

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H2/21/11

# A Bill

HOUSE BILL 1216

5 By: Representatives Kerr, *Mayberry, Hobbs, English, Carnine, Lea*  
6 By: Senators *J. Hutchinson, Rapert*  
7

## For An Act To Be Entitled

9 AN ACT TO DEFINE "TERMINATE" AS THAT TERM APPLIES TO  
10 ELIGIBILITY FOR RETIREMENT UNDER THE ARKANSAS TEACHER  
11 RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR  
12 OTHER PURPOSES.  
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## Subtitle

15 TO DEFINE "TERMINATE" AS THAT TERM  
16 APPLIES TO ELIGIBILITY FOR RETIREMENT  
17 UNDER THE ARKANSAS TEACHER RETIREMENT  
18 SYSTEM AND TO DECLARE AN EMERGENCY.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 *SECTION 1. Arkansas Code § 24-7-502(a), concerning termination of*  
25 *active membership, is amended to read as follows:*

26 *(a)(1) A member of the Arkansas Teacher Retirement System shall*  
27 *terminate covered employment and remain terminated during the member's*  
28 *applicable termination separation period to ~~be~~ become and remain eligible for*  
29 *retirement.*

30 *(2)(A) Effective July 2, 2009, a member shall not be terminated*  
31 *from employment for purposes of retirement eligibility if within one hundred*  
32 *eighty (180) days of the member's effective date of retirement the member:*

33 *(i) Meets both of the following requirements:*

34 *(a) Becomes employed with an employer covered*  
35 *by the system; and*

36 *(b) Has not attained the system's normal*



1 retirement age; or

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

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

11 (i) Becomes employed with an employer covered by the  
12 system; and

13 (ii) Has not attained the system's normal retirement  
14 age.

15 (3) A member who fails to meet both the termination requirement  
16 and the termination separation period requirement of this subsection shall:

17 (A) Repay retirement benefits paid during the period the  
18 member did not meet the requirements; and

19 (B) ~~forfeit~~ Forfeit all future retirement benefits until  
20 the termination requirement is met member files a new completed retirement  
21 application using the standard system process.

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

25 ~~(B) (4)~~ The system may require the repayment of retirement  
26 benefits, interest, and distributions from the member directly or indirectly  
27 under by using the system's standard withholding rule.

28 (5) ~~For~~ If a member ~~who~~ fails to meet the termination  
29 ~~requirement in subdivisions (a)(1) and (2) of this section, the member shall~~  
30 ~~immediately become an active member of the system upon reemployment by a~~  
31 ~~covered employer~~ or to complete the termination separation period, then the  
32 member is not eligible to receive retirement benefits until the member files  
33 a new completed retirement application using the standard system process.  
34 The member shall be subject to a new termination separation period.

35 (6) During the termination separation period, the member shall  
36 remain terminated and shall not:

1 (A) Form an employment relationship with any system-  
2 covered employer;

3 (B) Render any compensable services to or on behalf of any  
4 system-covered employer, except that a member may provide volunteer  
5 activities at a system-covered employer that does not have the effect of  
6 holding a position open for the member during a termination separation  
7 period; and

8 (C) Exercise any authority to act as a representative of  
9 any system-covered employer or exercise any authority over employees of any  
10 system-covered employer.

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12 SECTION 2. Arkansas Code § 24-7-502, concerning termination  
13 requirements for retirement, is amended to add a new subsection to read as  
14 follows:

15 (d) As used in this section:

16 (1) "System-covered employer" means all employers as defined in  
17 § 24-7-202(13) and also includes all employers offering the Arkansas Teacher  
18 Retirement System as an optional retirement plan on or before January 1,  
19 2011, to any employee;

20 (2)(A) "Terminate" means:

21 (i) The member's employment has ended at all system-  
22 covered employers;

23 (ii) A complete severance of the employer-employee  
24 relationship has occurred at all system-covered employers;

25 (iii) The member has ceased performing any  
26 employment services for any system-covered employer, except for uncompensated  
27 functions related to the transfer of the duties or the transfer of the  
28 position of the member;

29 (iv) The member has not formed any express or  
30 implied employment agreement or taken action that would obligate the member  
31 to render compensable services to a system-covered employer or entitle a  
32 system-covered employer to the services of the member after the termination  
33 separation period;

34 (v) The member has followed normal retirement  
35 procedures for resigning from the system-covered employer unless  
36 involuntarily terminated before the member's effective date of retirement;

1 and

2 (vi) All system-covered employers have paid or have  
3 initiated the process to pay all accumulated benefits such as annual leave  
4 and sick leave to the member by the effective date of retirement.

5 (B) "Terminate" does not mean:

6 (i) Taking a leave of absence; or

7 (ii) Performing any job duties or services without  
8 remuneration, except for the functions related to the transfer of duties or  
9 the transfer of the position itself.

10 (C) Providing volunteer activities at a system-covered  
11 employer that does not have the effect of holding a position open for the  
12 member during a termination separation period does not mean that the member  
13 is not terminated; and

14 (3) "Termination separation period" means the time from a  
15 member's effective date of retirement until the date that the member is no  
16 longer prohibited by state law from returning to work at a system-covered  
17 employer.

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19 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
20 General Assembly of the State of Arkansas that recent reports indicate that  
21 some members of the Arkansas public retirement systems were merely taking  
22 themselves off of the payroll for the specified period of time while  
23 continuing to perform their duties so that they could draw retirement in  
24 addition to their wages; that clarification is needed to prevent this from  
25 happening; and that this clarification is needed immediately. Therefore, an  
26 emergency is declared to exist and this act being immediately necessary for  
27 the preservation of the public peace, health, and safety shall become  
28 effective on:

29 (1) The date of its approval by the Governor;

30 (2) If the bill is neither approved nor vetoed by the Governor,  
31 the expiration of the period of time during which the Governor may veto the  
32 bill; or

33 (3) If the bill is vetoed by the Governor and the veto is  
34 overridden, the date the last house overrides the veto.

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/s/Kerr