

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

SENATE BILL 192

By: Senator E. Cheatham

## For An Act To Be Entitled

AN ACT TO ALLOW MEMBERS WITH RECIPROCAL SERVICE TO RETIRE UPON A DETERMINATION OF DISABILITY; TO AMEND DISABILITY RETIREMENT PROCEDURES; TO ENCOURAGE DISABILITY RETIREES OF THE ARKANSAS TEACHER RETIREMENT SYSTEM TO RETURN TO EMPLOYMENT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO ALLOW MEMBERS WITH RECIPROCAL SERVICE TO RETIRE UPON A DETERMINATION OF DISABILITY; TO AMEND DISABILITY RETIREMENT PROCEDURES; TO ENCOURAGE DISABILITY RETIREES TO RETURN TO EMPLOYMENT; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-704(a)(1)(A), concerning disability retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(a)(1)(A) An active member in employer service with five (5) or more years of actual and reciprocal service who becomes totally and permanently physically or mentally incapacitated for his or her job duties as ~~the~~ a result of a personal injury or disease may be retired by the Board of Trustees of the Arkansas Teacher Retirement System upon a determination of disability consistent with this section and approval of a written application filed with the Arkansas Teacher Retirement System.



SECTION 2. The introductory language of Arkansas Code § 24-7-704(a)(4), concerning disability retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(4) To ~~receive~~ begin receiving disability retirement, a member shall not:

SECTION 3. Arkansas Code § 24-7-704(b)(3)(C), concerning disability retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(C) The system ~~will~~ shall terminate disability retirement benefits to a member or retirant when the member or retirant fails to:

(i) Provide a Social Security Administration determination letter finding that the member or retirant is disabled to the system within the thirty-six-month period under subdivision (a)(3)(A) of this section; ~~or~~

(ii) Receive an extension of time under subdivision (a)(3)(B) of this section to provide the system with a letter from the Social Security Administration finding that the member or retirant is disabled; or

(iii) Apply for a review by the system's medical committee within three (3) months of disability benefits ceasing due to the lack of a Social Security Administration determination letter finding that the member or retirant is disabled.

SECTION 4. Arkansas Code § 24-7-704(b)(3), concerning disability retirement under the Arkansas Teacher Retirement System, is amended to add an additional subdivision to read as follows:

(D)(i) A member or retirant who seeks and fails to receive a determination letter finding the member or retirant disabled by the Social Security Administration may seek a review permitted under subdivision (b)(3)(C)(iii) of this section no earlier than three (3) months before the date on which the member's disability retirement would otherwise end and no later than three (3) months after termination of disability retirement.

(ii) The system's medical committee shall hear all applications for review permitted under subdivision (b)(3)(C)(iii) of this section and render decisions consistent with the definition of disability

under subdivision (a)(1)(D) of this section.

(iii) The medical committee's recommendation after its review of an application permitted under subdivision (b)(3)(C)(iii) of this section shall be presented to the board for a final order.

(iv) After receiving the medical committee's recommendation under subdivision (b)(3)(D)(iii) of this section, the board shall issue a final order consistent with the provisions of this chapter and the system's rules for initial disability retirement.

(v) The board's approval of the medical committee's recommendation shall be a final disposition of the matter by the system, under § 25-15-201 et seq.

SECTION 5. Arkansas Code § 24-7-704(b)(4), concerning disability retirement under the Arkansas Teacher Retirement System, is repealed.

~~(4) The requirements under subdivision (b)(3) of this section shall not apply to a member or retirant who is fifty-seven (57) years of age or older before July 1, 2015.~~

SECTION 6. Arkansas Code § 24-7-704(c), concerning disability retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

~~(c)(1)(A) At least one (1) time each year during the first five (5) years following a member's retirement on account of disability, and at least one (1) time in each three-year period thereafter, the board may require any disability retirant who has not attained sixty (60) years of age to undergo a medical examination to be made by or under the direction of the medical committee.~~

~~(2) If the retirant refuses to submit to the medical examination in any period, his or her disability annuity may be suspended by the board until his or her withdrawal of his or her refusal.~~

~~(3) If his or her refusal continues for one (1) year, all his or her rights in and to a disability annuity may be revoked by the board.~~

~~(4) If the medical committee, upon the medical examination of the retirant, or the system staff on behalf of the medical committee, reports to the board with cause that the retirant is physically and mentally able and capable of resuming his or her duty in the position held by him or her at the~~

~~time of disability retirement, then his or her disability retirement shall terminate.~~

~~(5)(A)~~ If a disability retirant returns to covered employment before attaining sixty (60) years of age, his or her disability retirement shall terminate unless the retirant meets the requirements to return to covered employment or obtains a waiver under subsection (e) of this section.

(B) If a disability retirant returns to covered employment after attaining sixty (60) years of age and is otherwise eligible for retirement under § 24-7-707, the retirant shall be treated as if he or she retired under § 24-7-701.

~~(6)(2)(A)~~ If a disability retirant under sixty (60) years of age returns to covered employment, he or she shall ~~immediately again~~ become an active member of the system immediately, and his or her credited service at the time of his or her disability retirement shall be restored to his or her credit in the members' deposit account.

(B) The retirant's disability retirement and his or her accumulated contributions shall be treated as if he or she ~~had~~ returned to service on the date of the full-time employment.

~~(7)(3)~~ A Except as provided under subdivision (c)(2) of this section, a disability retirant shall not earn or be given service credit for the period he or she was receiving a disability retirement annuity.

SECTION 7. Arkansas Code § 24-7-704, concerning disability retirement, is amended to add a new subsection to read as follows:

(e) A disability retirant may be employed by a covered employer and also receive a monthly disability retirement if:

(1) The disability retirant provides the covered employer with:

(A) Less than forty (40) days of actual service during a fiscal year; or

(B) At least forty (40) days of actual service during the fiscal year and the actual service:

(i) Is substantially different from the position, job requirements, and work duties from which the disability retirant retired after a determination of disability; and

(ii) Has a computed yearly salary that is less than the final average salary used to compute the monthly disability benefit; and

(2)(A)(i) Within three (3) months of a covered employer's employment of a disability retirant under this section, the system grants a waiver of subdivision (a)(4)(A) of this section upon the request of the covered employer.

(ii) If a covered employer's request for a waiver of subdivision (a)(4)(A) of this section is received by the system, the system shall grant a waiver to permit the covered employer's employment of the disability retirant for less than forty (40) days of actual service in the fiscal year.

(iii) The system is not required to grant a waiver under subdivision (e)(2)(A)(i) of this section if the disability retirant previously worked at least forty (40) days in the fiscal year as a disability retirant.

(B) If a covered employer requests a waiver of subdivision (a)(4)(A) in order to employ a disability retirant for forty (40) days or more of actual service during the fiscal year, upon receiving the request and any supporting documentation, the system shall grant the waiver if it determines that the requirements of this subsection are met.

(3)(A) A disability retirant who meets the requirements of this subsection and whose employer is granted a waiver of subdivision (a)(4)(A) of this section shall continue to receive his or her monthly disability retirement annuity from the system and shall not accrue additional service credit.

(B) A covered employer who employs a disability retirant under this subsection shall remit contributions on all salary paid to the disability retirant in an amount equal to the employer contribution rate applicable to an active member.

SECTION 8. Arkansas Code Title 24, Chapter 7, Subchapter 7, is amended to add a new section to read as follows:

24-7-738. Return to regular covered employment for service credit after disability retirement - Alternate option to return to disability retirement - Incentive to work.

(a) If a member who has been on disability retirement with the Arkansas Teacher Retirement System returns to regular, covered employment and then returns to disability retirement with the system, the disability

retirement benefit shall be the higher of the:

(1) Amount that the member would have received if he or she did not return to regular, covered employment; or

(2) Recomputed benefit using the additional salary and additional service credit earned by the member under the covered employment.

(b)(1) A member who returns to covered employment under this section after disability retirement shall not receive a disability retirement benefit from the system in any month that the member is paid a salary from a covered employer for a work period that is concurrent with the receipt of the disability retirement.

(2) Any disability retirement benefit erroneously paid to the member or retirant for a month in which the member receives salary from a covered employer may be recovered by the system as an overpayment as allowed by law.

SECTION 9. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the operations of the Arkansas Teacher Retirement System are complex; that 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 revision and updating to bring them into conformance with sound public pension policy and actuarial requirements; that such revision and updating is of great importance to members of the system and to other citizens of the State of Arkansas; that the system needs to have the ability to make immediate changes to maintain and improve its actuarial status; and that this act is immediately necessary in order to maintain an orderly management of benefits for the members of the 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 its approved 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.      **APPROVED:**

**03/21/2017**

