

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S2/13/13
A Bill

SENATE BILL 160

By: Senator E. Cheatham

For An Act To Be Entitled

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

Subtitle

TO MODIFY THE DEFINITION OF "SALARY" UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO CLARIFY THE CALCULATION OF SERVICE CREDIT AND BENEFITS PAID TO A MEMBER OF THE SYSTEM; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-202(27), concerning the definition of "salary", is amended to read as follows:

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

(B) "Salary" includes:

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



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

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

(C) "Salary" does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

/s/E. Cheatham

APPROVED: 03/28/2013