

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

*As Engrossed: S2/13/13*

# A Bill

SENATE BILL 160

5 By: Senator E. Cheatham  
6

## For An Act To Be Entitled

8 AN ACT TO MODIFY THE DEFINITION OF "SALARY" FOR  
9 RETIREMENT PURPOSES UNDER THE ARKANSAS TEACHER  
10 RETIREMENT SYSTEM TO INCLUDE PENSIONABLE SALARY ONLY;  
11 TO CLARIFY THE CALCULATION OF SERVICE CREDIT AND  
12 BENEFITS PAID TO A MEMBER OF THE SYSTEM BY COURT  
13 ORDER, CONTRACT BUYOUT, OR SETTLEMENT AGREEMENT; TO  
14 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

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18 TO MODIFY THE DEFINITION OF "SALARY"  
19 UNDER THE ARKANSAS TEACHER RETIREMENT  
20 SYSTEM; TO CLARIFY THE CALCULATION OF  
21 SERVICE CREDIT AND BENEFITS PAID TO A  
22 MEMBER OF THE SYSTEM; AND TO DECLARE AN  
23 EMERGENCY.  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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28 SECTION 1. Arkansas Code § 24-7-202(27), concerning the definition of  
29 "salary", is amended to read as follows:

30 (27)(A) "Salary" means the remuneration paid to a member  
31 employed in a position covered by the Arkansas Teacher Retirement System on  
32 which the employer ~~withholds~~ is required to withhold federal income tax from  
33 wages under the Internal Revenue Code.

34 (B) "Salary" includes:

35 (i) An incentive bonus paid to an employee for the  
36 employee's certification by the National Board for Professional Teaching



1 Standards under § 6-17-413 if the Department of Education pays the employer  
 2 contribution and the member pays the required member contribution; and

3 (ii) Employer pick-up contributions, cafeteria plans  
 4 as defined in § 21-5-901, and employee contributions to qualified retirement  
 5 plans, including without limitation qualified annuities and deferred  
 6 compensation plans~~;~~.

7 (C) "Salary" does not include:

8 (i) All or part of a payment made as a result of a  
 9 contract buyout agreement, settlement, claim, judgment, arbitration award,  
 10 decree, or court-ordered payment to a member on which the employer is  
 11 required to withhold federal income tax from wages unless the amount paid to  
 12 the member is higher than the wages earned by the member for regular service;  
 13 and

14 (ii) Nonmonetary taxable income including without  
 15 limitation vehicles, housing, and personal property.

16 (D) The board may promulgate rules to modify the  
 17 definition of salary used in the calculation of benefits by the system;

18  
 19 SECTION 2. Arkansas Code § 24-7-735 is amended to read as follows:

20 24-7-735. Contract buyout agreement -- Settlements -- Judgments --  
 21 Calculation of benefits.

22 (a) A member shall not accumulate ~~additional~~ service credit in the  
 23 Arkansas Teacher Retirement System during the time that payments under a  
 24 contract buyout agreement, settlement, claim, judgment, arbitration award,  
 25 decree, or court-ordered ~~payments~~ payment are paid to the member by the  
 26 employer unless the member continues to work on-site for the employer.

27 (b) Employer contributions shall be payable to the system on payments  
 28 made ~~under subsection (a) of this section~~ to the member on which the employer  
 29 is required to withhold federal income tax as if the payments were made under  
 30 § 24-7-708 if the member does not continue to work on-site for the employer.

31 (c)(1) The employer shall provide a copy of a settlement agreement or  
 32 court order under this section to the system to calculate any contributions  
 33 due to the system, or service credit and salary due to the member.

34 (2) A member shall not receive service credit or salary from the  
 35 system under a settlement agreement or court order unless permitted under  
 36 this section.

1       (d) The system shall allow a member to purchase service credit under a  
 2 settlement agreement or court order to resolve a claim of wrongful  
 3 termination if the service credit is:

4               (1)(A) Purchased from the date of termination by an employer to  
 5 the date of the settlement agreement, court order, or other resolution of the  
 6 dispute.

7               (B) Service credit earned by the member from an employer  
 8 from the date of termination by an employer to the date of the settlement  
 9 agreement or court order shall be subtracted from the amount of service  
 10 credit allowed for purchase under subdivision (d)(1)(A) of this section; and

11               (2) Paid using the actuarial equivalent, as calculated by the  
 12 system, of the member's benefits to the system.

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 14       SECTION 3. Arkansas Code § 24-7-737 is repealed.

15       ~~24-7-737. Salary contracts—Additional remuneration.~~

16       ~~(a) A member may establish salary earned under a contract that is~~  
 17 ~~bought-out by a covered employer by paying employee and employer~~  
 18 ~~contributions plus interest.~~

19       ~~(b) In determining salary, a retirement annuity may be based on~~  
 20 ~~service credit covered by the purchased contract.~~

21       ~~(c)(1) Employment contracts purchased by a covered employee or won~~  
 22 ~~through litigation that results in either a consent agreement, judgment, or~~  
 23 ~~decree may be counted as salary upon payment of all required member and~~  
 24 ~~employer contributions, including interest, to the Arkansas Teacher~~  
 25 ~~Retirement System.~~

26       ~~(2) A member who receives remuneration under a regular contract~~  
 27 ~~and a purchased contract or under both a regular contract and a contract won~~  
 28 ~~through litigation, consent agreement, judgment, or decree shall have the~~  
 29 ~~greater of the two (2) amounts considered as salary for the purposes of~~  
 30 ~~determining the final average salary of the member.~~

31       ~~(d) If a member's salary includes remuneration paid other than in~~  
 32 ~~cash, the cash value of the remuneration is considered in the amount the~~  
 33 ~~employer is required to report for federal income tax purposes.~~

34       ~~(e) A contributory member's contributions and an employer's~~  
 35 ~~contributions are required on covered salary, including:~~

36               ~~(1) Contributions that are paid concurrently with other~~

1 ~~remuneration for another covered employer or used in calculating member~~  
2 ~~benefits; and~~

3 ~~(2) Salary that is paid concurrently with other remuneration~~  
4 ~~from another covered employer, even if the salary is not used in calculating~~  
5 ~~member benefits.~~

6 ~~(f) Retirement annuities may be based on service credit covered by a~~  
7 ~~purchased contract.~~

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9 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
10 General Assembly of the State of Arkansas that provisions of the Arkansas  
11 Teacher Retirement System Act are in need of revision to bring them into  
12 conformance with sound public pension policy; that the Arkansas Teacher  
13 Retirement System must administer member's accounts in certain situations  
14 involving a claim or dispute to which the system is not a party but for which  
15 clear rules are necessary; and that this act is immediately necessary to  
16 maintain an orderly system of benefits for the members of the Arkansas  
17 Teacher Retirement System. Therefore, an emergency is declared to exist, and  
18 this act being immediately necessary for the preservation of the public  
19 peace, health, and safety shall become effective on:

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

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

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

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27 */s/E. Cheatham*  
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