
14 credited service in another eligible state retirement system, then the member
15 shall not be terminated from employment for purposes of retirement
16 eligibility if within thirty (30) days of the member's effective date of
17 retirement the member:

18 (i) Becomes employed with an employer covered by the
19 system; and

20 (ii) Has not attained the system's normal retirement
21 age.

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

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

28 (B) The system may require the repayment of retirement
29 benefits from the member indirectly under the system's standard withholding
30 rule.

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

35
36 SECTION 2. Arkansas Code § 24-7-701(a), concerning voluntary

1 retirement, is amended to read as follows:

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

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

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

16 ~~(C) A person failing to meet the termination of employment~~
17 ~~requirements of this subsection shall forfeit retirement benefits until the~~
18 ~~requirements are met.~~

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

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

28 (2)(A) A member shall ~~terminate~~ meet the termination of covered
29 employment requirements under § 24-7-502 to be eligible for retirement except
30 if the member has attained normal retirement 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~~ A member who fails to meet the
36 termination of covered employment requirements ~~of this~~ under subsection (a)

1 of this section shall forfeit retirement benefits until the requirements are
2 met.

3
4 SECTION 4. Arkansas Code § 24-7-704(a)(1)(B), concerning a disability
5 retirement, is amended to read as follows:

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

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

16
17 SECTION 5. Arkansas Code § 24-7-704(c)(5), concerning a disability
18 retirant returning to full-time service, is amended to read as follows:

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

22 (B) If a disability retirant returns to full-time service
23 as defined by rules promulgated by the board after attaining sixty (60) years
24 of age, the retirant shall be treated as if he or she retired under § 24-7-
25 701 ~~and is subject to the limitations applicable to age and service~~
26 ~~retirants.~~

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

29 24-7-708. ~~Conditions subjecting annuities to limitations~~ Employment of
30 retired members by covered employers.

31 ~~(a) Except as provided in subsections (f) and (g) of this section, if~~
32 ~~a retirant is an employee of a public employer whose employees are covered by~~
33 ~~the Arkansas Teacher Retirement System, then, for each twelve month period~~
34 ~~ending June 30, the amount of his or her system annuity shall be subject to~~
35 ~~the limitations equivalent to twice the limitations imposed by the social~~
36 ~~security retirement test~~ Effective July 1, 2009, after terminating employment

1 under § 24-7-502 or reaching the age of normal retirement, a retirant may:

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

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

5 ~~(b) For each year ending June 30, the social security retirement test~~
6 ~~to be considered shall be the test in effect for the calendar year beginning~~
7 ~~the January 1 immediately preceding June 30. The retirant's earnings shall be~~
8 ~~his or her remuneration for the employment for the year ending June 30~~

9 Employers covered by the system that hire an employee who meets the
10 conditions under subsection (a) of this section shall report the hiring of
11 the retirant to the system in a time and a manner that the system may
12 reasonably require.

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

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

17 ~~(e) During any period of employment in a position covered by the~~
18 ~~system, a A retirant that receives monthly benefits and is employed by a~~
19 ~~covered employer shall not accrue additional-credited service credit.~~

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

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

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

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

35 ~~(5) Beginning July 1, 2005, for any retired member employed in a~~
36 ~~position covered by the system pursuant to a waiver, an amount equal to the~~

~~combined employer and employee contribution rate or rates to the system on behalf of the member shall recommence at the rate in effect at the time of the employment and shall be remitted by the employer.~~

(d)(1) For a retired member employed in a position covered by the system, the covered employer shall remit the contributions on all salary paid to the retirant in an amount equal to the employer contribution rate applicable to active members.

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

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

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

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

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

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

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

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

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

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

~~(iv)(ii)~~ (ii) Nine percent (9%) for the period from July

1 ~~1, 2009, through June 30, 2011;~~

2 ~~- - (v) Twelve percent (12%) for the period from July 1,~~
3 ~~2011, through June 30, 2013; and~~

4 ~~- - (vi) After July 1, 2013, the percentage rate~~
5 ~~established by the entity having the authority to set the employer~~
6 ~~contribution rate for the system pursuant to § 24-7-401. After July 1, 2009,~~
7 ~~*the covered employer shall remit the contributions on all salary paid to the*~~
8 ~~*T-DROP participants in amount equal to the employer contribution rate*~~
9 ~~*applicable to active members.*~~

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11 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that certain provisions of the
13 Arkansas Teacher Retirement System Act are badly in need of revision and
14 updating to bring them into conformance with sound public pension policy;
15 that such revision and updating is of great importance to members of the
16 Arkansas Teacher Retirement System and to other citizens of the State of
17 Arkansas; and that this act is immediately necessary in order to maintain an
18 orderly system of benefits for the members of the Arkansas Teacher Retirement
19 System. Therefore, an emergency is declared to exist and this act being
20 necessary for the preservation of the public peace, health, and safety shall
21 become effective on July 1,2009.

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23 /s/ G. Jeffress
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