

Stricken language would be deleted from and underlined language would be added to present law.  
Act 301 of the Regular Session

State of Arkansas  
90th General Assembly  
Regular Session, 2015

As Engrossed: S1/21/15  
**A Bill**

SENATE BILL 50

By: Senator E. Cheatham

**For An Act To Be Entitled**

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE ARKANSAS  
TEACHER RETIREMENT SYSTEM ACT; TO ALLOW FOR A DE  
MINIMIS AMOUNT OF MONEY TO BE SET CONCERNING THE  
SYSTEM'S OBLIGATIONS; TO AMEND THE LAW CONCERNING THE  
DEADLINE FOR THE SYSTEM TO PROVIDE EMPLOYERS WITH  
FINANCIAL REPORTS; TO DECLARE AN EMERGENCY; AND FOR  
OTHER PURPOSES.

**Subtitle**

*TO MAKE TECHNICAL CORRECTIONS TO THE  
ARKANSAS TEACHER RETIREMENT SYSTEM ACT;  
TO AMEND THE LAW CONCERNING DE MINIMIS  
AMOUNTS OF MONEY AND FINANCIAL REPORTS;  
AND TO DECLARE AN EMERGENCY.*

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

SECTION 1. Arkansas Code § 24-7-202, concerning the definitions of terms used in the Arkansas Code, is amended to add additional subdivisions to read as follows:

(41) "Arkansas Teacher Retirement System" means a state agency created in 1973 and administered under Act 427 of 1973, as amended, to provide a system of retirement benefits to its members; and

(42) "De minimis amount" means an amount of money so small as to make accounting for it unreasonable or impractical.

SECTION 2. Arkansas Code § 24-7-301 is amended to read as follows:



## 24-7-301. Board of trustees – Members.

The general administration and responsibility for the proper operation of the Arkansas Teacher Retirement System and for making effective the provisions of this act are vested in a board of trustees of fifteen (15) persons as follows:

(1) The Bank Commissioner, the Treasurer of State, the Auditor of State, and the Commissioner of Education shall be ex officio trustees;

(2)(A) Seven (7) members shall be elected active member trustees, each of whom shall have at least five (5) years of actual service in force and be an active member. For the purpose of this section and § 24-7-302, participants in the Teacher Deferred Retirement Option Plan shall be considered active members.

(B) Four (4) active member trustees shall be employed in a position that requires state licensure, but not an administrator's license. One (1) member trustee will be elected from each of the four (4) congressional districts. The four (4) member trustees shall be elected by the members employed in positions that require state licensure, but not an administrator's license.

(C) Two (2) active member trustees shall be employed in a position requiring an administrator's license, one (1) of whom must be a superintendent or an educational cooperative director. These two (2) active member trustees shall be elected by members employed in positions requiring administrator licensure.

(D) One (1) active member trustee shall be employed in a position not requiring state licensure. This member trustee shall be elected by members employed in positions not requiring state licensure;

(3) One (1) trustee shall be ~~a person of a minority, as defined under § 1-2-503, racial-ethnic group who is either an:~~

~~(A) Is an active or retired member of the Arkansas Teacher Retirement System~~ system;

~~(B) and shall be~~ Is elected from the active and retired membership of the system; and

(C) Has at least five (5) years of actual service;

(4)(A) Three (3) retirants shall be elected retirant trustees by the retirees of the system.

(B) Each retirant trustee shall be a retirant with an

annuity being paid by the system at the beginning of his or her term of office; ~~and~~

(5) The member and retirant trustees shall be elected in accordance with rules as have been adopted by the board to govern the elections; ~~and~~

(6) An employee working for the system is not eligible to be:

(A) Elected or appointed to the board; or

(B) A candidate to be elected or appointed to the board.

SECTION 3. Arkansas Code § 24-7-302(a)(2), concerning term of office and vacancies, is amended to read:

(2)(A)(i) A An active member trustee shall be ineligible to serve after becoming inactive, ~~or upon~~ retiring, or ceasing to be employed by an Arkansas Teacher Retirement System employer.

SECTION 4. Arkansas Code § 24-7-305(b), concerning board of trustees duties and responsibilities, is amended to read as follows:

(b)(1) The board shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the Arkansas Teacher Retirement System.

(2) In order to fully comply with federal requirements that may affect the members or the members' benefits under this subchapter, and to limit the impact of changes in federal requirements on members or the members' benefits, the board may promulgate rules to:

(A) Establish the regular retirement age for members consistent with the provisions of the Internal Revenue Code, 26 U.S.C. § 411;

(B) Maintain the system's retirement plan tax qualification status by the federal government to remain tax exempt and tax qualified under the Internal Revenue Code, 26 U.S.C. § 401(a);

(C) Modify or eliminate a plan provision that was originally established to comply with Internal Revenue Code requirements but is no longer necessary to maintain the plan's tax-qualified status under the Internal Revenue Code, 26 U.S.C. § 1 et seq., including without limitation provisions concerning:

(i) Penalties;

(ii) Restrictions;

(iii) Time limitations; and

(iv) Other requirements that impact a member, members' benefits, or the plan; and

(D) The board may adopt rules, procedures, plans, programs, and actions necessary to enable the system to pay all benefits earned by the system's members and reduce penalties or restrictions required by the Internal Revenue Service while maintaining compliance with the Internal Revenue Service.

(3) The board may adopt or amend by motion or resolution at any board meeting investment policies, investment procedures, and investment asset allocation targets that are consistent with the board's fiduciary obligations under the prudent investor rule and other obligations under this subchapter.

(4) The board may set or amend by a motion or resolution at any board meeting a de minimis amount of twenty-five dollars (\$25.00) or less concerning the system's obligation to distribute or collect payments, penalties, interest, funds, or moneys.

(5) The rule-making authority specifically granted under this chapter shall not limit the general rule-making authority of the board under subdivision (b)(1) of this section.

SECTION 5. Arkansas Code § 24-7-305(e)(1), concerning the annual report to employers regarding the financial condition of the Arkansas Teacher Retirement System, is amended to read as follows:

(e)(1) The board shall annually, ~~not later than April 1 of each year,~~ render a report to each employer showing the financial condition of the system as of the preceding June 30.

SECTION 6. Arkansas Code § 24-7-410(d), concerning the procedure for the crediting of interest to the accounts of the Arkansas Teacher Retirement System, is repealed:

~~(d)(1) At the end of each system fiscal year, the board shall credit each person's individual account in the members' deposit account with regular interest on the mean balance in the account for the fiscal year.~~

~~(2) At the end of each system fiscal year, the board shall credit the employer accumulation account with regular interest on the mean~~

~~balance in the account for the fiscal year and similarly shall credit regular interest to the retirement reserve account and to the survivor benefit account.~~

~~(3) The interest credits shall be transferred from the income-expense account.~~

SECTION 7. Arkansas Code § 24-7-602(b), concerning military service credit, is amended to read as follows:

(b) An active or inactive member who entered the armed forces shall have the period of armed forces service credited as service in the system without cost to the member if the member ~~satisfies the following conditions:~~

~~(1) He or she completes five (5) or more years of actual service in the system; and~~

~~(2) (A) The armed forces service is not credited as service under any other retirement plan except social security.~~

~~(B) Receipt of a pension from the federal military retirement system paid solely for disability shall not be considered as having service credit with another retirement plan.~~

SECTION 8. Arkansas Code § 24-7-706(a)(1), concerning annuity options, is amended to read as follows:

(a)(1) Before the date the first payment of his or her annuity becomes due, ~~but not thereafter,~~ a member may elect to receive his or her annuity as a straight life annuity, or he or she may elect to receive the actuarial equivalent, at that time, of his or her straight life annuity in a reduced annuity payable throughout his or her life.

SECTION 9. Arkansas Code § 24-7-733(a)(2), concerning limitation on benefits, is amended to read as follows:

(2) The annual benefits, as may be increased in subsequent years, that are paid to retirants by the system shall not ~~exceed~~ violate the limitations under the Internal Revenue Code, 26 U.S.C. § 415(b), applicable to the annuity effective date under the Internal Revenue Code, 26 U.S.C. § 415(d) and benefits shall be paid in a manner that protects the tax qualified status of the system.

SECTION 10. Arkansas Code § 24-7-1312(a), concerning federal taxation, is amended to read as follows:

(a) The Teacher Deferred Retirement Option Plan is intended to operate in accordance with 26 U.S.C. § 415 and other applicable sections of the Internal Revenue Code in a manner that protects the tax qualified status of the system.

*SECTION 11. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the operations of a state public retirement system are complex and the system must be able to meet the needs of its members as anticipated by the General Assembly; that certain provisions of the Arkansas Teacher Retirement System Act are imminently in need of clarification to operate the system efficiently and effectively; that such clarification is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; and that this act is immediately necessary in order 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 necessary for the preservation of the public peace, health, and safety shall become effective on:*

*(1) The date of 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: 03/04/2015**