

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

SENATE BILL 170

4
5 By: Senator G. Jeffress
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For An Act To Be Entitled

8
9 AN ACT TO ALLOW A WAIVER OF PENALTY FOR
10 DELINQUENT EMPLOYER CONTRIBUTIONS TO PREVENT A
11 MANIFEST INJUSTICE; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 TO ALLOW A WAIVER OF PENALTY FOR
15 DELINQUENT EMPLOYER CONTRIBUTIONS.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 24-7-411 is amended to read as follows:

21 24-7-411. Compelling payment upon delinquency of employer.

22 (a)(1) If any participating employer fails to remit to the Arkansas
23 Teacher Retirement System ~~those moneys~~ contributions that are required by law
24 or regulation by the fifteenth day of the month in which the moneys are due,
25 then the system shall impose ~~a six percent (6%) an~~ an interest penalty ~~on an~~
26 ~~annual basis on the moneys due~~ of six percent per annum with a daily interest
27 accrual.

28 (2) For purposes of this subsection, an employer's remittance
29 ~~shall not be considered~~ is not delinquent if the employer's remittance is:

30 (A) ~~received~~ Received by the system by the fifteenth day
31 ~~or postmarked no later than the fourteenth day~~ of the month in which the
32 payment is due; or

33 (B) Postmarked by the fourteenth day of the month in which
34 the payment is due.

35 (3) The interest penalty shall be determined by the system on
36 the date the delinquent funds are received, and a statement of the interest



1 penalty shall be sent to the participating public employer.

2 (4) If the interest penalty or delinquent moneys are not
3 received by the system by the last business day of the month in which the
4 moneys were originally due, then the system shall cause the sums of moneys,
5 including the interest penalty, to be transferred from any moneys due the
6 participating employer from the Treasurer of State and the Department of
7 Education, as provided in § 19-5-106(a)(5).

8 (5) This interest penalty shall be computed on the actual days
9 of delinquency and shall be paid to the system ~~for the purpose of reimbursing~~
10 to reimburse the trust fund for the money ~~which that~~ would have been earned
11 on the moneys had they been paid when due.

12 (b)(1) If ~~any a~~ participating employer fails to file with the system
13 ~~the retirement a~~ report required by the board by the fifteenth day of the
14 month in which the report is due, then the system shall impose a penalty of
15 one hundred fifty dollars (\$150) for each ~~time the report is late~~ report.

16 (2) For purposes of this subsection, ~~the retirement a~~ report
17 ~~will not be considered is not~~ late if the report is:

18 (A) ~~received~~ Received by the system by the fifteenth day
19 of the month in which the report is due; or

20 (B) ~~postmarked~~ Postmarked ~~no later than~~ by the fourteenth
21 day of the month in which the report is due.

22 (3) A statement of the penalty shall be sent to the
23 participating employer.

24 (4) If the penalty is not received by the last business day of
25 the month in which the report was due, then the system shall cause the
26 penalty amount to be transferred from any moneys due the participating
27 employer from the Treasurer of State and the Department of Education as
28 provided in § 19-5-106(a)(5).

29 (5) The penalty amounts collected shall be deposited to the
30 credit of the administrative funds of the system to help defray the cost of
31 additional expenses incurred due to the additional work required to process
32 late reports.

33 (c) The board or its designee may waive penalties and interest for an
34 employer delinquency under this section if the board or its designee finds
35 that:

36 (1) The delinquency was not the result of the employer's

1 nondisclosure, fraud, or misrepresentation; and

2 (2) Under the circumstances, requiring payment of the
3 delinquency by the employer would be unduly penal, burdensome, or result in a
4 manifest injustice.

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6 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
7 General Assembly of the State of Arkansas that certain provisions of the
8 Arkansas Teacher Retirement System Act are badly in need of revision and
9 updating to bring them into conformance with sound public pension policy;
10 that such revision and updating is of great importance to members of the
11 Arkansas Teacher Retirement System and to other citizens of the State of
12 Arkansas; and that this act is immediately necessary in order to maintain an
13 orderly system of benefits for the members of the Arkansas Teacher Retirement
14 System. Therefore, an emergency is declared to exist and this act being
15 necessary for the preservation of the public peace, health, and safety shall
16 become effective on July 1, 2009.