

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 88th General Assembly
3 Regular Session, 2011
4

A Bill

HOUSE BILL 1040

5 By: Representatives English, Kerr, Summers
6 By: Senator Bledsoe
7

For An Act To Be Entitled

9 AN ACT TO PREVENT RETIRED MEMBERS OF A STATE
10 RETIREMENT SYSTEM FROM RETURNING TO WORK FOR THE
11 STATE FOLLOWING RETIREMENT EXCEPT UNDER CERTAIN
12 CIRCUMSTANCES; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO PREVENT RETIRED MEMBERS OF A STATE
16 RETIREMENT SYSTEM FROM RETURNING TO WORK
17 FOR THE STATE FOLLOWING RETIREMENT EXCEPT
18 UNDER CERTAIN CIRCUMSTANCES.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code Title 24, Chapter 2, Subchapter 4 is amended
25 to add an additional section to read as follows:

26 24-2-409. Reemployment of members.

27 (a) Except as provided in subsection (b) of this section, an employee
28 of the State of Arkansas or any of its political subdivisions who is a
29 member of a public employee retirement system of the State of Arkansas who
30 retires and begins drawing retirement benefits shall not return to employment
31 in a position covered under a public employee retirement system of the state.

32 (b) Subsection (a) of this section does not apply to the following:

33 (1) A member participating in a public employee retirement
34 system deferred retirement option plan on July 1, 2011;

35 (2) A member who has retired and commenced receiving benefits in
36 any month between January 2011 and June 2011, inclusive; and



1 (3) A member who elects to return to employment in a position
 2 covered under a public employee retirement system of the state in which the
 3 member agrees to:

4 (A) Forfeit his or her retirement benefits while employed
 5 in a position covered under a public employee retirement system; and

6 (B) Forfeit receipt of credited service during the period
 7 he or she is employed in a position covered under a public employee
 8 retirement system.

9
 10
 11 SECTION 2. Arkansas Code § 24-4-520 is amended to read as follows:
 12 24-4-520. Termination required for retirement.

13 (a) Except as provided in subsection ~~(e)~~ (d) of this section, a member
 14 of the Arkansas Public Employees' Retirement System shall terminate covered
 15 employment to be eligible for retirement.

16 (b)(1) A member who is participating in a public employee retirement
 17 system deferred retirement option plan on July 1, 2011, or a member who has
 18 retired and commenced receiving benefits in any month between January 2011
 19 and June 2011, inclusive, shall not be terminated from employment for
 20 retirement purposes if the person:

21 (A) Returns to employment in a position covered under the
 22 system within one hundred eighty (180) days of the person's effective date of
 23 retirement; or

24 (B) Is a member with service credit under § 24-4-521 at a
 25 rate of two (2) or more years of credited service for each year of actual
 26 service and the person returns to employment in a position covered under the
 27 system within one hundred eighty (180) days of the person's effective date of
 28 retirement.

29 (2) A member participating in the Arkansas Public Employees'
 30 Retirement System Deferred Retirement Option Plan on January 1, 2009, shall
 31 have the one-hundred-eighty-day separation requirement waived and may return
 32 to employment otherwise covered by the system no sooner than thirty (30)
 33 calendar days from the commencement of his or her retirement.

34 (3) A member who has retired and commenced receiving benefits in
 35 any month between January 2009 and June 2009, inclusive, shall have the one-
 36 hundred-eighty-day separation requirement waived and may return to employment

1 otherwise covered by the system no sooner than thirty (30) calendar days from
 2 the commencement of his or her retirement.

3 (c) Except as provided in subsection (b) of this section, a member may
 4 return to employment in a position covered under a public employee retirement
 5 system of the state in which the member agrees to:

6 (1) Forfeit his or her retirement benefits while employed in a
 7 position covered under a public employee retirement system; and

8 (2) Forfeit receipt of credited service during the period he or
 9 she is employed in a position covered under a public employee retirement
 10 system.

11 ~~(e)(1)~~ (d)(1) An elected public official may retire and begin
 12 receiving retirement benefits if the elected public official is a member:

13 (A) Whose current service in public office in one (1) form
 14 of government is covered by § 24-4-521(b)(5); and

15 (B) Who is elected to public office in a different form of
 16 government and will begin serving in that public office immediately after the
 17 expiration of his or her term of public office described in subdivision
 18 ~~(e)(1)(A)~~ (d)(1)(A) of this section.

19 (2) The member shall notify the retirement system of his or her
 20 impending service in another form of government at least thirty (30) days
 21 prior to the first day of the month in which that service will begin. A
 22 completed retirement application shall be submitted at that time.

23 (3) As used in this subsection, "form of government" means city
 24 government, county government, or state government.

25 ~~(d)~~ (e) Persons failing to meet termination requirements shall
 26 forfeit their benefits until requirements are met.

27
 28 SECTION 3. Arkansas Code § 24-7-502 is amended to read as follows:

29 24-7-502. Termination of active membership.

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

32 (2)(A) ~~Effective July 2, 2009, Except as provided in subsection~~
 33 (d) of this section, a member shall not be terminated from employment for
 34 purposes of retirement eligibility if ~~within one hundred eighty (180) days of~~
 35 ~~the member's effective date of retirement~~ the member:

36 (i) Meets both of the following requirements:

1 (a) Becomes employed with an employer covered
 2 by the system; and

3 (b) Has not attained the system's normal
 4 retirement age; or

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

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

14 (i) Becomes employed with an employer covered by the
 15 system; and

16 (ii) Has not attained the system's normal retirement
 17 age.

18 (3) A member who fails to meet the termination requirement of
 19 this subsection shall forfeit all retirement benefits until the termination
 20 requirement is met.

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

24 (B) The system may require the repayment of retirement
 25 benefits from the member indirectly under the system's standard withholding
 26 rule.

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

31 (b)(1) When a member is no longer employed by an employer in a
 32 position covered by the system, the person shall cease to be an active member
 33 of the system.

34 (2) If an inactive member has not retired and later becomes
 35 reemployed by an employer in a position covered by the system, the person
 36 shall become an active member and be eligible to accrue additional service

1 credit.

2 (3) If the member's service during reemployment is for less than
 3 thirty (30) days, he or she shall be considered to be an inactive member at
 4 the termination of the reemployed service, and the only monthly benefits
 5 payable shall be those provided by § 24-7-707.

6 (4)(A) An active member shall receive credit for any previous
 7 unreported service after July 1, 1937, upon paying to the system the member
 8 contributions in effect during the previous service, together with interest
 9 from the dates of the service to the date of payment in full.

10 (B) For previous service rendered before July 1, 1971,
 11 service credit shall be permitted for service in a fiscal school year only if
 12 at least one hundred twenty (120) days of service were rendered in the fiscal
 13 school year.

14 (c) Upon a member's retirement, the person shall cease to be an active
 15 member and, except as otherwise provided in this act, he or she shall not
 16 accrue additional service credit or make contributions to the system.

17 (d)(1) A member participating in a public employee retirement system
 18 deferred retirement option plan on July 1, 2011, may return to employment
 19 otherwise covered by the system no sooner than one hundred eighty (180)
 20 calendar days from the commencement of his or her retirement.

21 (2) A member who has retired and commenced receiving benefits in
 22 any month between January 2011 and June 2011, inclusive, may return to
 23 employment otherwise covered by the system no sooner than one hundred eighty
 24 (180) calendar days from the commencement of his or her retirement.

25 (3) A member may return to employment in a position covered
 26 under a public employee retirement system of the state in which the member
 27 agrees to:

28 (A) Forfeit his or her retirement benefits while employed
 29 in a position covered under a public employee retirement system; and

30 (B) Forfeit receipt of credited service during the period
 31 he or she is employed in a position covered under a public employee
 32 retirement system.

33

34 SECTION 4. Arkansas Code § 24-7-717 is repealed:

35 ~~24-7-717. Rescission of retirement.~~

36 ~~(a) A retirant under this chapter who is not required to receive~~

1 ~~mandatory distributions may rescind the decision to retire and may become an~~
2 ~~active member upon employment by a covered employer.~~

3 ~~(b) A retirant who rescinds his or her decision to terminate his or~~
4 ~~her retirement shall file a written election to rescind on the form furnished~~
5 ~~by the Arkansas Teacher Retirement System.~~

6 ~~(c) The rescission under subsection (b) of this section is effective~~
7 ~~the first day of the calendar month next following the date the written~~
8 ~~election to rescind is received by the system.~~

9 ~~(d)(1) Upon rescission, a retirant shall be considered an active~~
10 ~~member and shall accrue additional credited service subject to the provisions~~
11 ~~of subsection (c) of this section.~~

12 ~~(2) Any retirement annuity previously due from the system shall~~
13 ~~be terminated upon the effective date of the rescission.~~

14 ~~(e)(1)(A) If a retirant who has elected to rescind his or her~~
15 ~~retirement terminates covered employment before he or she has accumulated at~~
16 ~~least one (1) year of additional credited service, the member's retirement~~
17 ~~benefits shall resume at the same benefit amount prior to the rescission.~~

18 ~~(B) If the member retires again before serving the~~
19 ~~required additional one (1) year of service under subdivision (e)(1)(A) of~~
20 ~~this section, the system shall refund without interest.~~

21 ~~(i) A member contribution that is credited to the~~
22 ~~system after the election to rescind retirement; and~~

23 ~~(ii) A member contribution that is not included in~~
24 ~~the member's retirement benefits.~~

25 ~~(2) If reemployment terminates after the end of the fiscal year~~
26 ~~in which the former retirant has accumulated at least one (1) year of~~
27 ~~additional credited service, the rescinded member shall receive an annuity~~
28 ~~that has been recalculated according to the benefit formula in effect at the~~
29 ~~time of the termination of reemployment.~~

30 ~~(f)(1) A retirant under § 24-7-702 may rescind the decision to retire~~
31 ~~and may elect to participate in the Teacher Deferred Retirement Option Plan~~
32 ~~beginning in the next fiscal year after the date the member meets the~~
33 ~~eligibility requirements.~~

34 ~~(2) If a rescinded member terminates covered employment before~~
35 ~~he or she is entitled to at least one (1) year of additional credited~~
36 ~~service, then the member shall forfeit any additional benefit accruals~~

1 ~~credited after the effective date of rescission.~~

2 ~~(g) The election to rescind under this section may be exercised only~~
 3 ~~once by the member or retirant.~~

4
 5 SECTION 5. Arkansas Code § 24-8-218(c)(4)(A), concerning retirement
 6 benefits, is amended to read as follows:

7 (4)(A) Any judge or justice under the age of seventy (70) who is
 8 receiving retirement benefits under this subchapter or § 24-8-701 et seq. and
 9 who is elected or appointed to any judicial office in this state and who
 10 foregoes receipt of retirement benefits and service credit while serving in
 11 the judicial office shall be entitled to resume receiving his or her previous
 12 retirement benefits upon termination of the subsequent service.

13
 14 SECTION 6. Arkansas Code § 24-10-504(c), concerning forfeiture and
 15 restoration of retirement benefits, is amended to read as follows:

16 (c)(1) Should a former member entitled to a vested annuity provided
 17 for in § 24-10-611 reenter covered employment before becoming a retirant, he
 18 or she shall cease to be entitled to a vested annuity and shall become a
 19 member, with his or her previous credited service reactivated and to be
 20 increased by the reemployment.

21 (2)(A) If a former member who is participating in a public
 22 employee retirement system deferred retirement option plan on July 1, 2011,
 23 or who has retired and commenced receiving benefits in any month between
 24 January 2011 and June 2011, inclusive, and is entitled to a vested annuity
 25 under § 24-10-611 reenters covered employment after becoming a retirant, the
 26 former member may again become a member with previous credited service
 27 restored and increased by the period of reemployment, but only if the former
 28 member:

29 (i) Was a retirant for at least thirty (30) days;

30 and

31 (ii) Remains reemployed for at least twelve (12)
 32 months.

33 (B) During the time of reemployment, the retirement
 34 benefits shall not be paid.

35 (C) The former member may exercise the reemployment option
 36 under this subdivision (c)(2) one (1) time only.

1 (D)~~(1)~~(i) At the end of the period of reemployment, the
 2 retirement benefit will be recalculated using service time, including the
 3 reemployment service, and final average pay.

4 ~~(2)~~(ii) However, the final average pay shall be the
 5 same final average pay used initially to calculate the retirement benefit
 6 unless the period of reemployment lasts at least thirty-six (36) months, in
 7 which case the final average pay will be recalculated as defined under § 24-
 8 10-102(15).

9 (3) Except as provided in subdivision (c)(2) of this section, a
 10 former member entitled to a vested annuity under § 24-10-611 may reenter
 11 covered employment after becoming a retirant only if the former member agrees
 12 to:

13 (A) Forfeit his or her retirement benefits while employed
 14 in a position covered under a public employee retirement system; and

15 (B) Forfeit receipt of credited service during the period
 16 he or she is employed in a position covered under a public employee
 17 retirement system.

18
 19
 20 SECTION 7. Arkansas Code § 24-10-504(c), concerning forfeiture and
 21 restoration of retirement benefits, is amended to read as follows:

22 (c)(1) Should a former member entitled to a vested annuity provided
 23 for in § 24-10-611 reenter covered employment before becoming a retirant, he
 24 or she shall cease to be entitled to a vested annuity and shall become a
 25 member, with his or her previous credited service reactivated and to be
 26 increased by the reemployment.

27 (2)(A) If a former member entitled to a vested annuity under §
 28 24-10-611 was participating in a public employee retirement system deferred
 29 retirement option plan on July 1, 2011, or has retired and commenced
 30 receiving benefits in any month between January 2011 and June 2011 inclusive,
 31 reenters covered employment after becoming a retirant, the former member may
 32 again become a member with previous credited service restored and increased
 33 by the period of reemployment, but only if the former member:

34 (i) Was a retirant for at least thirty (30) days;
 35 and

36 (ii) Remains reemployed for at least twelve (12)

1 months.

2 (B) During the time of reemployment, the retirement
3 benefits shall not be paid.

4 (C) The former member may exercise the reemployment option
5 under this subdivision (c)(2) one (1) time only.

6 ~~(D)(1)~~ (i) At the end of the period of reemployment, the
7 retirement benefit will be recalculated using service time, including the
8 reemployment service, and final average pay.

9 ~~(2)(ii)~~ However, the final average pay shall be the
10 same final average pay used initially to calculate the retirement benefit
11 unless the period of reemployment lasts at least thirty-six (36) months, in
12 which case the final average pay will be recalculated as defined under § 24-
13 10-102(15).

14 (3) Except as provided in subdivision (c)(2) of this section, a
15 former member entitled to a vested annuity under § 24-10-611 may reenter
16 covered employment after becoming a retirant only if the former member agrees
17 to:

18 (A) Forfeit his or her retirement benefits while employed
19 in a position covered under a public employee retirement system; and

20 (B) Forfeit receipt of credited service during the period
21 he or she is employed in a position covered under a public employee
22 retirement system.

23

24 SECTION 8. Arkansas Code § 24-11-827 is amended to read as follows:

25 24-11-827. Retired member returning to active status.

26 (a) For a member participating in a public employee retirement system
27 deferred retirement option plan on July 1, 2011, or a member who has retired
28 and commenced receiving benefits in any month between January 2011 and June
29 2011:

30 ~~(a)~~ (1) Notwithstanding any other provision of the law to the
31 contrary, should an age or service retirant return March 1, 1986, or later,
32 to employment in a position covered by the firemen's fund from which he or
33 she retired, no pension payments shall be paid him or her for the period of
34 such reemployment, and he or she may make member contributions to the system
35 as if he or she were an active member during such reemployment-;

36 ~~(b)(1)~~ (2)(A) If reemployment terminates before the retirant has

1 rendered sufficient reemployment to accumulate at least three (3) years of
 2 credited service had he or she been an active member during such
 3 reemployment, the payment of his or her pension shall resume upon such
 4 termination, under the form of payment in force at the beginning of
 5 reemployment and in an amount as it would be had he or she not been
 6 reemployed.

7 ~~(2)~~ (B) The retirant shall be paid the accumulated
 8 contributions based upon any member contributions he or she may have made
 9 during such reemployment; and

10 ~~(e)(1)~~ (3)(A) If reemployment continues until the retirant has
 11 rendered sufficient reemployment to accumulate three (3) years of credited
 12 service had he or she been an active member during such reemployment, then
 13 effective upon completion of such reemployment, his or her retirement shall
 14 be canceled and the former retirant shall again become an active member.

15 ~~(2)~~ (B) Upon resuming active membership, the service and
 16 contributions and pay records during reemployment shall be added to the
 17 member's records as they were at retirement.

18 (b) Except as provided in subsection (a) of this section, a member who
 19 elects to return to employment in a position covered by the firemen's pension
 20 and relief fund shall agree to:

21 (1) Forfeit his or her retirement benefits while employed in a
 22 position covered by the firemen's pension and relief fund; and

23 (2) Forfeit receipt of credited service during the period he or
 24 she is employed in a position covered under firemen's pension and relief
 25 fund.