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2 88th General Assembly
3 Regular Session, 2011
4

A Bill

HOUSE BILL 1223

5 By: Representative B. Wilkins
6

For An Act To Be Entitled

8 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 24,
9 CHAPTER 7, OF THE ARKANSAS CODE CONCERNING THE
10 ARKANSAS TEACHER RETIREMENT SYSTEM; TO DECLARE AN
11 EMERGENCY; AND FOR OTHER PURPOSES.
12
13

Subtitle

14 TO MAKE TECHNICAL CORRECTIONS TO TITLE
15 24, CHAPTER 7, OF THE ARKANSAS CODE
16 CONCERNING THE ARKANSAS TEACHER
17 RETIREMENT SYSTEM; TO DECLARE AN
18 EMERGENCY.
19
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21

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

24 SECTION 1. Arkansas Code § 24-7-202(2), concerning the definition of
25 "active member" under the Arkansas Teacher Retirement System Act, is amended
26 to read as follows:

27 (2) "Active member" means any member eligible for service credit
28 rendering service to an employer that is covered by the Arkansas Teacher
29 Retirement System;
30

31 SECTION 2. Arkansas Code § 24-7-404 is amended to read as follows:

32 24-7-404. Default where issuer receives money from State of Arkansas.

33 In the event of default in payment of the principal or interest of any
34 investment obligation held by the Arkansas Teacher Retirement System where
35 the issuer of the obligation receives moneys from the State of Arkansas, the
36 default shall be certified by the Board of Trustees of the Arkansas Teacher



1 Retirement System to the Treasurer of State, who shall withhold all moneys
 2 due the issuer from the State of Arkansas until the default, together with
 3 ~~regular~~ interest thereon, is satisfied.

4
 5 SECTION 3. Arkansas Code § 24-7-502(a), concerning termination of
 6 active membership, is amended to read as follows:

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

9 (2)(A) Effective ~~July 2, 2009~~ July 1, 2011, a member shall not
 10 be terminated from employment for purposes of retirement eligibility if
 11 within ~~one hundred eighty (180) days~~ six (6) calendar months of the member's
 12 effective date of retirement the member:

13 (i) Meets both of the following requirements:

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

16 (b) Has not attained the system's normal
 17 retirement age; or

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

21 (B) If a member has a combined total of thirty-eight (38)
 22 years or more of credited service in the system, T-DROP, or reciprocal
 23 credited service in another eligible state retirement system, then the member
 24 shall not be terminated from employment for purposes of retirement
 25 eligibility if within ~~thirty (30) days~~ one (1) calendar month of the member's
 26 effective date of retirement the member:

27 (i) Becomes employed with an employer covered by the
 28 system; and

29 (ii) Has not attained the system's normal retirement
 30 age.

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

34 (4)(A) A member shall repay to the system any retirement
 35 benefits that are paid to the member by the system during the waiting period
 36 of ~~one hundred eighty (180) days~~ six (6) calendar months in subdivision

1 (a)(2) of this section.

2 (B) The system may require the repayment of retirement
3 benefits from the member indirectly under the system's standard withholding
4 rule.

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

9
10 SECTION 4. Arkansas Code § 24-7-602, concerning military service
11 credit, is amended to add an additional subsection to read as follows:

12 (g)(1) In the case of a death occurring on or after January 1, 2007,
13 if a member dies while performing qualified military service as defined in
14 section 414(u) of the Internal Revenue Code, as it existed on January 1,
15 2011, the survivors of the member are entitled to any additional benefits,
16 including determining a member's vesting, provided under the Arkansas
17 Teacher Retirement System as if the member had resumed and then terminated
18 employment on account of death.

19 (2) Additional benefits under subdivision (g)(1) of this section
20 do not include benefit accruals relating to the period of qualified military
21 service.

22
23 SECTION 5. Arkansas Code § 24-7-701(a)(1), concerning voluntary
24 retirement, is amended to read as follows:

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

30 (B) If a member fails to submit a complete retirement
31 application within six (6) calendar months of the effective date of benefits,
32 including all additional documentation required by the system, the
33 application shall be void unless an extension has been granted by the system.

34
35 SECTION 6. Arkansas Code § 24-7-701, concerning voluntary retirement,
36 is amended to add an additional subsection to read as follows:

1 (f)(1) A member may cancel an application for voluntary retirement
2 benefits up to two (2) calendar months after the effective date of benefits.

3 (2) The member shall notify the system of cancellation in
4 writing. Upon cancellation, the member shall be eligible for active
5 membership in the system.

6
7 SECTION 7. Arkansas Code § 24-7-702(a)(1), concerning early voluntary
8 retirement, is amended to read as follows:

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

15 (B) If a member fails to submit a complete retirement
16 application within six (6) calendar months of the effective date of benefits,
17 including all additional documentation required by the system, the
18 application shall be void unless an extension is granted by the system.

19
20 SECTION 8. Arkansas Code § 24-7-702, concerning early voluntary
21 retirement, is amended to add an additional subsection to read as follows:

22 (g)(1) A member may cancel an application for early voluntary
23 retirement benefits up to two (2) calendar months after the effective date of
24 benefits.

25 (2) The member shall notify the system of cancellation in
26 writing. Upon cancellation, the member shall be eligible for active
27 membership in the system.

28
29 SECTION 9. Arkansas Code § 24-7-704, concerning disability retirement,
30 is amended to add an additional subsection to read as follows:

31 (d)(1) A member has six (6) calendar months from the date of
32 application for disability retirement to submit a completed application and
33 accompanying documentation.

34 (2) If a member does not provide all the accompanying
35 documentation requested by the system within the six (6) calendar months, the
36 system will submit the application to the medical committee for review as

1 complete, or withdraw the application at the request of the member, unless an
2 extension is granted by the system.

3
4 SECTION 10. Arkansas Code § 24-7-707, concerning deferred retirement,
5 is amended to add new subsections to read as follows:

6 (d) If a member fails to submit a complete deferred retirement
7 application within six (6) calendar months of the effective date of benefits,
8 including all additional documentation required by the system, the
9 application shall be void unless an extension is granted by the system.

10 (e)(1) A member may cancel an application for deferred retirement
11 benefits any time before two (2) calendar months from the effective date of
12 benefits.

13 (2) The member shall notify the system of cancellation in
14 writing. Upon cancellation, the member shall be eligible for active
15 membership in the system.

16
17 SECTION 11. Arkansas Code § 24-7-710(b)(1)(A), concerning survivor
18 benefits for a member's surviving spouse, is amended to read as follows:

19 (b)(1)(A)(i) The member's surviving spouse, who was married to the
20 member for at least the two (2) years immediately preceding the member's
21 death, shall receive an annuity computed in the same manner in all respects
22 as if the member had retired on the date of the member's death and elected
23 Option A under § 24-7-706 to provide one hundred percent (100%) survivor
24 annuity benefits, including benefits applicable under § 24-7-713, for his or
25 her spouse.

26 (ii) The system shall continue to pay any benefits
27 applicable under § 24-7-713 for an eligible surviving spouse, including a
28 spouse who began receiving benefits on or after July 1, 2009.

29
30 SECTION 12. Arkansas Code § 24-7-713(a)(1), concerning the simple cost
31 of living adjustment to a retirement annuity, is amended to read as follows:

32 (a)(1) July 1 of each year, retirants, survivors, participants in the
33 Teacher Deferred Retirement Option Plan, and annuity beneficiaries who have
34 been receiving monthly benefits for the previous twelve (12) months shall
35 receive a simple cost of living adjustment.

36

1 SECTION 13. Arkansas Code § 24-7-713(b)(3), concerning the simple cost
2 of living adjustment to a retirement annuity, is amended to read as follows:

3 (3) The board may prorate the benefits provided under this
4 subsection for all ~~individuals~~ members retiring after June 30, 1999, if the
5 ~~individual member~~ member is also eligible for an additional monthly benefit as a
6 result of credited service under one (1) or more of the other reciprocal
7 systems, as such systems are enumerated in § 24-2-401.

8
9 SECTION 14. Arkansas Code § 24-7-719(a), concerning rollover
10 distributions, is amended to read as follows:

11 (a) As used in this section:

12 (1) "Direct rollover" means ~~the a payment of a distribution from~~
13 by the Arkansas Teacher Retirement System directly to an individual
14 ~~retirement arrangement or another~~ the eligible benefit retirement plan
15 specified by the distributee;

16 (2)(A) "Distributee" includes a member or former member.

17 (B) The member's or former member's surviving spouse and
18 the member's or former member's spouse or former spouse who is the alternate
19 payee under a qualified domestic relations order, as defined in section
20 414(p) of the Internal Revenue Code, as it existed on January 1, 2011, are
21 distributees with regard to the interest of the spouse or former spouse;

22 ~~(2)(3)(A)~~ (A) "Eligible retirement plan" means an eligible plan
23 under section 457(b) of the Internal Revenue Code, as it existed on January
24 1, 2011, that is maintained by a state, political subdivision of a state, or
25 any agency or instrumentality of a state or political subdivision of a state
26 that agrees to separately account for amounts transferred into such a plan
27 from the Arkansas Teacher Retirement System individual retirement account
28 described in section 408(a) of the Internal Revenue Code, as it existed on
29 January 1, 2011, and an individual retirement annuity described in section
30 408(b) of the Internal Revenue Code, as it existed on January 1, 2011, an
31 annuity plan described in section 403(a) of the Internal Revenue Code, as it
32 existed on January 1, 2011, an annuity contract described in section 403(b)
33 of the Internal Revenue Code, as it existed on January 1, 2011, or a
34 qualified plan described in section 401(a) of the Internal Revenue Code, as
35 it existed on January 1, 2011, that accepts the distributee's eligible
36 rollover distribution.

1 (B) The definition of eligible retirement plan shall also
 2 apply in the case of distribution to a surviving spouse or to a spouse or
 3 former spouse who is the alternate payee under a qualified domestic relation
 4 order, as defined in section 414(p) of the Internal Revenue Code on, as it
 5 existed on January 1, 2011, individual retirement arrangement, or another
 6 employer benefit plan that accepts direct rollovers; and

7 ~~(3)(4)(A)~~ “Eligible rollover distribution” means that portion of
 8 a distribution that may be rolled over to an individual retirement
 9 arrangement or to another employer benefit plan any distribution of all or
 10 any portion of the balance to the credit of the distributee, except that an
 11 eligible rollover distribution does not include:

12 (i) Any distribution that is one of a series of
 13 substantially equal periodic payments, not less frequently than annually,
 14 made for:

15 (a) The life or life expectancy of the
 16 distributee;

17 (b) The joint lives or joint life expectancies
 18 of the distributee and the distributee’s designated beneficiary; or

19 (c) A specified period of ten (10) years or
 20 more;

21 (ii) Any distribution to the extent such a
 22 distribution is required under section 401(a)(9) of the Internal Revenue
 23 Code, as it existed on January 1, 2011;

24 (iii) Any hardship distribution;

25 (iv) The portion of any other distribution or
 26 distributions that are not includible in gross income; and

27 (v) Any other distribution that is reasonably
 28 expected to total less than two hundred dollars (\$200) during a year.

29 (B) A portion of a distribution shall not fail to be an
 30 eligible rollover distribution merely because the portion consists of after-
 31 tax employee contributions that are not includible in gross income. However,
 32 such a portion may be transferred only to an individual retirement account or
 33 annuity described in section 408(a) or section 408(b) of the Internal Revenue
 34 Code, as it existed on January 1, 2011, or to a qualified defined
 35 contribution plan described in section 401(a) or section 403(a) of the
 36 Internal Revenue Code, as it existed on January 1, 2011, that agrees to

1 separately account for amounts so transferred, including separately
 2 accounting for the portion of the distribution that is includible in gross
 3 income and the portion of the distribution that is not so includible.
 4

5 SECTION 15. Arkansas Code § 24-7-720(c), concerning lump-sum benefits,
 6 is amended to read as follows:

7 (c) The ~~exact~~ amount of the lump-sum payments under this section shall
 8 be set periodically and not more often than annually by rules of the board as
 9 it determines is actuarially appropriate for the system.

10
 11 SECTION 16. Arkansas Code § 24-7-727(a)(1), concerning compounded cost
 12 of living adjustments, is amended to read as follows:

13 (a)(1) After July 1, 1999, the Board of Trustees of the Arkansas
 14 Teacher Retirement System may compound the cost of living adjustment for all
 15 retirants and participants in the Teacher Deferred Retirement Option Plan who
 16 have received a monthly retirement benefit for the prior twelve-month period.
 17

18 SECTION 17. Arkansas Code § 24-7-732 is amended to read as follows:
 19 24-7-732. System termination or discontinuance -- Vesting.

20 Notwithstanding the provisions of this subchapter, members' accrued
 21 benefits under the Arkansas Teacher Retirement System shall be one hundred
 22 percent (100%) vested, ~~to~~:

23 (1) To the extent those benefits are then funded, in the event
 24 there is a partial or complete termination of the system or in the event of a
 25 complete discontinuance of employer contributions to the system, ~~;~~ and

26 (2) Upon a member's attaining normal retirement age.
 27

28 SECTION 18. Arkansas Code § 24-7-733(b), concerning the limitation on
 29 benefits paid under the Arkansas Teacher Retirement System for purposes of
 30 determining compliance with section 415 of the Internal Revenue Code, is
 31 amended to read as follows:

32 (b) For purposes of determining compliance with section 415 of the
 33 Internal Revenue Code, "compensation" is defined as set forth in United
 34 States Treasury Regulation § 1.415-2(d)(2), as it existed on January 1, 2009, and includes any amount that is not includible in the gross income of the
 35 member under section 132(f)(4) of the Internal Revenue Code, as it existed on
 36

1 January 1, 2011.

2
3 SECTION 19. Arkansas Code § 24-7-1302 is amended to read as follows:
4 24-7-1302. Application – Review.

5 (a) ~~When a member of the Arkansas Teacher Retirement System wishes to~~
6 ~~elect participation~~ To participate in the Teacher Deferred Retirement Option
7 Plan, the member shall ~~fill out and cause to be executed such~~ submit a plan
8 application on a form or forms as have been determined to be necessary for
9 ~~the reasonable and prudent administration of the plan~~ required by the Board
10 of Trustees of the Arkansas Teacher Retirement System.

11 (b)(1) The member's plan application shall be reviewed by the system
12 within a reasonable period of time ~~and a determination shall be made to~~
13 determine whether or not the member meets the eligibility requirements
14 ~~specified in~~ under this subchapter.

15 (2) The member's plan date shall be July 1 next following the
16 determination that the member is eligible for plan participation.

17 (3) A plan application received by the system after May 31
18 before the beginning of a fiscal year on July 1 shall not be eligible for
19 participation in the plan until the following July 1.

20 (c) The member may withdraw his or her plan application if notice to
21 withdraw is received by the system no later than two (2) calendar months
22 after the member's plan date.

23
24 SECTION 20. Arkansas Code § 24-7-1307, concerning Teacher
25 Deferred Retirement Option Plan account credit, is amended to add additional
26 subsections to read as follows:

27 (d) If a participant continues covered employment after completing ten
28 (10) consecutive years in the Teacher Deferred Retirement Option Plan, the
29 participant's Teacher Deferred Retirement Option Plan account shall be
30 credited on June 30 of each year with ten (10) year plus Teacher Deferred
31 Retirement Option Plan interest as set by the board.

32 (e) For the purposes of this section, the ten (10) year plus Teacher
33 Deferred Retirement Option Plan interest rate shall be the rate determined by
34 the board as appropriate.

35
36 SECTION 21. Arkansas Code § 24-7-1311 is amended to read as follows:

1 24-7-1311. Term of participation in Teacher Deferred Retirement Option
2 Plan.

3 ~~(a)(1) The election to participate in the Teacher Deferred Retirement~~
4 ~~Option Plan is irrevocable.~~

5 ~~(2) A member's participation in the plan~~ The Arkansas Teacher
6 Retirement System's monthly deposit into the member's Teacher Deferred
7 Retirement Option Plan shall not exceed ten (10) consecutive years.

8 ~~(b) Under no circumstances shall a~~ Once a member participates in the
9 plan, the member receive shall no longer accrue service credit under any
10 state-supported retirement system ~~during a period of plan participation or~~
11 ~~following a period of plan participation, even if the member returns to work.~~

12
13 SECTION 22. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that certain provisions of the
15 Arkansas Teacher Retirement System statutes are in urgent need of revision to
16 bring them into conformance with sound public pension policy; that this
17 revision is of great importance to members of the Arkansas Teacher Retirement
18 System and to other citizens of the State of Arkansas; that the Arkansas
19 Teacher Retirement System assets and accounting are complex, and the system
20 must be able to appropriately manage the system members accounts and
21 benefits; that many of these technical corrections are currently the policy
22 of the Board of Trustees of the Arkansas Teacher Retirement System and should
23 be codified to reflect that policy; and that this act is immediately
24 necessary to maintain an orderly system of benefits for the members of the
25 Arkansas Teacher Retirement System. Therefore, an emergency is declared to
26 exist and this act being immediately necessary for the preservation of the
27 public peace, health, and safety shall become effective on:

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

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

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