

Stricken language would be deleted from and underlined language would be added to present law.

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

As Engrossed: S3/23/11
A Bill

SENATE BILL 181

5 *By: Senators J. Key, G. Jeffress*
6

7 **For An Act To Be Entitled**

8 AN ACT TO AMEND THE REQUIREMENTS CONCERNING MEMBER
9 BENEFITS UNDER THE LOCAL POLICE AND FIRE PENSION AND
10 RELIEF FUNDS; AND FOR OTHER PURPOSES.
11

12
13 **Subtitle**

14 TO AMEND THE REQUIREMENTS CONCERNING
15 MEMBER BENEFITS UNDER THE LOCAL POLICE
16 AND FIRE PENSION AND RELIEF FUNDS.
17

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 24-10-405, concerning calculation of
22 employer contribution rates, is amended to add an additional subsection to
23 read as follows:

24 (j) Beginning in fiscal year 2012, for each paid service employer the
25 actuary shall annually compute the rate of contributions that will cover the
26 benefit costs of its employees participating in the system as determined by
27 policy established by the board.
28

29 SECTION 2. Arkansas Code § 24-10-501(c), concerning paid and volunteer
30 service, is amended to add an additional subdivision to read as follows:

31 (4) Beginning January 1, 2012, prior service credit or volunteer
32 service credit shall not be certified under this subsection.
33

34 SECTION 3. Arkansas Code § 24-11-209, concerning the Arkansas Fire and
35 Police Pension Guarantee Fund, is amended to add additional subsections to
36 read as follows:



1 (i)(1) For the allocations in fiscal years 2012 -- 2015, the amount of
2 the additional allocation to a pension and relief fund under § 24-11-217
3 shall not be less than would be provided under this section.

4 (2) Beginning in fiscal year 2016, this section does not provide
5 any allocation.

6 (j) The amounts provided under this section are subject to the limits
7 under § 24-11-215.

8
9 SECTION 4. Arkansas Code § 24-11-213(c), concerning allocation of the
10 insurance premium tax, is amended to read as follows:

11 (c)(1) Except as provided under subsection (b) of this section, the
12 portion distributed to the Firemen's and Police Officers' Pension and Relief
13 Fund shall be based on the ratio percentage of the total population of the
14 cities, towns, or fire protection districts qualified to participate in the
15 Firemen's and Police Officers' Pension and Relief Fund in comparison to the
16 total population of the State of Arkansas.

17 (2) The remaining percentage shall be distributed to the General
18 Revenue Fund.

19 (3)(A) Beginning with the allocation in fiscal year 2012, the
20 portion distributed shall be at least the portion distributed under
21 subdivision (c)(1) of this section.

22 (B) The portion distributed under this section shall be:

23 (i) Forty percent (40%) of the total actuarial cost
24 for groups covered by the Arkansas Local Police and Fire Retirement System;
25 plus

26 (ii) One hundred percent (100%) of the volunteer
27 costs for these groups less the required employer contribution; plus

28 (iii) Thirty percent (30%) of the consolidation and
29 local pension and relief fund actuarial costs as defined under § 24-11-214.

30 (C) The portion distributed is subject to the limits under
31 § 24-11-215.

32
33 SECTION 5. Arkansas Code § 24-11-214 is amended to read as follows:
34 24-11-214. Allocation of insurance premium tax – Division among
35 localities.

36 (a) An actuary certified by the Society of Actuaries shall evaluate

1 the information submitted under §§ 24-11-213 – 24-11-215 to determine the
2 amount of the premium tax revenues to be directed to each city, town, or fire
3 protection district.

4 (b)(1) It is the intent of the General Assembly that the allocation of
5 revenues to the Firemen's and Police Officers' Pension and Relief Fund be
6 directed to a city, town, or fire protection district based on the actuarial
7 cost of their retirement programs.

8 (2) The actuarial cost for a calendar year:

9 (A)(i) For a group that is a member of the Arkansas Local
10 Police and Fire Retirement System, shall equal that group's calculated
11 contribution rate, as defined in § 24-10-405, as of the beginning of that
12 calendar year multiplied by that group's estimated annual payroll as of the
13 beginning of that calendar year.

14 (ii) The group's actuarial cost under this section
15 shall be reduced by the group's estimated annual payroll as of the beginning
16 of that calendar year multiplied by one percent (1%) for the 2008 allocation,
17 two percent (2%) for the 2009 allocation, and three percent (3%) for
18 allocations after 2009.

19 (iii) However, for volunteer members the actuarial
20 cost shall equal the group's per person cost, less the mandatory employer per
21 person cost, as of the beginning of that calendar year multiplied by the
22 number of volunteer members in that group as of the beginning of that
23 calendar year+.

24 (iv) The additional cost for a group that is a
25 member of the Arkansas Local Police and Fire Retirement System that results
26 from a consolidation of a local pension and relief fund shall be calculated
27 separately for this allocation purpose;

28 (B) For a group that is covered by a local pension and
29 relief fund, shall be the ~~dollar~~ cost calculated by the actuary for the
30 Arkansas Fire and Police Pension Review Board for the preceding calendar
31 year;

32 (C) Shall include the cost of any benefit enhancements
33 mandated by state law but shall not include any benefit enhancement that is
34 the result of local options or increases after January 1, 2003; ~~and~~

35 (D) Shall not include the cost of any benefit
36 enhancements, either mandated by state law or as a result of local options,

1 enacted after January 1, 2007; and

2 (E)(i) Beginning with the allocation in fiscal year 2012,
3 all actuarial costs in this subsection shall be calculated on the base
4 benefit.

5 (ii) The base benefit is the minimum amount
6 prescribed under § 24-10-101 et seq. and § 24-11-101 et seq., excluding all
7 elective benefit increases.

8 (c) The amount of revenues to be directed to cities, towns, and fire
9 protection districts shall equal the amount in the Firemen's and Police
10 Officers' Pension and Relief Fund, less:

11 (1) The payment for the administrative and actuarial expenses of
12 the board under subsection (k) of this section and under § 24-11-203(k)(3);
13 and

14 (2) The amount described in subsection (g) of this section.

15 (d)(1) In general, the revenues shall be allocated in each calendar
16 year to each city, town, or fire protection district so that each city, town,
17 or fire protection district receives the same percentage of its total cost as
18 it received in 2002 but not more than one hundred percent (100%) of its cost.

19 (2) Any remaining revenues are to be allocated to those
20 receiving less than one hundred percent (100%) of their cost.

21 (e) This allocation shall keep the fire portion and the police portion
22 separate and shall be accomplished by the following steps:

23 (1) The actuarial cost for calendar year 2002 for each local
24 pension and relief fund shall be determined;

25 (2) The actual dollar amount of contributions for calendar year
26 2002 for each group covered by the system shall be determined;

27 (3) The total of subdivisions (e)(1) and (2) of this section
28 shall be determined for each city, town, and fire protection district, and
29 this total shall be determined separately for the fire portion and for the
30 police portion, and a combined total of the fire portion and the police
31 portion shall also be determined;

32 (4) The amount of premium tax revenue allocated to each city,
33 town, and fire protection district in calendar year 2002 shall be determined,
34 and this amount shall be determined separately for the fire portion and for
35 the police portion, and a combined total of the fire portion and the police
36 portion shall also be determined;

1 (5) A percentage called the “calendar year 2002 percentage of
2 costs covered by premium tax” shall be determined as the ratio of subdivision
3 (e)(4) of this section divided by subdivision (e)(3) of this section, and the
4 percentage shall be determined separately for the fire portion, for the
5 police portion, and for the combined total;

6 (6)(A) A percentage called the “minimum percentage covered”
7 shall be determined as the lesser of:

8 (i) The calendar year 2002 percentage of costs
9 covered by premium tax; or

10 (ii) One hundred percent (100%).

11 (B) This minimum percentage covered shall be determined
12 separately for the fire portion, for the police portion, and for the combined
13 total.

14 (C) The minimum percentage covered shall be a fixed
15 percentage and shall not change over time, except as provided in subdivision
16 (e)(6)(E) of this section.

17 (D) The minimum percentage covered for the volunteer
18 portion of the actuarial cost for a calendar year in the Arkansas Local
19 Police and Fire Retirement System shall be one hundred percent (100%).

20 (E)(i) The minimum percentage covered shall be adjusted
21 when a local fire or police pension fund assigns administrative
22 responsibility for the fund to the Arkansas Local Police and Fire Retirement
23 System under §§ 24-10-301 and 24-10-302.

24 (ii) The minimum percentage covered shall be
25 adjusted so that the dollar amount of premium tax allocated under this
26 section for the year after the assignment of administrative responsibility
27 will be the same as it was the year of the assignment of administrative
28 responsibility.

29 (iii) For the purpose of this adjustment,
30 subdivision (b)(2)(D) of this section does not apply to the addition of a
31 cost of living adjustment of three percent (3%) compounded each year,
32 provided the addition was a part of the consolidation process;

33 (7) The actuarial cost for the calendar year of allocation for
34 each local pension and relief fund shall be determined;

35 (8) The actuarial cost for the calendar year of allocation for
36 each group covered by the system shall be determined;

1 (9) The total of subdivisions (e)(7) and (8) of this section
2 shall be determined for each city, town, and fire protection district, and
3 this total shall be determined separately for the fire portion and for the
4 police portion, and a combined total of the fire portion and the police
5 portion shall also be determined;

6 (10)(A) The "first allocation" for each city, town, and fire
7 protection district shall be equal to the result of the minimum percentage
8 covered from subdivision (e)(6) of this section multiplied by subdivision
9 (e)(9) of this section.

10 (B) This first allocation shall be the greater of:

11 (i) The "first allocation" for the fire portion plus
12 the "first allocation" for the police portion; or

13 (ii) The "first allocation" for the combined total;

14 (11) The results of subdivision (e)(10) of this section shall be
15 reduced, but not below zero (0), by the amount in the subsidy account of the
16 city, town, or fire protection district at the beginning of the calendar year
17 under subsection (f) of this section;

18 (12)(A) If the total premium tax revenue as determined under
19 subsection (c) of this section is less than the total allocated through
20 subdivision (e)(11) of this section, the total premium tax revenue shall be
21 allocated pro rata on the amounts under subdivision (e)(10) of this section,
22 so that the total through subdivision (e)(11) of this section equals the
23 amount determined under subsection (c) of this section.

24 (B) If the total premium tax revenue as determined under
25 subsection (c) of this section is more than the total allocated through
26 subdivision (e)(11) of this section, the excess, not to exceed the total of
27 amounts under subdivision (e)(9) of this section minus the amounts under
28 subdivision (e)(10) of this section, shall be allocated pro rata on the
29 excess, if any, of the amounts under subdivision (e)(9) of this section over
30 the amounts under subdivision (e)(10) of this section.

31 (C) If the total premium tax revenue as determined under
32 subsection (c) of this section is more than the total allocated through
33 subdivision (e)(11) of this section plus the amount allocated under
34 subdivision (e)(12)(B) of this section, the excess shall be allocated to the
35 Future Supplement Fund-Police or Future Supplement Fund-Fire under § 24-11-
36 212; and

1 (13)(A) The total amount allocated to a city, town, or fire
2 protection district shall be the sum of amounts under subdivisions (e)(11)
3 and (12) of this section.

4 (B) However, a city covered under § 24-11-435 shall
5 receive the same dollar amount as it received in calendar year 2002.

6 (f)(1) The allocation in subdivision (e)(10) of this section is
7 reduced under subdivision (e)(11) of this section by the subsidy account for
8 each city, town, or fire protection district.

9 (2) The subsidy account for a city, town, or fire protection
10 district as of January 1, 2003, shall be determined by the board to be the
11 excess, if any, of the total premium tax for fire and police pension and
12 relief funds allocated to the city, town, or fire protection district in the
13 calendar years 1997 through 2002 over the sum of:

14 (A) The contributions paid to the system for calendar
15 years 1997 through 2002; plus

16 (B) The amount of premium tax allocated to the local
17 pension and relief funds for 1997 through 2002; plus

18 (C) Any transfers from the "LOPFI subsidy account" to the
19 local pension and relief funds from 1997 through 2002.

20 (3) Beginning January 1, 2004, and each January 1 thereafter,
21 the subsidy account for a city, town, or fire protection district shall be
22 determined by the board to be:

23 (A) The subsidy account at the prior January 1; plus

24 (B) The premium tax allocated in the prior calendar year;
25 minus

26 (C) The contributions paid to the system for the prior
27 calendar year; minus

28 (D) The actuarial cost of the local pension and relief
29 funds for the prior calendar year; but

30 (E) Not less than zero (0).

31 (g)(1) There shall be allocated amounts to the Future Supplement Fund-
32 Fire and the Future Supplement Fund-Police under § 24-11-212 determined as
33 the amount under subsection (c) of this section multiplied by the ratio of
34 the number as determined in subdivision (g)(1)(A) of this section to the
35 number as determined in subdivision (g)(1)(B) of this section as follows:

36 (A) The total number of active, retiree, and beneficiary

1 members of all of the fire or police pension and relief funds as of December
2 31, 2000, minus the total number of active, retiree, and beneficiary members
3 of all of the fire or police pension and relief funds as of the most recent
4 December 31; and

5 (B) The number of active, retiree, and beneficiary fire or
6 police members of the system plus the total number of active, retiree, and
7 beneficiary members of all of the fire or police pension and relief funds as
8 of December 31, 2000.

9 (2) In the case of multiple beneficiaries of a single deceased
10 member, those beneficiaries shall be counted as one (1) for the purposes of
11 this subsection;

12 (3) In the case of paid service and volunteer service members in
13 one (1) location, one (1) paid service member shall be equal to five (5)
14 volunteer service members for the purposes of this subsection.

15 (h)(1)(A) All cities, towns, and fire protection districts having fire
16 departments organized under §§ 24-11-801 – 24-11-807, 24-11-809, 24-11-813 –
17 24-11-815, and 24-11-818 – 24-11-821, and all cities and towns having police
18 departments organized under § 24-11-101 et seq., § 24-11-201 et seq., § 24-
19 11-301 et seq., § 24-11-401 et seq., and §§ 24-11-801 – 24-11-807, 24-11-809,
20 24-11-811 – 24-11-827, 24-11-829, and 24-11-830 that have provided the
21 information required under §§ 24-11-213(d) and 24-11-206 to the board and to
22 the system shall qualify for participation in the revenues distributed.

23 (B) Those cities, towns, and fire protection districts
24 that make an irrevocable decision to elect coverage in the Arkansas Local
25 Police and Fire Retirement System by December 14 shall qualify for
26 participation in the revenues distributed in the following calendar year.

27 (C) Those cities, towns, and fire protection districts
28 that have not provided the required information shall not qualify for
29 participation in the revenues distributed.

30 (2) On or before June 15 of each calendar year after 2002, the
31 board shall certify to the Department of Finance and Administration the exact
32 amount of tax revenues each city, town, or fire protection district is
33 entitled to receive for the calendar year under this section.

34 (3)(A) The eligibility of the city, town, or fire protection
35 district shall be continuous for a ten-year period without recertification
36 unless otherwise directed by the board.

1 (B) The first year of implementation shall require a nine-
2 year cycle from June 15, 2001.

3 (C) Thereafter, each city, town, or fire protection
4 district shall resubmit the information required in § 24-11-213(d)(2) and (3)
5 every ten (10) years beginning on December 15, 2010.

6 (i) All nonprofit corporations formed for fire protection purposes and
7 that participate in the system shall participate in the distribution of
8 insurance premium tax revenues to the same extent as other fire protection
9 organizations under this section, §§ 24-10-401 – 24-10-409, 24-11-809, and
10 26-57-610, and any other laws providing for the distribution of insurance
11 premium tax moneys to fire protection organizations.

12 (j)(1) There shall be no administrative fees charged to these entities
13 by the board upon qualification.

14 (2) The board shall incur all administrative and actuarial costs
15 associated with obtaining the information required under this section.

16 (k)(1) The board shall establish a certain percentage of the insurance
17 tax revenues to use to meet its proper actuarial expenses and administrative
18 costs incurred in obtaining and evaluating the population information
19 required under § 24-11-213, but in no event shall the board be entitled to
20 more than one percent (1%) of the Firemen's and Police Officers' Pension and
21 Relief Fund as defined in § 24-11-809(a)(2).

22 (2) This assessment shall be collected in addition to the
23 assessment provided in § 24-11-203(k)(3).

24 (3) This revenue shall also be used to provide the
25 administrative costs incurred in obtaining and evaluating the population
26 information for unqualified cities, towns, and fire protection districts.

27 (1)(1) Beginning with the allocation in fiscal year 2012, the amount
28 allocated to groups that are members of the Arkansas Local Police and Fire
29 Retirement System excluding consolidation costs under subdivision
30 (b)(2)(A)(iv) of this section is the actuarial cost under subdivision (b)(2)
31 of this section multiplied by the factor in § 24-11-215(f).

32 (2) For the allocations in fiscal years 2012 -- 2015, the
33 actuarial cost less the allocation amount shall not increase by more than one
34 percent (1%) of covered payroll each year above the allocation amount in
35 fiscal year 2011.

36 (3) For the allocations in fiscal years 2012 -- 2015, any amount

1 needed to meet the transition under subdivision (1)(2) of this section shall
2 proportionately reduce the percent of payroll of the other groups.

3 (m) Beginning with the allocation in fiscal year 2012, the amount
4 allocated to groups that are covered by a local pension and relief fund
5 including consolidation costs under subdivision (b)(2)(A)(iv) of this section
6 is the actuarial cost under subdivision (b)(2) of this section multiplied by
7 the factor in § 24-11-215(f).

8 (n) The Arkansas Fire and Police Pension Review Board shall promulgate
9 rules that are necessary to implement this section.

10
11 SECTION 6. Arkansas Code § 24-11-215 is amended to read as follows:

12 24-11-215. Allocation of insurance premium tax – Special provisions.

13 (a) Revenues distributed to the State of Arkansas as general revenue
14 are subject to the allocations in this section.

15 (b)(1) All taxes that are levied on insurers that are allocated to
16 general revenues under § 24-11-213 may be allocated to the Fire Protection
17 Premium Tax Fund ~~and~~, the Arkansas Fire and Police Pension Guarantee Fund,
18 underfunded plans under § 24-11-217, and then to general revenues.

19 (2)(A) For the 1999-2000 state fiscal year, six hundred thousand
20 dollars (\$600,000) of the fire portion of funds transferred to general
21 revenues under this section and § 24-11-213 shall be transferred to the Fire
22 Protection Premium Tax Fund.

23 (B) In all subsequent years fifty percent (50%) of the
24 percentage increase in the amount allocated to general revenues under this
25 section and § 24-11-213, using the dollar amount allocated in fiscal year
26 1999-2000 as the baseline, shall be transferred to the Fire Protection
27 Premium Tax Fund in addition to the six hundred thousand dollars (\$600,000)
28 per year until the time that a cap of two million dollars (\$2,000,000)
29 annually is transferred to the Fire Protection Premium Tax Fund.

30 (C) Thereafter, the annual transfer shall be set at two
31 million dollars (\$2,000,000).

32 (3) Funds shall be distributed by the Chief Fiscal Officer of
33 the State to the Arkansas Fire and Police Pension Guarantee Fund upon the
34 recommendation of the Arkansas Fire and Police Pension Review Board in an
35 amount necessary to fund the priority categories defined by § 24-11-
36 209(e)(3)(A)-(D).

1 (4) Funds may be distributed by the Chief Fiscal Officer of the
2 State to the Arkansas Fire and Police Pension Guarantee Fund upon the
3 recommendation of the board for plans in the priority category defined by §
4 24-11-209(e)(3)(E).

5 (c) After transfers are made to cover funds distributed under
6 subsection (b) of this section and the portion of those premium taxes set
7 aside for transfer to the State Police Retirement Fund under § 24-6-209(b),
8 the Director of the Department of Finance and Administration is directed to
9 make annual transfers from the police portion of the revenues to the
10 Policemen's Pension Supplement Program Fund on or before July 25, 1999, and
11 each year thereafter as certified by the board on July 1 each year as the
12 amount needed to pay the expenses of and to make payments to the eligible
13 retired police officers and survivors under the Arkansas Policemen's Pension
14 Supplement Program for the coming year of the program.

15 (d) Fifty percent (50%) of the increase in the amount allocated to
16 general revenues under § 24-11-213, using the dollar amount allocated in
17 fiscal year 1999-2000 as the base amount, shall be transferred to the Future
18 Supplement Fund-Police under § 24-11-212.

19 (e) The amounts under § 24-11-217 shall be reduced proportionately so
20 that the remainder portion for general revenue does not fall below four
21 million dollars (\$4,000,000).

22 (f)(1)(A) The factor applied to groups allocated under § 24-11-214(1)
23 is forty percent (40%).

24 (B) The factor applied to groups allocated under § 24-11-
25 214(m) is thirty percent (30%).

26 (2) The factors under subdivision (f)(1) of this section may be
27 reduced proportionately to meet the following criteria:

28 (A) The general revenue portion resulting from this
29 subsection does not fall below four million dollars (\$4,000,000); and

30 (B) If the amount resulting from the percentages under
31 subdivision (f)(1) of this section and the amounts in subsections (b)-(d) of
32 this section in total reduce the general revenue portion of the allocation
33 below four million dollars (\$4,000,000), the amounts resulting from the
34 percentages take precedence.

35
36 SECTION 7. Arkansas Code Title 24, Chapter 11, Subchapter 2 is amended

1 to add an additional section to read as follows:

2 24-11-217. Additional allocation for certain underfunded plans.

3 (a)(1) Beginning with the allocation in fiscal year 2012, an
4 additional allocation for certain underfunded plans as described in this
5 section is created.

6 (2) The additional allocation shall be phased in for the purpose
7 of replacing the Arkansas Fire and Police Pension Guarantee Fund under § 24-
8 11-209 after the allocation in fiscal year 2015.

9 (b) The additional allocation shall be based on ten percent (10%) of
10 the actuarial cost under § 24-11-214 and shall be available for certain
11 pension and relief funds, including the portion of the actuarial cost for
12 pension and relief funds that are administered by the Arkansas Local Police
13 and Fire Retirement System.

14 (c) The pension and relief funds shall qualify for the additional
15 allocation after approval of the Arkansas Fire and Police Pension Review
16 Board and after meeting the following criteria:

17 (1) The pension and relief fund is in compliance with all
18 applicable laws and rules; and

19 (2) The pension and relief fund shall receive employer
20 contributions other than premium tax allocations that are at least eighty
21 percent (80%) of the actuarial cost under § 24-11-214 during the calendar
22 year before an allocation.

23 (d) For the allocations in fiscal years 2012 -- 2015, the amount of
24 the additional allocation to a pension and relief fund shall not be less than
25 would have been provided by the Arkansas Fire and Police Pension Guarantee
26 Fund under § 24-11-209.

27 (e) The amounts provided under this additional allocation are subject
28 to the limits under § 24-11-215.

29
30 /s/J. Key
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