

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

SENATE BILL 126

5 By: Senator Hickey  
6 By: Representative Maddox  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS PUBLIC EMPLOYEES'  
10 RETIREMENT SYSTEM PLAN REGARDING SURVIVOR BENEFITS;  
11 TO SIMPLIFY THE POSTRETIREMENT MARRIAGE PERIOD FOR  
12 ELECTION OF SPOUSAL BENEFITS; TO STREAMLINE THE  
13 ADMINISTRATION OF SURVIVOR BENEFITS FOR MEMBERS' AND  
14 FORMER MEMBERS' CHILDREN; TO CLARIFY THE EFFECTIVE  
15 DATE OF SURVIVORS' BENEFITS; TO REMOVE OBSOLETE LAW  
16 REGARDING THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT  
17 SYSTEM; TO DECLARE AN EMERGENCY; AND FOR OTHER  
18 PURPOSES.  
19  
20

## Subtitle

21 TO AMEND THE ARKANSAS PUBLIC EMPLOYEES'  
22 RETIREMENT SYSTEM PLAN REGARDING SURVIVOR  
23 BENEFITS; AND TO DECLARE AN EMERGENCY.  
24  
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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

29 SECTION 1. Arkansas Code § 24-4-606 is amended to read as follows:  
30 24-4-606. Annuity options.

31 ~~(a) Before the date the first payment of a member's annuity becomes~~  
32 ~~due, but not thereafter, a~~ A member may elect to receive his or her annuity  
33 as a straight life annuity or ~~may~~ elect to have ~~his or her~~ that annuity  
34 reduced and ~~nominate~~ designate a beneficiary in writing and file the election  
35 with the Arkansas Public Employees' Retirement System before that annuity  
36 starting date ~~in accordance with the provisions of~~ under one (1) of the



1 following options:

2 (1) Option A60 – 60 Months Certain and Life Annuity.

3 (A) Under Option A60, the retirant shall be paid a reduced  
4 annuity for life with the provision that if the retirant's death occurs  
5 before sixty (60) monthly payments have been made, the full reduced annuity  
6 shall continue to be paid for the remainder of the sixty (60) months to such  
7 persons and in such shares as the retirant ~~shall have~~ has designated ~~in~~  
8 ~~writing and filed with the plan.~~ If there is no ~~payee~~ beneficiary surviving,  
9 the lump-sum actuarial equivalent of the remaining monthly payments shall be  
10 paid to the estate of the last survivor among the retirant and the designated  
11 ~~persons~~ beneficiary.

12 (B) The reduced annuity shall be ninety-eight percent  
13 (98%) of the straight life annuity;

14 (2) Option A120 – 120 Months Certain and Life Annuity.

15 (A) Under Option A120, the retirant shall be paid a  
16 reduced annuity for life with the provision that if the retirant's death  
17 occurs before one hundred twenty (120) monthly payments have been made, the  
18 full reduced annuity shall continue to be paid for the remainder of the one  
19 hundred twenty (120) months to such persons and in such shares as the  
20 retirant ~~shall have~~ has designated ~~in writing and filed with the plan.~~ If  
21 there is no ~~payee~~ beneficiary surviving, the lump sum actuarial equivalent of  
22 the remaining monthly payments shall be paid to the estate of the last  
23 survivor among the retirant and the designated ~~persons~~ beneficiary.

24 (B) The reduced annuity shall be ninety-four percent (94%)  
25 of the straight life annuity;

26 (3) Option B50 – ~~50~~ Fifty Percent (50%) Survivor Beneficiary  
27 Annuity.

28 (A)(i) Under Option B50, the retirant shall be paid a  
29 reduced annuity for life ~~with the provision that,~~ and upon the retirant's  
30 death, one-half ( $\frac{1}{2}$ ) of the reduced annuity shall ~~be continued~~ continue  
31 throughout the future lifetime of and paid to such person as the retirant  
32 ~~shall have~~ has designated ~~in writing and filed with the plan before his or~~  
33 ~~her annuity's starting date.~~

34 (ii) ~~However, the person must be~~ The member may  
35 elect either his:

36 (a) His or her spouse, to whom the member has

1 been married for not less than six (6) months immediately preceding the first  
2 payment due date; ~~or another person~~

3 (b) A dependent child aged forty (40) or older  
4 ~~receiving more than one-half ( $\frac{1}{2}$ ) support from the retirant~~ who is claimed as  
5 a dependent on the retirant's federal tax return for not less than one (1)  
6 year immediately preceding the first payment due date.

7 (B) The reduced annuity to the retirant shall be eighty-  
8 eight percent (88%) if the retirant's age and his or her beneficiary's age  
9 are the same on the first payment due date, which shall be decreased by one-  
10 half of one percent (0.5%), for each year that the beneficiary's age is less  
11 than the retirant's age, or which shall be increased by one-half of one  
12 percent (0.5%), up to a maximum of ninety-five percent (95%), for each year  
13 that the beneficiary's age is more than the retirant's age.

14 (C) ~~However, if~~ If the named beneficiary under Option B50  
15 predeceases the retirant, the original unreduced benefit shall be paid to the  
16 retirant prospectively; or

17 (4) Option B75 - ~~75~~ Seventy-Five Percent (75%) Survivor  
18 Beneficiary Annuity.

19 (A)(i) Under Option B75, the retirant shall be paid a  
20 reduced annuity for life ~~with the provision that,~~ and upon ~~his or her~~ the  
21 retirant's death, three-fourths ( $\frac{3}{4}$ ) of the reduced annuity shall be continued  
22 throughout the future lifetime of, and paid to, such person as the retirant  
23 ~~shall have~~ has designated ~~in writing and filed with the plan before his or~~  
24 ~~her annuity's starting date.~~

25 (ii) ~~However, the person must be~~ The member may  
26 elect either:

27 (a) the retirant's His or her spouse to whom  
28 the member has been married for not less than six (6) months immediately  
29 preceding the first payment due date; ~~or another person~~

30 (b) A dependent child aged forty (40) or older  
31 ~~receiving~~ who is claimed as a dependent on the retirant's federal tax return  
32 ~~more than one-half ( $\frac{1}{2}$ ) support from the retirant~~ for not less than one (1)  
33 year immediately preceding the first payment due date.

34 (B) The reduced annuity to the retirant shall be eighty-  
35 three percent (83%) if the retirant's age and his or her beneficiary's age  
36 are the same on the first payment due date, which shall be decreased by

1 seven-tenths of one percent (0.7%) for each year that the beneficiary's age  
 2 is less than the retirant's age or which shall be increased by seven-tenths  
 3 of one percent (0.7%) up to a maximum of ninety percent (90%) for each year  
 4 that the beneficiary's age is more than the retirant's age.

5 (C) ~~However, if~~ If the named beneficiary under Option B75  
 6 predeceases the retirant, the original unreduced benefit shall be paid to the  
 7 retirant prospectively.

8 (b)(1)(A) The member may elect to cancel the designation of a  
 9 beneficiary under Option B50 or Option B75 in writing and file with the  
 10 system upon:

11 (i) ~~A The death, of a spouse or divorce, or other~~  
 12 ~~marriage dissolution from the member's spouse; or the~~

13 (ii) ~~The death of a person the member's dependent~~  
 14 ~~child forty (40) years of age or older who is the~~ has been ~~designated as a~~  
 15 ~~beneficiary under Option B50 or Option B75 shall cancel, at the written~~  
 16 ~~election of the retirant, Option B50 or Option B75 at retirement, providing~~  
 17 ~~continuing lifetime benefits to the designated person, and § 24-4-606(a).~~

18 (B) The member's election under subsection (b) of this  
 19 section shall return the retirant to his or her straight life, or the member  
 20 may elect the Option A60, or Option A120 annuity, to be effective the month  
 21 following receipt by the system of his or her election ~~by the Arkansas Public~~  
 22 ~~Employees' Retirement System.~~

23 (2)(A) A retirant who is receiving a straight life, Option A60,  
 24 or Option A120 annuity and who marries after retirement or within ~~the one (1)~~  
 25 ~~year~~ six (6) months immediately preceding retirement may elect to cancel his  
 26 or her straight life, Option A60, or Option A120 annuity and may elect Option  
 27 B50 or Option B75, ~~providing~~ to provide continuing lifetime benefits to his  
 28 or her spouse, ~~but only~~ if the election is:

29 (i) Submitted on a form approved by the system; and  
 30 ~~is received~~

31 (ii) Received by the system ~~not no~~ no earlier than ~~one~~  
 32 ~~(1) year~~ six (6) months after the date of the marriage and ~~not no~~ no later than  
 33 ~~eighteen (18) months~~ one (1) year after that date.

34 (B) The election shall be effective the first day of the  
 35 month following the receipt of the notice.

36 (c) If a member fails to elect an option, his or her annuity shall be

1 paid to him or her as a straight life annuity.

2 ~~(d)(1) The surviving spouse of a system member who retired prior to~~  
3 ~~July 1, 1967, shall receive a monthly survivor's annuity equal to seventy-~~  
4 ~~five percent (75%) of the retirant's monthly benefit at the time of death,~~  
5 ~~provided that the surviving spouse was married to the retirant on the date of~~  
6 ~~retirement, the surviving spouse is unmarried, and the surviving spouse makes~~  
7 ~~application to the system on or before June 30, 1995.~~

8 ~~(2) The monthly survivor's annuity shall be effective the first~~  
9 ~~day of the month following the month of application, and no annuity will be~~  
10 ~~paid the surviving spouse for any period prior to the first of the month~~  
11 ~~following the month of application.~~

12 ~~(e)(d)~~ The surviving spouse of a member of the system who retired on  
13 or after February 1, 1991, and who elected a straight life annuity shall be  
14 entitled to receive a survivor's annuity equal to the amount that would have  
15 been received had the member elected Option B75, provided:

16 (1) The member dies within twelve (12) months of the effective  
17 date of retirement; and

18 (2) The surviving spouse makes application to the system within  
19 twelve (12) months of the date of the member's death.

20

21 SECTION 2. Arkansas Code § 24-4-608 is amended to read as follows:

22 24-4-608. ~~Payment of benefits upon death of member before retirement~~  
23 Death before retirement - Exception.

24 (a) Effective July 1, 2001, if ~~an active a~~ a member or former member  
25 with five (5) or more years of actual service dies before retirement, the  
26 applicable benefits provided in this section shall be ~~paid~~ allowed upon the  
27 survivor's written application ~~to~~ filed with ~~the Board of Trustees of the~~  
28 Arkansas Public Employees' Retirement System.

29 (b) ~~For purposes of computing~~ To compute benefits provided by this  
30 section, the deceased member's or deceased former member's compensation at  
31 the time of death shall be the member's compensation for the year immediately  
32 preceding the cessation of his or her pay.

33 (c)(1) A deceased member's or deceased former member's surviving  
34 spouse who was married to the member at least six (6) months immediately  
35 preceding ~~his or her~~ the member's death shall receive an annuity computed in  
36 the same manner in all respects as if the member or former member had:

1 (A) Retired the date of his or her death with entitlement  
2 to an annuity provided for in § 24-4-601;

3 (B) Elected the Option B75 survivor annuity provided for  
4 in § 24-4-606(a)(4); and

5 (C) Nominated his or her spouse as joint beneficiary.

6 (2)(A)(i) If the deceased member or deceased former member had  
7 satisfied the age and service requirements provided for in § 24-4-101 or had  
8 acquired twenty (20) years of actual service, then the ~~spouse~~ spousal annuity  
9 shall ~~commence immediately and~~ be payable for life.

10 (ii) If the deceased member or deceased former  
11 member had not satisfied the age and service requirement provided for in §  
12 24-4-101 or had not acquired twenty (20) years of actual service, then the  
13 ~~spouse~~ spousal annuity shall ~~commence immediately and~~ be payable until the  
14 earlier of his or her remarriage or death.

15 (B)(i) A surviving spouse who is otherwise eligible but  
16 whose benefit has been deferred because the spouse did not meet the age  
17 requirements in effect before July 1, 1999, shall be eligible to commence a  
18 ~~spouse~~ spousal annuity effective July 1, 1999. ~~The spouse annuity shall not~~  
19 ~~be retroactive.~~

20 (ii) However, the spousal annuity in subdivision  
21 (c)(2)(B)(i) of this section shall not be retroactive.

22 (3) The ~~spouse~~ spousal annuity shall not be less than ten  
23 percent (10%) of the deceased member's or deceased former member's covered  
24 compensation at the time of death.

25 (4) ~~In any event,~~ For as long as the surviving spouse has in his  
26 or her care any of the deceased member's or deceased former member's  
27 dependent children ~~receiving~~ who receive a benefit provided for in this  
28 section, there shall be payable to him or her a ~~spouse~~ spousal annuity as  
29 indicated in this section which shall not be less than ten percent (10%) of  
30 the deceased member's or deceased former member's compensation at the time of  
31 death.

32 (d)(1)(A) A deceased member's or deceased former member's dependent  
33 child or dependent children shall each receive an annuity of the greater of  
34 either ten percent (10%) of the deceased member's or deceased former member's  
35 covered compensation at the time of death or an equal share of one hundred  
36 fifty dollars (\$150) monthly.

1 (B) ~~Where there are~~ For three (3) or more dependent  
 2 children, each dependent child shall receive an annuity of an equal share of  
 3 the greater of either twenty-five percent (25%) of the covered compensation  
 4 or one hundred fifty dollars (\$150) monthly.

5 (2)(A) A child ~~shall be~~ is considered a dependent child as used  
 6 in subdivision (d)(1) of this section and for purposes of receiving a child  
 7 survivor's annuity until the child's death, marriage, or attainment of ~~age~~  
 8 eighteen (18) years of age, whichever occurs first.

9 (B)(i) However, the age-eighteen maximum shall be extended  
 10 as long as the child continues uninterruptedly being a full-time student at  
 11 an accredited secondary school, college, or university, but in no event  
 12 beyond his or her attainment of ~~age~~ twenty-three (23) years of age.

13 (ii) In addition, the age-eighteen maximum shall be  
 14 extended for any child who has been deemed physically or mentally incompetent  
 15 by an Arkansas court of competent jurisdiction or by the ~~board~~ Board of  
 16 Trustees of the Arkansas Public Employees' Retirement System, for as long as  
 17 the incompetency exists.

18 (3) ~~Upon a child's ceasing~~ Once a child ceases to be a dependent  
 19 child, his or her annuity shall terminate, and there shall be a  
 20 redetermination of the amounts payable to any remaining dependent children.

21 (e)(1) If at the time of the deceased member's or deceased former  
 22 member's death there is neither a spouse nor a dependent child, each  
 23 dependent parent shall receive an allowance of the greater of ten percent  
 24 (10%) of the covered compensation or an equal share of one hundred fifty  
 25 dollars (\$150) monthly, ~~but only if the board finds that the parent was~~  
 26 ~~dependent for at least fifty percent (50%) of his or her financial support~~  
 27 ~~upon the member or former member.~~

28 (2) A dependent parent eligible for a survivor benefit under  
 29 this section shall be claimed as a dependent on the deceased member's or  
 30 deceased former member's federal tax return for not less than one (1) year  
 31 immediately preceding the member's death.

32 (f)(1) If no annuity can become payable to a dependent child due to  
 33 the death of the member or former member ~~and a,~~ the surviving spouse or  
 34 dependent parents may elect to receive a refund of the member's or former  
 35 member's accumulated contributions as provided in § 24-4-602(d) in lieu of  
 36 any benefits which could become payable under this plan if:

1           (A) The surviving spouse or dependent parents are the only  
2 persons who will be eligible for monthly benefits; and ~~the~~

3           (B) The spouse or dependent parents are also the designated  
4 beneficiaries of the deceased member or deceased former member, ~~then, in that~~  
5 ~~event, the surviving spouse or dependent parents may elect to receive a~~  
6 ~~refund of the member's or former member's accumulated contributions as~~  
7 ~~provided in § 24-4-602(d) in lieu of any benefits which could become payable~~  
8 ~~under this act.~~

9           (2) The option to choose a refund of the deceased member's or  
10 deceased former member's contributions shall also be afforded to any spouse  
11 or dependent parent qualified under this section whose eligibility for the  
12 benefit occurred before the passage of this act and who could not exercise  
13 the option.

14           (3) ~~Once the~~ A refund of the deceased member's or deceased  
15 former member's accumulated contributions ~~has been~~ made to the surviving  
16 spouse or dependent parents under this section, ~~the person shall have no~~  
17 precludes any right or future claim to monthly retirement benefits due to the  
18 death of the member or former member.

19           (g)(1) In the event that all the annuities provided for in this  
20 section payable on account of the member's or former member's death ~~of a~~  
21 ~~member or former member~~ terminate before there has been paid an aggregate  
22 amount equal to his or her accumulated contributions standing to his or her  
23 credit in the ~~members'~~ member's or former member's deposit account at the  
24 time of his or her death, the difference between the accumulated  
25 contributions and the aggregate amount of annuity payments shall be paid to  
26 such person as he or she shall have nominated by written designation duly  
27 executed and filed with the ~~board~~ system.

28           (2) If there is no designated person surviving at termination,  
29 the difference shall be paid to the deceased member's or deceased former  
30 member's estate.

31           ~~(h) Annuities payable under the provisions of this section shall be~~  
32 ~~effective the first day of the calendar month next following the date of the~~  
33 ~~member's or former member's death or the first day of the month following the~~  
34 ~~month in which the survivor becomes eligible for benefits as provided by law.~~

35           ~~(i)~~(h) The provisions of this section shall not be applicable in  
36 determining survivor benefits under the General Assembly Division or the



1 State Constitutional Officers' Division of the Arkansas Public Employees'  
 2 Retirement System if a benefit is provided to the surviving spouse by other  
 3 laws applicable to the Arkansas Public Employees' Retirement System.

4 ~~(j)~~(i) The benefits provided in this section for former members shall  
 5 not apply to former members who terminated covered employment prior to July  
 6 1, 1997, with less than ten (10) years of service or whose death occurred  
 7 before July 1, 2001.

8  
 9 SECTION 3. Arkansas Code § 24-4-609 is amended to read as follows:

10 24-4-609. Effective date of benefits – Survivors and beneficiaries.

11 ~~All monthly benefits payable to survivors of deceased members or~~  
 12 ~~retirants of the Arkansas Public Employees' Retirement System shall be~~  
 13 ~~effective the first day of the month following the month in which the member~~  
 14 ~~or retirant died or the first day of the month following the month in which~~  
 15 ~~the survivor becomes eligible for benefits as provided by law.~~

16 (a) The effective date of monthly benefits payable to a survivor of a  
 17 deceased member is the first day of the calendar month next following the  
 18 Arkansas Public Employees' Retirement System's receipt of the survivor  
 19 application and is not retroactive to the member's death.

20 (b) The effective date of monthly benefits payable to a beneficiary of  
 21 a retirant is the first day of the calendar month next following the month in  
 22 which the retirant died.

23  
 24 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
 25 General Assembly of the State of Arkansas that certain provisions of the  
 26 Arkansas Public Employees' Retirement System law are in need of revision and  
 27 updating to maintain the retirement laws in conformance with sound public  
 28 pension policy; that the Arkansas Public Employees' Retirement System  
 29 operates on a fiscal year of July 1 to June 30; that having a July 1, 2023  
 30 effective date is necessary to allow the provisions within this act to begin  
 31 on the first day of the fiscal year to provide proper administration of the  
 32 procedures herein; that such revisions and updating are of great importance  
 33 for actuarial purposes and to protect the benefits to members of the Arkansas  
 34 Public Employees' Retirement System. Therefore, an emergency is declared to  
 35 exist, and this act being necessary for the preservation of the public peace,  
 36 health, and safety shall become effective on July 1, 2023.