

1 State of Arkansas
2 93rd General Assembly
3 Fiscal Session, 2022

SR 5

4
5 By: Senators Irvin, Hickey, Rice, Beckham, L. Chesterfield, J. Dismang, Elliott, J. English, Flippo,
6 Gilmore, Hill, K. Ingram, G. Leding, B. Sample

7
8 **SENATE RESOLUTION**

9 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION
10 BILL TO CLARIFY THE DEFINITION OF "ELIGIBLE INACTIVE
11 RETIREE" AND TO MODIFY THE ELIGIBILITY OF RETIREES TO
12 PARTICIPATE IN THE STATE AND PUBLIC SCHOOL LIFE AND
13 HEALTH INSURANCE PROGRAM.

14
15
16 **Subtitle**

17 TO AUTHORIZE THE INTRODUCTION OF A
18 NONAPPROPRIATION BILL TO CLARIFY THE
19 DEFINITION OF "ELIGIBLE INACTIVE RETIREE"
20 AND TO MODIFY THE ELIGIBILITY OF RETIREES
21 TO PARTICIPATE IN THE LIFE AND HEALTH
22 INSURANCE PROGRAM.

23
24
25 BE IT RESOLVED BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE
26 STATE OF ARKANSAS:

27
28 THAT Senator Irvin or Senator Rice is authorized to introduce a bill
29 which as introduced will read substantially as follows:

30
31 "Title
32 AN ACT TO CLARIFY THE DEFINITION OF "ELIGIBLE INACTIVE RETIREE"; TO MODIFY
33 THE ELIGIBILITY OF RETIREES TO PARTICIPATE IN THE STATE AND PUBLIC SCHOOL
34 LIFE AND HEALTH INSURANCE PROGRAM; TO DECLARE AN EMERGENCY; AND FOR OTHER
35 PURPOSES.



1 Subtitle
2 TO CLARIFY THE DEFINITION OF "ELIGIBLE INACTIVE RETIREE"; TO MODIFY THE
3 ELIGIBILITY OF RETIREES TO PARTICIPATE IN THE STATE AND PUBLIC SCHOOL LIFE
4 AND HEALTH INSURANCE PROGRAM; AND TO DECLARE AN EMERGENCY.

5
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

7
8 SECTION 1. Arkansas Code § 21-5-407(5), concerning the definition of
9 "eligible inactive retiree" under the State and Public School Life and Health
10 Insurance Program, is amended to read as follows:

11 (5)(A) "Eligible inactive retiree" means a former member of the
12 General Assembly or a state-elected constitutional officer who has served a
13 sufficient number of years of credited service to be eligible for retirement
14 benefits but who has not yet reached retirement age.

15 (B) An eligible inactive retiree is qualified to enroll in
16 the program as a retiree if he or she participated in the program for at
17 least five (5) cumulative years before retirement.

18 (C) An eligible inactive retiree who enrolls in the
19 program shall pay the entire premium cost of the plan option selected under
20 the program as set by the board;

21
22 SECTION 2. Arkansas Code § 21-5-411 is amended to read as follows:

23 21-5-411. Eligibility of certain retired employees – Definition.

24 (a)(1) ~~If qualified, state employee retirees and public school~~
25 ~~employee retirees may continue coverage and participate in the State and~~
26 ~~Public School Life and Health Insurance Program if the state employee~~
27 ~~retirees or public school employee retirees are~~ State employee retirees and
28 public school retirees are qualified to enroll in the State and Public School
29 Life and Health Insurance Program as retirees if they:

30 (A) ~~Participating~~ Have participated in the program for at
31 least five (5) cumulative years before retirement as participating members
32 of:

33 (i) The Arkansas Public Employees' Retirement
34 System, including the members of the legislative division and the contract
35 personnel of the Arkansas National Guard;

36 (ii) The Arkansas Teacher Retirement System;

1 (iii) The Arkansas State Highway Employees'
2 Retirement System;

3 (iv) The Arkansas Judicial Retirement System; or

4 (v) An alternate retirement plan of a qualifying
5 institution under § 24-7-801; and

6 (B) ~~Retired~~ Are retired and drawing benefits under one (1)
7 or more of the retirement systems listed under subdivision (a)(1)(A) of this
8 section.

9 (2)(A)(i) If a state employee retiree or a public school
10 employee retiree who is a member of a retirement system listed under
11 subdivision (a)(1)(A) of this section receives retirement benefits, thereby
12 becoming an active retiree, and has participated in the program for at least
13 five (5) cumulative years before retirement, the active retiree may elect to
14 enroll in the program.

15 (ii) The election to enroll in the program shall be
16 made within thirty (30) days of the state employee retiree's or public school
17 employee retiree's becoming an active retiree and shall be made in writing to
18 the Employee Benefits Division on forms required by the division.

19 (B)(i) To be eligible to continue coverage or to qualify
20 for coverage after electing to decline participation in the program, the
21 retiree must have been covered ~~on the last day of~~ for at least five (5)
22 cumulative years before the retiree's employment ended.

23 (ii) If a retiree declines to participate in the
24 program at the time of retirement because the retiree is already covered
25 under another employer-sponsored group health insurance policy, the retiree
26 may make a one-time election to participate in the program if the retiree
27 experiences a qualifying event with proof of continued insurance coverage at
28 the time of open enrollment and documentation that the retiree was covered
29 under the program for at least five (5) cumulative years before retirement ~~or~~
30 ~~if the retiree experiences a qualifying event~~.

31 (C)(i) Except as provided in subdivision (a)(2)(C)(ii) of
32 this section, an active retiree's failure to make an election to participate
33 in the program during the thirty-day election period or an active retiree's
34 election to decline participation in the program is final.

35 (ii) If an active retiree declines participation in
36 the program because the active retiree has health insurance coverage through

1 another employer group health plan and the active retiree’s coverage was
 2 subsequently terminated because of a loss of eligibility, as defined by
 3 Internal Revenue Service regulations, and provides information from the
 4 former insurance company of the loss of eligibility, then the active retiree
 5 shall qualify for participation in the program upon confirmation that the
 6 active retiree participated in the program for at least five (5) cumulative
 7 years before retirement and payment of the appropriate premium as determined
 8 by the State Board of Finance under subdivision (a)(5) of this section if the
 9 active retiree applies for participation in the program within thirty (30)
 10 days of the loss of eligibility.

11 (3)(A) Notwithstanding any other provision to the contrary in
 12 this section, a state employee or public school employee ~~with~~ who has five
 13 (5) cumulative years of participation in the program before retirement and
 14 ten (10) or more years of creditable service under the terms of a retirement
 15 plan listed in this section shall qualify for continued participation in the
 16 program if the state employee or public school employee is separated from
 17 employment because of the expiration of a fixed period of employment.

18 (B)(i) A state employee or public school employee
 19 qualifying for continued participation in the program under this subsection
 20 shall be considered an inactive retiree and shall have thirty-one (31) days
 21 from the effective date of termination to elect to continue participation in
 22 the program under this section by notifying the division.

23 (ii) The election to continue participation in the
 24 program shall be made in writing on forms required by the division.

25 (C)(i) Except as provided in subdivision (a)(2)(B)(ii) of
 26 this section, an inactive retiree’s failure to elect to continue
 27 participation in the program during the thirty-day election period or an
 28 inactive retiree’s election to decline participation in the program is final.

29 (ii) If an inactive retiree as described in
 30 subdivision (a)(3)(B) of this section declines participation in the program
 31 because the inactive retiree has health insurance coverage through another
 32 employer-sponsored group health plan and the inactive retiree’s coverage is
 33 subsequently terminated because of a loss of eligibility, then the inactive
 34 retiree and any dependents shall qualify for participation in the program if,
 35 within thirty (30) days of the inactive retiree’s involuntary loss of
 36 coverage, the inactive retiree submits to the board:

1 (a) Payment of the appropriate premium as
2 determined by the board under subdivision (a)(5) of this section; ~~and~~

3 (b) Proof that, until the inactive retiree’s
4 involuntary loss of coverage through another employer-sponsored group health
5 plan, the coverage had been continuous; and

6 (c) Proof that the inactive retiree
7 participated in the program for at least five (5) cumulative years before
8 retirement.

9 (D) An eligible inactive retiree shall be reclassified as
10 an active retiree upon electing to receive a retirement benefit by a
11 retirement system listed under subdivision (a)(1)(A) of this section and
12 shall be charged the premium rate appropriate for his or her rating category
13 as an active retiree as determined by the board under subdivision (a)(5) of
14 this section.

15 (4)(A) As used in this subsection, “loss of eligibility” means a
16 loss of coverage as a result of:

- 17 (i) A legal separation;
- 18 (ii) Divorce;
- 19 (iii) Death of the insured;
- 20 (iv) Termination of employment; or
- 21 (v) A reduction in the number of hours of

22 employment.

23 (B) “Loss of eligibility” does not include:

- 24 (i) A loss of coverage from a failure to pay
25 premiums on a timely basis;
- 26 (ii) Voluntary termination of coverage; or
- 27 (iii) A termination of coverage for cause, such as
28 making a fraudulent claim.

29 (5)(A) A qualified retiree hired as a new employee or elected as
30 a public official after December 31, 2015, who applies for participation in
31 the program shall pay a premium as determined by the board that includes:

32 (i) If a retiree enrolled in the program within the
33 first three (3) years of employment with a participating entity, an
34 appropriate premium rate for a retiree;

35 (ii) If a retiree enrolled in the program between
36 the fourth and thirteenth year of employment with a participating entity, an

1 additional five percent (5%) of the premium rate;

2 (iii) If a retiree enrolled in the program between
3 the fourteenth and twenty-third year of employment with a participating
4 entity, an additional ten percent (10%) of the premium rate; and

5 (iv) If a retiree enrolled in the program after the
6 twenty-third year of employment with a participating entity, an additional
7 fifteen percent (15%) of the premium rate.

8 (B)(i) A retiree shall be continuously enrolled in the
9 program if actively employed in a position that is eligible to participate in
10 the program.

11 (ii)(a) A retiree who has a break in enrollment in
12 the program may be considered to be continuously enrolled in the program if
13 the retiree:

14 (1) Applies for participation in the
15 program within thirty-one (31) days of returning to active employment; ~~and~~

16 (2) Is employed in a position that is
17 eligible to participate in the program; and

18 (3) Was a participant in the program for
19 at least five (5) cumulative years before retirement.

20 (b) If a retiree declines to participate in
21 the program upon returning to active employment under subdivision

22 (a)(5)(B)(ii)(a) of this section, the retiree may participate in the program
23 based on the year of the retiree's most recent enrollment in the program if
24 the retiree has participated in the program for at least five (5) cumulative
25 years before retirement.

26 (iii) A retiree who declines to participate in the
27 program at the time of retirement is not considered continuously enrolled in
28 the program.

29 (b)(1) ~~Retirees~~ Qualified retirees who draw retirement benefits under
30 the Arkansas Public Employees' Retirement System, the Arkansas Teacher
31 Retirement System, or the Arkansas State Highway Employees' Retirement System
32 and retired contract employees of the Arkansas National Guard who wish to
33 participate in the program shall pay the retiree amount of the premium as
34 determined by the board under subdivision (a)(5) of this section or the cost
35 of the policy issued to the retired participant.

36 (2)(A) The retiree portion of the premium shall be deducted

1 from:

2 (i) The retirement benefit check of the retired
3 participant; or

4 (ii) A bank account of the retired participant, to
5 be paid by a monthly bank draft on the date designated by the division.

6 (B) If the retirement benefit is to be withheld from a
7 retirement benefit check and the retirement benefit check is not large enough
8 for the premium deduction, the premium shall be paid by monthly bank draft on
9 a designated date prescribed by the division.

10 (c) Members of the Arkansas Public Employees' Retirement System and
11 the Arkansas State Highway Employees' Retirement System who retire before
12 January 2, 1988, under ~~the Incentives for Early Retirement Act~~, §§ 24-4-732,
13 24-5-122, and 24-6-102, shall not pay the full amount of the premium but
14 shall pay a portion of the cost of the policy as set forth by ~~the Incentives~~
15 ~~for Early Retirement Act~~, §§ 24-4-732, 24-5-122, and 24-6-102.

16 (d)(1) Except as provided in subdivision (d)(2) of this section, any
17 future change in program participation other than cancellation shall be
18 allowed only for newly acquired dependents.

19 (2) A dependent may be added to ~~an~~ a qualified active or
20 inactive retiree's health insurance coverage by payment of the appropriate
21 premium as established by the board if:

22 (A) The active or inactive retiree declined health
23 insurance coverage for the dependent at the time of election to be an active
24 or inactive retiree because the dependent had other employer-sponsored group
25 health insurance coverage;

26 (B) Subsequent to the active or inactive retiree's
27 declination of health insurance coverage for the dependent under subdivision
28 (d)(2)(A) of this section, the dependent involuntarily lost his or her
29 employer-sponsored group health insurance coverage and the loss of health
30 insurance coverage was not the result of:

31 (i) Fraud; or

32 (ii) Voluntary cessation of premium payment while
33 the active or inactive retiree was covered by a plan option offered under the
34 program; and

35 (C) Within thirty (30) days of a dependent's involuntary
36 loss of health insurance coverage under subdivision (d)(2)(B) of this

1 section, the active or inactive retiree submits to the board proof that:

2 (i) The dependent involuntarily lost health
3 insurance coverage; ~~and~~

4 (ii) Until the dependent’s loss of health insurance
5 coverage, the coverage had been continuous; and

6 (iii) The retiree was a participant in the program
7 for at least five (5) cumulative years before the active or inactive
8 retiree’s retirement.

9 (e)(1) If a retiree dies and has covered dependents at the time of
10 death, the dependents have the right to continue participation in the
11 program.

12 (2) Dependent children may continue to participate in the
13 program until marriage or until the maximum age limit for a dependent child
14 has been reached.

15 (3) A surviving spouse may continue participation in the
16 program.

17 (4) If a surviving spouse or dependent declines participation in
18 the program or cancels existing participation, then the surviving spouse or
19 dependent has no further privileges under the program.

20
21 SECTION 3. DO NOT CODIFY. Applicability. This act does not apply to
22 a public school employee or a state employee who is employed on the effective
23 date of this act.

24
25 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
26 General Assembly of the State of Arkansas that the State and Public School
27 Life and Health Insurance Program is inadequate to provide sustainable
28 affordable health benefits for public school employees and state employees;
29 that an urgent need exists to address the state’s funding and administration
30 of benefits for public school employees and state employees in order for the
31 program to remain viable and to avoid severe financial hardship to plan
32 participants; and that this act is immediately necessary to provide
33 affordable health benefit options in a timely manner to the state’s public
34 school employees participating in the program and state employees
35 participating in the program. Therefore, an emergency is declared to exist,
36 and this act being immediately necessary for the preservation of the public

1 peace, health, and safety shall become effective on:

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

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

6 (3) If the bill is vetoed by the Governor and the veto is
7 overridden, the date the last house overrides the veto."

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36