

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

SENATE BILL 113

5 By: Senator R. Thompson  
6

## For An Act To Be Entitled

8 AN ACT TO COMPEL PAYMENT OF DELINQUENT EMPLOYER  
9 CONTRIBUTIONS FROM AN ARKANSAS TEACHER RETIREMENT  
10 SYSTEM EMPLOYER FOR AMOUNTS DUE; TO DECLARE AN  
11 EMERGENCY; AND FOR OTHER PURPOSES.  
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## Subtitle

14 TO COMPEL PAYMENT OF DELINQUENT EMPLOYER  
15 CONTRIBUTIONS FROM AN ARKANSAS TEACHER  
16 RETIREMENT SYSTEM EMPLOYER FOR AMOUNTS  
17 DUE AND TO DECLARE AN EMERGENCY.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 24-7-411 is amended to read as follows:  
24 24-7-411. Compelling payment upon delinquency of employer.

25 (a)(1) If any participating employer fails to remit to the Arkansas  
26 Teacher Retirement System contributions that are required by law or  
27 regulation by the fifteenth day of the month in which the moneys are due,  
28 then the system shall impose an interest penalty of ~~six~~ eight percent  
29 ~~(6%)~~ (8%) per annum with a daily interest accrual.

30 (2) For purposes of this subsection, an employer's remittance is  
31 not delinquent if the employer's remittance is:

32 (A) Received by the system by the fifteenth day of the  
33 month in which the payment is due; or

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

36 (3) The interest penalty shall be determined by the system on



1 the date the delinquent funds are received, and a statement of the interest  
2 penalty shall be sent to the participating public employer.

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

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

13 (b)(1) If a participating employer fails to file with the system a  
14 report required by the Board of Trustees of the Arkansas Teacher Retirement  
15 System by the fifteenth day of the month in which the report is due, then the  
16 system shall impose a penalty of one hundred fifty dollars (\$150) for each  
17 late report.

18 (2) For purposes of this subsection, a report is not late if the  
19 report is:

20 (A) Received by the system by the fifteenth day of the  
21 month in which the report is due; or

22 (B) Postmarked by the fourteenth day of the month in which  
23 the report is due.

24 (3) A statement of the penalty shall be sent to the  
25 participating employer.

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

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

35 (6) In addition to the late report penalty under subdivision  
36 (b)(1) of this section, the system may impose an additional penalty of five

1 hundred dollars (\$500) for a report that is filed with the system over one  
 2 (1) month late.

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

6 (1) The delinquency was not the result of the employer's  
 7 nondisclosure, fraud, or misrepresentation; and

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

11 (d)(1) If an employer fails to remit system contributions and reports  
 12 required under subsections (a) and (b) of this section, the amount of  
 13 delinquent funds including contributions, penalties, and interest owed to the  
 14 system may be deducted from the operating funds designated to the employer  
 15 through the Department of Education and remitted directly by the department  
 16 to the system's appropriate account for the use and benefits of the members.

17 (2) The operating funds from which delinquent funds may be  
 18 deducted for a public school district or open-enrollment public charter  
 19 school are limited to:

20 (A) State funding distributed under § 6-20-2305, including  
 21 without limitation state foundation funding and state categorical funding;

22 (B) Federal funding to the extent allowed under federal  
 23 law; and

24 (C) The net assets of an open-enrollment public charter  
 25 school deemed property of the state upon revocation or nonrenewal of the  
 26 charter.

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 28 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 29 General Assembly of the State of Arkansas that provisions of the Arkansas  
 30 Teacher Retirement System Act related to funds and management of assets are  
 31 in need of revision to maintain the teacher retirement laws in conformance  
 32 with sound public pension policy; that the Arkansas Teacher Retirement System  
 33 operates on a July 1 to June 30 fiscal year; and that this act is necessary  
 34 to maintain an orderly system of benefits for the members of the Arkansas  
 35 Teacher Retirement System. Therefore, an emergency is declared to exist, and  
 36 this act being necessary for the preservation of the public peace, health,

1 and safety shall become effective on July 1, 2013.

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