

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

A Bill

SENATE BILL 127

5 By: Senator Hickey
6 By: Representative Maddox
7

For An Act To Be Entitled

9 AN ACT TO AMEND AND UPDATE LANGUAGE FOR THE PROPER
10 ADMINISTRATION OF BENEFITS UNDER ARKANSAS CODE TITLE
11 24, CHAPTER 4 CONCERNING RETIREMENT AND PENSIONS
12 UNDER THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT
13 SYSTEM; TO AMEND THE EXCEPTIONS TO THE PROHIBITION
14 AGAINST SUBJECTION OF ANNUITY RIGHTS TO LEGAL
15 PROCESSES UNDER THE ARKANSAS PUBLIC EMPLOYEES'
16 RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR
17 OTHER PURPOSES.

Subtitle

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21 TO AMEND AND UPDATE LANGUAGE FOR THE
22 PROPER ADMINISTRATION OF THE ARKANSAS
23 PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AND
24 TO DECLARE AN EMERGENCY.
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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 24-4-101(11)(A), concerning the definition
30 of "compensation" under the Arkansas Public Employees' Retirement System, is
31 amended to read as follows:

32 (11)(A) "Compensation" means the recurring remuneration, paid to
33 a member and reported on a Form W-2 Wage and Tax Statement by a participating
34 public employer for personal services rendered by a the member in a position
35 covered by ~~an employer participating~~ a participating public employer in the
36 Arkansas Public Employees' Retirement System.



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 2 SECTION 2. Arkansas Code § 24-4-101(12), concerning the definition of
 3 "contributory member" under the Arkansas Public Employees' Retirement System,
 4 is amended to read as follows:

5 (12) "Contributory member" means:

6 (A) A person who was a member of the Arkansas Public
 7 Employees' Retirement System prior to January 1, 1978, and who continues to
 8 contribute ~~six percent (6%)~~ a percentage of his or her compensation to the
 9 system under § 24-4-401. ~~However, the rate will be five percent (5%) on and~~
 10 ~~after July 1, 2005; or~~

11 (B) A ~~member~~ person first hired on or after July 1, 2005,
 12 or a noncontributory member ~~who elects to become a contributory member~~ under
 13 § 24-4-1101 et seq.;

14
 15 SECTION 3. Arkansas Code § 24-4-101(15), concerning the definition of
 16 "credited service" under the Arkansas Public Employees' Retirement System, is
 17 amended to read as follows:

18 (15)~~(A)~~ "Credited service" means the sum of the prior service
 19 and current service to the extent credited a member by the ~~board~~ Board of
 20 Trustees of the Arkansas Public Employees' Retirement System, in accordance
 21 with the provisions of § 24-4-521-

22 ~~(B) Any member first hired on or after July 1, 2005, to a~~
 23 ~~covered position whose service is credited at a rate other than that defined~~
 24 ~~in subdivision (2) of this section shall accrue that credit on no more than~~
 25 ~~ten (10) actual years of service;~~

26
 27 SECTION 4. Arkansas Code § 24-4-101(18), concerning the definition of
 28 "final average compensation" under the Arkansas Public Employees' Retirement
 29 System, is amended to read as follows:

30 (18) "Final average compensation" means the average of the
 31 member's highest annual compensations ~~paid a member during any period of~~
 32 ~~three (3) years of~~ on which credited service with a public employer ~~as is~~
 33 calculated under § 24-4-623;

34
 35 SECTION 5. Arkansas Code § 24-4-101(34)(A), concerning the definition
 36 of "public safety member" under the Arkansas Public Employees' Retirement

1 System, is amended to read as follows:

2 (34)(A) "Public safety member" means, except public safety
3 members covered under § 24-4-1004, a member whose covered employment under
4 the Arkansas Public Employees' Retirement System:

5 (i) Is for personal services as a police officer or
6 firefighter; and

7 (ii) Began before July 1, 1997.

8

9 SECTION 6. Arkansas Code § 24-4-101(34)(D)(i), concerning the
10 definition of "public safety member" under the Arkansas Public Employees'
11 Retirement System, is amended to read as follows:

12 (34)(D)(i) "Public safety member" shall not include a member
13 whose covered employment under the Arkansas Public Employees' Retirement
14 System as a police officer or firefighter commenced on or after July 1, 1997,
15 except as provided for public safety members covered under § 24-4-1004.

16

17 SECTION 7. Arkansas Code § 24-4-521 is amended to read as follows:
18 24-4-521. Credited service generally – Definition.

19 (a) The Board of Trustees of the Arkansas Public Employees' Retirement
20 System shall establish the amounts of service to be credited its members
21 subject to the provisions of subsection (b) of this section.

22 (b)(1)(A)(i) Noncontributory employment service by a person who was:

23 (a) Employed prior to July 1, 1997, as a
24 public safety member shall be credited at one and one-half (1½) times the
25 regular rate for crediting service; and

26 (b) Employed on and after July 1, 1997, shall
27 be credited at the regular rate for crediting service.

28 (ii) A person receiving credit for service under
29 subdivision (b)(1)(A)(i)(a) or subdivision (b)(1)(A)(i)(b) of this section
30 shall be required to have five (5) years of actual service to meet the:

31 (a) Retirement eligibility requirements under
32 §§ 24-4-510 – 24-4-512 and 24-4-601; and

33 (b) Eligibility requirements for ~~payment upon~~
34 death benefits under § 24-4-608.

35 (B)(i) Noncontributory or contributory employment service
36 by a person who qualifies as a public safety member under § 24-4-1004 shall

1 be credited at one and one-half (1½) times the regular rate for crediting
 2 service.

3 (ii) A person receiving credit for service under
 4 subdivision (b)(1)(B)(i) of this section shall be required to have five (5)
 5 years of actual service to meet the:

6 (a) Retirement eligibility requirements under
 7 §§ 24-4-510 – 24-4-512, ~~and 24-4-601, and 24-4-1103~~; and

8 (b) Eligibility requirements ~~of~~ for death
 9 benefits under §§ 24-4-608 and 24-4-1108.

10 (2)(A)(i) Noncontributory employment as the Governor by a person
 11 first elected to a public office covered by the Arkansas Public Employees’
 12 Retirement System prior to July 1, 1999, shall be credited as service at
 13 three (3) times the regular rate for credited service.

14 (ii) Noncontributory or contributory employment as
 15 the Governor by a person first elected to a public office covered by the
 16 system on or after July 1, 1999, shall be credited at the regular rate for
 17 crediting service.

18 (B) A person receiving credit for service under
 19 subdivision (b)(2)(A)(i) or subdivision (b)(2)(A)(ii) of this section shall
 20 be required to have:

21 (i) Four (4) years of actual service to meet the
 22 retirement eligibility requirements under §§ 24-4-510 – 24-4-512, ~~and 24-4-~~
 23 ~~601, and 24-4-1103~~; and

24 (ii) Five (5) years of actual service to meet the
 25 eligibility requirements for ~~payment upon~~ death benefits under §§ 24-4-608
 26 and 24-4-1108.

27 (3)(A)(i) Noncontributory employment as an elected state
 28 constitutional officer by a person first elected to a public office covered
 29 by the system prior to July 1, 1999, shall be credited at two and one-half
 30 (2½) times the regular rate for crediting service.

31 (ii) Noncontributory or contributory employment as
 32 an elected state constitutional officer by a person first elected to a public
 33 office covered by the system on or after July 1, 1999, shall be credited at
 34 the regular rate for crediting service.

35 (B) A person receiving credit for service under
 36 subdivision (b)(3)(A)(i) or subdivision (b)(3)(A)(ii) of this section shall

1 be required to have five (5) years of actual service to meet the:

2 (i) Retirement eligibility requirements under §§ 24-
3 4-510 – 24-4-512, ~~and 24-4-601,~~ and 24-4-1103; and

4 (ii) Eligibility requirements for payment of death
5 benefits under §§ 24-4-608 and 24-4-1108.

6 (4)(A)(i) Noncontributory or contributory employment as a member
7 of the General Assembly shall be credited at the regular rate for crediting
8 service.

9 (ii) A person receiving credit for service under
10 subdivision (b)(4)(A)(i) of this section shall be required to have:

11 (a) Ten (10) years of credited service to meet
12 the retirement eligibility requirements of §§ 24-4-510, 24-4-511, ~~and 24-4-~~
13 ~~609~~ 24-4-601, and 24-4-1103;

14 (b) Five (5) years of actual service to meet
15 the eligibility requirements for the ~~payment upon~~ death benefits under §§ 24-
16 4-608 and 24-4-1108; and

17 (c) Five (5) years of actual service to be
18 eligible to purchase military service credit under § 24-2-502.

19 (B) A member of the General Assembly who at any time has
20 served at least six (6) months in the General Assembly shall be credited with
21 no more than one (1) year’s actual service.

22 (5)(A) A person who is employed as an elected public official
23 covered by the system and:

24 (i) Who has served in a noncontributory elected
25 position covered by the system before July 1, 2011, shall be credited as
26 service at two (2) times the regular rate for crediting service;

27 (ii) Who has never served in a noncontributory
28 elected position covered by the system before July 1, 2011, shall be credited
29 as service at two (2) times the regular rate for crediting service, and the
30 employee shall contribute an additional two and one-half percent (2.5%) of
31 the gross payroll, and the employer shall contribute an additional two and
32 one-half percent (2.5%) of the gross payroll for the additional service that
33 exceeds the regular rate of service; or

34 (iii) Who has never served in a contributory elected
35 position covered by the system before January 1, 2014, shall be credited as
36 service at two (2) times the regular rate for crediting service, and the

1 employee shall contribute an additional two and one-half percent (2.5%) of
 2 the gross payroll, and the employer shall contribute an additional two and
 3 one-half percent (2.5%) of the gross payroll for the additional service that
 4 exceeds the regular rate of service.

5 (B) However, at least five (5) years of actual service
 6 shall be required to meet:

7 (i) The retirement eligibility requirements of §§
 8 24-4-510 – 24-4-512, ~~and 24-4-601, and 24-4-1103~~; and

9 (ii) The eligibility requirements ~~of~~ for death
 10 benefits under §§ 24-4-608 and 24-4-1108.

11 (C) This subdivision (b)(5) does not apply to:

- 12 (i) The Governor;
- 13 (ii) An elected state constitutional officer;
- 14 (iii) A member of the General Assembly; or
- 15 (iv) An elected public official under the State

16 Division of the Arkansas Public Employees' Retirement System.

17 (6)(A)(i) Noncontributory employment as an elected public
 18 official under the ~~state division of the system~~ State Division of the
 19 Arkansas Public Employees' Retirement System other than the Governor, an
 20 elected state constitutional officer, or a member of the General Assembly by
 21 a person first elected to a public office covered by the Arkansas Public
 22 Employees' Retirement System prior to July 1, 1999, shall be credited as
 23 service at two (2) times the regular rate for crediting service.

24 (ii) A person receiving credit for service under
 25 subdivision (b)(6)(A)(i) of this section shall have five (5) years of actual
 26 service to meet the:

27 (a) Retirement eligibility requirements under
 28 §§ 24-4-510 – 24-4-512, ~~and 24-4-601, and 24-4-1103~~; and

29 (b) Eligibility requirements for ~~payment upon~~
 30 death benefits under §§ 24-4-608 and 24-4-1108.

31 (B) Noncontributory or contributory employment as an elected
 32 public official under the ~~state division of the system~~ State Division of the
 33 Arkansas Public Employees' Retirement System other than the Governor, an
 34 elected state constitutional officer, or a member of the General Assembly by
 35 a person first elected to a public office covered by the system on or after
 36 July 1, 1999, shall be credited at the regular rate for crediting service.

1 (c) As used in this section, “elected state constitutional officer”
 2 means the Lieutenant Governor, Attorney General, Secretary of State, Auditor
 3 of State, Treasurer of State, and Commissioner of State Lands.
 4

5 SECTION 8. Arkansas Code § 24-4-603, concerning the refund of a former
 6 member’s contributions under the Arkansas Public Employees’ Retirement
 7 System, is amended to add an additional subsection to read as follows:

8 (f)(1) If a member receives a refund of contributions from the Arkansas
 9 Public Employees’ Retirement System upon termination of covered employment
 10 and is reemployed by a participating public employer, then the member is
 11 considered first hired under this subchapter as of the date of reemployment.

12 (2)(A) Upon reemployment, the member may reestablish forfeited
 13 service credit in the Arkansas Public Employees’ Retirement System by
 14 depositing the total amount of the refund with regular interest from the date
 15 of withdrawal to the date of deposit.

16 (B) A member who has reestablished service credit is
 17 restored to the date of hire that corresponds to the reestablished actual
 18 service.

19
 20 SECTION 9. Arkansas Code § 24-4-611 is amended to read as follows:

21 24-4-611. Minimum monthly benefit ~~– Lump sum payment of reserve value.~~

22 (a) ~~All persons~~ A member who are now is vested or who hereafter vests
 23 under the Arkansas Public Employees’ Retirement System or the Arkansas State
 24 Highway Employees’ Retirement System shall be entitled to a minimum monthly
 25 benefit of one hundred fifty dollars (\$150).

26 (b)(1) Before the first monthly benefit payment, the Arkansas Public
 27 Employees’ Retirement System may pay the reserve value in lieu of the monthly
 28 benefit as a lump sum to a retiree, or to a beneficiary in the event of the
 29 death of a member before retirement, if the monthly benefit is less than one
 30 hundred fifty dollars (\$150).

31 (2) The reserve value shall be the actuarial equivalent of the
 32 annuity otherwise payable.

33 (3) A lump-sum payment of the reserve value is a complete
 34 discharge of all liability under the Arkansas Public Employees’ Retirement
 35 System for the member’s annuity.

36 (c) The Arkansas Public Employees’ Retirement System shall obtain the

1 consent of the member before the reserve value is paid.

2

3 SECTION 10. Arkansas Code § 24-4-1002 is amended to read as follows:

4 24-4-1002. Benefit provisions – Subjection of annuity rights to
5 process of law.

6 (a) The right of a person to an annuity, to the return of accumulated
7 contributions, the annuity itself, any annuity option, any other right
8 accrued or accruing under the provisions of § 24-4-101 et seq., and all
9 moneys belonging to a plan shall not be subject to execution, garnishment,
10 attachment, the operation of bankruptcy or insolvency laws, or any other
11 process of law whatsoever and shall be unassignable, except as is
12 specifically provided in this chapter.

13 (b) An exception to the prohibition against the subjection of annuity
14 rights to any process of law applies to the following:

15 (1) An employer shall have the right of setoff for any claim
16 arising from embezzlement by or fraud of a member, retirant, or beneficiary;
17 and

18 (2) A court of competent jurisdiction of this state may order
19 the monthly benefit of a retirant to be paid into the registry of the court
20 for disposition as the court deems just and proper if the retirant is found
21 by the court to be willfully refusing or failing to support his or her minor
22 dependent children in violation of a court order providing for such support.

23

24 SECTION 11. 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; and that a July 1, 2023 effective date
35 is necessary in order to maintain an orderly system of benefits for the
36 members of the Arkansas Public Employees’ Retirement System. Therefore, an

1 emergency is declared to exist, and this act being necessary for the
2 preservation of the public peace, health, and safety shall become effective
3 on July 1, 2023.

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