

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

1 State of Arkansas As Engrossed: H3/2/21 H3/16/21

2 93rd General Assembly

# A Bill

3 Regular Session, 2021

HOUSE BILL 1274

4

5 By: Representative S. Smith

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## For An Act To Be Entitled

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*AN ACT CONCERNING THE MEMBERSHIP OF VOLUNTEER*

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*FIREFIGHTERS AND VOLUNTEER POLICE OFFICERS IN THE*

10

*ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AND FOR*

11

*OTHER PURPOSES.*

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## Subtitle

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*CONCERNING THE MEMBERSHIP OF VOLUNTEER*

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*FIREFIGHTERS AND VOLUNTEER POLICE*

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*OFFICERS IN THE ARKANSAS PUBLIC*

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*EMPLOYEES' RETIREMENT SYSTEM.*

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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 § 24-4-101(17)(B), concerning the definition  
24 of "employees" as applicable to the Arkansas Public Employees' Retirement  
25 System, is amended to read as follows:

26 (B) Excepting members of the General Assembly and those persons  
27 participating in a local firemen's relief and pension fund because of their  
28 status as volunteer firefighters, those persons who otherwise meet the  
29 definition of employees in positions covered by the Arkansas Public  
30 Employees' Retirement System while also serving as volunteer firefighters or  
31 volunteer police officers in a separate position covered by the Arkansas  
32 Local Police and Fire Retirement System, and those persons who have dual  
33 full-time employment in separate positions covered by the Arkansas Public  
34 Employees' Retirement System and the Arkansas Local Police and Fire  
35 Retirement System respectively, the term "employees" shall not include  
36 persons who are members of any other retirement system, excepting Social



1 Security, which retirement system is supported by state funds or is  
2 authorized by the laws of the state. In addition, the term "employees"  
3 specifically shall not include the following:

4 (i) Persons in the employ of the Division of  
5 Arkansas State Police who are members of the State Police Retirement System;

6 (ii) Persons in the employ of the Department of  
7 Education or the Arkansas Teacher Retirement System, except as otherwise  
8 provided by law;

9 (iii) Persons in the employ of the University of  
10 Arkansas or any other state-supported institution of higher learning, except  
11 as otherwise provided by law;

12 (iv) Justices of the Supreme Court, judges of  
13 circuit courts, or judges of chancery courts;

14 (v) Persons in the employ of the General Assembly  
15 who are employed on a less than full-time regular annual salary basis, except  
16 that any person who has served or who shall serve during at least six (6)  
17 legislative sessions as Chief Clerk of the House of Representatives and who  
18 has served in the employ of the General Assembly during at least twelve (12)  
19 previous legislative sessions shall be eligible to receive credited service  
20 in the Arkansas Public Employees' Retirement System for any period of  
21 employment with the General Assembly since July 1, 1957, but only if the  
22 employee is, or was, an active member of the system with at least ten (10)  
23 years of credited service and only if the employee pays or causes to be paid  
24 all employee contributions at the rate and on the compensation that would  
25 have been paid had he or she been a member of the system during those periods  
26 of time, all employer contributions based on the employer normal cost from  
27 the most recently completed regular annual actuarial valuation and the  
28 compensation that would have been paid had he or she been a member during  
29 those periods of time, and regular interest on the employee and employer  
30 contributions computed from the date of service to the date the payment is  
31 received by the system;

32 (vi) Persons who are in the employ of the Arkansas  
33 Department of Transportation;

34 (vii) Persons employed with the intent of working  
35 less than ninety (90) calendar days;

36 (viii) Persons who are employed for a period of more

1 than ninety (90) consecutive calendar days but who do not qualify as full-  
2 time employees shall be excluded from membership. A person shall be  
3 considered a full-time employee if that person works at least eighty (80)  
4 hours per month during a period of ninety (90) consecutive calendar days;

5 (ix)(a)(1) Persons whose rate of pay does not  
6 constitute employment that is substantially gainful shall be excluded from  
7 membership.

8 (2) A rate of pay less than the federal  
9 minimum wage for the year shall not be considered employment that is  
10 substantially gainful.

11 (b) A tipped food service employee of the  
12 Department of Parks, Heritage, and Tourism who is guaranteed the prevailing  
13 minimum wage by the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et  
14 seq., as it existed on January 1, 2009, is in employment that is  
15 substantially gainful.

16 (c) The employee and employer contributions  
17 for a tipped food service employee of the Department of Parks, Heritage, and  
18 Tourism is computed based on the tipped food service employee's hourly rate  
19 of pay;

20 (x) Persons who are first employed or those who are  
21 reemployed as participants on or after July 1, 1979, under the Comprehensive  
22 Employment and Training Act [repealed]. However, those persons participating  
23 in the program prior to July 1, 1979, shall continue to be members of the  
24 Arkansas Public Employees' Retirement System while employed by a  
25 participating public employer;

26 (xi) Any person previously denied coverage by the  
27 Arkansas Public Employees' Retirement System because that person was eligible  
28 for membership in but did not participate in another retirement system that  
29 is supported by state funds or that is authorized by the laws of the state,  
30 shall become a member of the Arkansas Public Employees' Retirement System  
31 from the date of July 1, 1999, if in an otherwise eligible position due to  
32 employment with a participating employer. Any person previously denied  
33 coverage by the Arkansas Public Employees' Retirement System because that  
34 person was eligible for or receiving benefits from another retirement system  
35 supported by state funds or that is authorized by the laws of the state shall  
36 become a member of the Arkansas Public Employees' Retirement System from the

1 date of July 1, 1999, if in an otherwise eligible position due to employment  
2 with a participating employer. That person may receive, at the employee's  
3 option, credit for service rendered to a participating public employer before  
4 that date, subject to the following conditions:

5 (a) The member is a participating employee  
6 covered under the Arkansas Public Employees' Retirement System at the time of  
7 the purchase;

8 (b) The member furnishes proof in a form  
9 required by the Arkansas Public Employees' Retirement System of the service  
10 and compensation received;

11 (c) The member pays or causes to be paid all  
12 employee contributions at the rate and on the compensation that would have  
13 been paid had he or she been a member during that time, all employer  
14 contributions based on the employer normal cost from the most recently  
15 completed regular annual actuarial valuation and the compensation that would  
16 have been paid had he or she been a member during that time, and regular  
17 interest on the employee and employer contributions. The interest shall be  
18 computed from the date the service was rendered to the date the payment is  
19 received by the Arkansas Public Employees' Retirement System. The member may  
20 purchase all of the service or any portion thereof in multiples of one (1)  
21 year; and

22 (d) The payment of funds shall be made in one  
23 (1) lump sum;

24 (xii) The surviving spouse of any person deemed  
25 erroneously enrolled due to receipt of a benefit from another retirement  
26 system supported by state funds or that is authorized by the laws of the  
27 state but whose service had not been refunded at or before the date of death  
28 shall be eligible to receive a benefit under the provisions of § 24-4-608,  
29 provided that the person was an employee of the participating employer on the  
30 date of death. The monthly annuity shall be payable on the first day of the  
31 month following the month of application and shall be retroactive to the date  
32 the benefit would have been otherwise payable as provided for in § 24-4-608;  
33 and

34 (xiii) Any person previously denied coverage by the  
35 Arkansas Public Employees' Retirement System because that person was employed  
36 in dual full-time positions covered by the Arkansas Public Employees'

1 Retirement System and the Arkansas Local Police and Fire Retirement System,  
2 respectively, shall become a member of both systems from and after the date  
3 of July 1, 2001, if in otherwise eligible positions with participating  
4 employers. The person may receive at the employee's option credit for service  
5 rendered to a participating public employer before that date, subject to the  
6 following conditions:

7 (a) The member is a participating employee  
8 covered under the Arkansas Public Employees' Retirement System at the time of  
9 the purchase;

10 (b) The member furnishes proof in a form  
11 required by the Arkansas Public Employees' Retirement System of the service  
12 and compensation received;

13 (c) The member pays or causes to be paid all  
14 employee contributions at the rate and on the compensation that would have  
15 been paid had the person been a member during that time, all employer  
16 contributions based on the employer normal cost from the most recently  
17 completed regular annual actuarial valuation and the compensation that would  
18 have been paid had the person been a member during that time, and regular  
19 interest on the employee and employer contributions. The interest shall be  
20 computed from the date the service was rendered to the date the payment is  
21 received by the Arkansas Public Employees' Retirement System. The member may  
22 purchase all of the service or any portion thereof in multiples of one (1)  
23 year; and

24 (d) The payment of funds shall be made in one  
25 (1) lump sum.

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27 /s/S. Smith  
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