

Stricken language would be deleted from and underlined language would be added to present law.  
Act 448 of the Regular Session

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

As Engrossed: S2/5/19  
**A Bill**

SENATE BILL 220

By: Senator B. Sample

**For An Act To Be Entitled**

AN ACT TO REPEAL OBSOLETE PROVISIONS OF TITLE 24; TO AMEND CERTAIN PROVISIONS OF TITLE 24 RELATING TO RETIREMENT BENEFITS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

**Subtitle**

TO REPEAL OBSOLETE PROVISIONS OF TITLE 24; TO AMEND CERTAIN PROVISIONS OF TITLE 24 RELATING TO RETIREMENT BENEFITS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-4-207(c)(2)(B), concerning bonds, payments on vouchers and warrants, and adjustments of erroneous payments, is amended to read as follows:

(B) If the overpayment is determined at a date later than one (1) year after the date of the ~~first~~ last overpayment, the overpayment shall not be recouped by the board unless the overpayment is a result of an error on the part of a member, retirant, or beneficiary.

SECTION 2. Arkansas Code § 24-4-301(a)(2)(A)(i)(b), concerning membership as a condition to employment, is amended to read as follows:

(b) However, if the member's only service under an Arkansas retirement plan, as provided under § 24-2-401 et seq., is service as a member of the General Assembly, then the member must have ten (10) or more years of actual service to be eligible for benefits.



SECTION 3. Arkansas Code § 24-4-704 is repealed.

~~24-4-704. Contributory members of General Assembly—Eight years' service before 1967 plus credit for other service.~~

~~(a) Any person who has eight (8) years of credited service in the Arkansas Public Employees' Retirement System as a member of the General Assembly prior to 1967 and two (2) or more additional years of credited service in the system for service other than as a General Assembly member shall be eligible to voluntarily retire at sixty five (65) years of age and to receive an annuity in the amount prescribed in the public employees' retirement system law for retired General Assembly members and shall be eligible to exercise any option available to General Assembly members under the system.~~

~~(b) The surviving spouse of the person shall be entitled to survivor benefits prescribed for the surviving spouse of a General Assembly member.~~

SECTION 4. Arkansas Code § 24-4-705 is repealed.

~~24-4-705. Contributory members of General Assembly—Voluntary retirement.~~

~~(a)(1) An active member of the General Assembly or any person who has served as a member of the General Assembly subsequent to January 1, 1957, or who has qualified for coverage under the Arkansas Public Employees' Retirement System with respect to service rendered as a member of the General Assembly as authorized by law, or who is a member of the system as a General Assembly member, or who has credited service in the system as a General Assembly member of the system for service rendered as a member of the General Assembly may voluntarily retire upon written application filed with the Board of Trustees of the Arkansas Public Employees' Retirement System.~~

~~(2) The application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of the application, that a person desires to retire or to receive an annuity for which he or she is qualified under the system, if, at the time of retirement or election to receive benefits, the person satisfies at least one (1) of the following conditions:~~

~~(A) Attainment of age sixty (60) with ten (10) years of credited service for General Assembly service;~~

~~(B) Attainment of age fifty five (55) with fourteen (14)~~

~~years of credited service for General Assembly service;~~

~~(C) Attainment of age sixty (60) with six (6) years of credited service for General Assembly service and is seventy five percent (75%) disabled because of federal military service;~~

~~(D) Attainment of age fifty five (55) with six (6) or more years of credited service for General Assembly service, and six (6) years of credited service as an elected county official, and eight (8) years of credited service as a state or county employee. However, if the person has fourteen (14) or more years of credited service as an elected county official, eight (8) years of service as a state or county employee shall not be required for eligibility; or~~

~~(E) Attainment of age fifty (50) with eighteen (18) years of credited service for General Assembly service.~~

~~(b) Upon retirement, the person shall receive an annuity as provided for retired General Assembly members of the system.~~

SECTION 5. Arkansas Code § 24-4-706 is repealed.

~~24-4-706. Contributory members of General Assembly — Retirement benefits generally.~~

~~(a) Upon a General Assembly member's retirement as provided by law, the member's straight life annuity shall be three thousand one hundred forty-four dollars (\$3,144) plus the applicable amount provided in § 24-4-610 payable in equal monthly installments.~~

~~(b) The provisions of this section shall apply to all former, present, or future members of the General Assembly, or their beneficiaries, who meet the age requirements as members of the General Assembly as provided by this act or any other act establishing eligibility for credited service as General Assembly members of the Arkansas Public Employees' Retirement System.~~

~~(c) The Treasurer of State is authorized and directed to make annual transfers to prevent the deterioration of the financial solvency of the system with respect to benefits provided General Assembly members and to retirants and beneficiaries of the General Assembly.~~

SECTION 6. Arkansas Code § 24-4-707 is repealed.

~~24-4-707. Contributory members of General Assembly — Presiding officers.~~

~~Any person who may have served as a presiding officer of either branch of the General Assembly for a period of not less than ten (10) years may be eligible, upon reaching age sixty five (65), to receive an annuity as provided for in Acts 1959, No. 42, § 11A(c) [repealed], but only if the person became a member of the Arkansas Public Employees' Retirement System on July 1, 1957, has paid into the system all contributions required of the person by law, is not a member of, eligible for membership in, or receiving benefits from some other state supported retirement system other than Social Security, and is not at the time of retirement employed by a public employer in this state.~~

SECTION 7. Arkansas Code § 24-4-710 is repealed.

~~24-4-710.—Contributory credited service for General Assembly members and state constitutional officers dying in office—Surviving spouse benefits.~~

~~(a)—Any member of the General Assembly or a state constitutional officer who dies before completing a term of office to which the person was elected shall continue to accrue credited service in the Arkansas Public Employees' Retirement System during the remainder of the term for which the person was elected.~~

~~(b)—The surviving spouse of a member or former member of the General Assembly or of a state constitutional officer or former state constitutional officer who, by virtue of the provisions of this section or any other law, has five (5) years or more of credited service in any capacity in the system, except for a member of the General Assembly who must have had ten (10) or more years of credited service if he or she only has service as a member of the General Assembly, shall be entitled upon reaching the required age to a surviving spouse benefit in the amount prescribed by law under the division of the system in which the deceased member was receiving benefits or would have been entitled under this section to receive benefits if the member had lived to retirement age.~~

~~(c)—Nothing contained in this section is intended to, nor shall anything in this section be construed to, permit any member or former member of the General Assembly or any constitutional officer or former constitutional officer or any spouse of the member or officer to earn credited service in any retirement system after the expiration of the term of~~

~~office to which the member was elected.~~

SECTION 8. Arkansas Code § 24-4-712 is repealed.

~~24-4-712. Contributory Governor.~~

~~(a)(1) Any person who serves two (2) full two-year terms as Governor or who substantially serves two (2) terms as Governor with the exception of completing a portion or all of the last month of the second term by reason of vacating the office solely for the purpose of taking another office to which the person is elected and who accumulates not less than three (3) years and eleven (11) months of credited service under the Arkansas Public Employees' Retirement System may retire upon reaching fifty-five (55) years of age under the provisions of the system with an annuity equal to eighteen percent (18%) of the biennial salary prescribed for the Governor.~~

~~(2) Any person who serves as Governor for three (3) full two-year terms and who accumulates not less than six (6) years of credited service as a member of the system may retire upon reaching fifty-five (55) years of age, under the provisions of the system with an annuity equal to twenty-four percent (24%) of the biennial salary prescribed for the Governor.~~

~~(3) Any person who serves as Governor for four (4) or more two-year terms and accumulates not less than eight (8) years of credited service as a member of the system may retire, upon reaching fifty-five (55) years of age, under the provisions of the system with an annuity equal to thirty percent (30%) of the biennial salary prescribed for the Governor.~~

~~(b)(1) Any person who served as Governor prior to July 1, 1957, may, for the purpose of obtaining benefits under this section, purchase service credit in the system for the period of years which the person served as Governor by paying into the system an amount equal to five percent (5%) of his or her salary received as Governor during his or her service, plus an equal amount as the employer contribution to the system, plus interest at the rate of three percent (3%) per annum.~~

~~(2) Any person who served as Governor after July 1, 1957, but who has withdrawn his or her contributions to the system may, for purposes of obtaining benefits under the provisions of this section, repay to the system the amount so withdrawn with interest thereon at the rate of three percent (3%) from the date withdrawn to the date of repayment.~~

~~(3) The purchase of service credit or repayment of withdrawn~~

~~contributions under this subsection must have been made on or before July 1, 1976.~~

~~(c) If the contributions made by the Governor members, together with the employer contributions made in behalf of the members, are insufficient to finance benefits payable to Governor members as prescribed in this section, then, in that event, the Board of Trustees of the Arkansas Public Employees' Retirement System shall annually certify to the Chief Fiscal Officer of the State the additional amounts required to pay the benefits of the members. The Chief Fiscal Officer of the State shall cause the amount so certified to be transferred from the Constitutional Officers Fund and the State Central Services Fund to the system to be used for paying the benefits.~~

~~(d) The benefits received by any member under the provisions of this section shall be in lieu of any benefits to which the individual may be entitled under other provisions of the system.~~

SECTION 9. Arkansas Code § 24-4-714 is repealed.

~~24-4-714. Elected contributory state constitutional officers generally.~~

~~(a)(1)(A) Any elected state constitutional officer who as a member of the Arkansas Public Employees' Retirement System accumulates not less than ten (10) years of credited service as an elected state constitutional officer member of the system may voluntarily retire upon attaining age sixty (60) and receive an annuity provided in this section upon written application filed with the Board of Trustees of the Arkansas Public Employees' Retirement System.~~

~~(B) This application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, the member desires to be retired.~~

~~(2)(A) Any elected state constitutional officer who as a member of the system accumulates not less than fourteen (14) years of credited service as an elected state constitutional officer and is a member of the system may voluntarily retire upon attaining age fifty five (55) and receive an annuity provided in this section upon his or her written application filed with the board.~~

~~(B) The application shall set forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the~~

~~execution and filing thereof, the member desires to be retired.~~

~~(b) The benefits of an elected state constitutional officer shall be not less than sixty five percent (65%) of the biennial salary, but if the salaries of elected state constitutional officers are altered, benefits provided in this section shall be computed and determined on the basis of salaries in effect for such officers on January 1, 1976.~~

~~(c)(1) If the contribution of the elected state constitutional officer member and the employer contributions are insufficient to pay the benefits of the elected state constitutional officer members, then, in that event, the board shall annually certify to the Chief Fiscal Officer of the State the amount sufficient to pay the deficit, based upon an actuarial determination of the additional amounts required to pay benefits of elected state constitutional officer members.~~

~~(2) The Chief Fiscal Officer of the State shall cause the amount so certified to be transferred from the Constitutional Officers Fund and the State Central Services Fund to the system.~~

~~(d) As used in this section, "elected state constitutional officer" means the Lieutenant Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, and Commissioner of State Lands.~~

~~(e) Nothing in this section shall prohibit the Lieutenant Governor from exercising any option provided by law to participate in benefits provided members of the General Assembly. In the event an elected state constitutional officer does not qualify for benefits provided elected state constitutional officers under the provisions of this section, the officer shall be entitled to benefits provided to other members of the system for which he or she is qualified, in terms of age and service, as provided by law.~~

SECTION 10. Arkansas Code § 24-4-726 is repealed.

~~24-4-726. State penitentiary employees.~~

~~(a)(1) Any member of the former Arkansas State Penitentiary Employees' Retirement System, as created by Acts 1957, No. 64 [repealed], may, after November 6, 1965, upon application and submission of proper proof to the Board of Trustees of the Arkansas Public Employees' Retirement System, become members of the Arkansas Public Employees' Retirement System.~~

~~(2) That member may receive credit for all services rendered the~~

~~state penitentiary upon paying, or causing to be paid, on or before November 6, 1966, into the members' deposit account, the contributions he or she would have paid, together with three percent (3%) compound interest, had he or she been a member of the Arkansas Public Employees' Retirement System during his or her period of employment with the state penitentiary.~~

~~(b) Upon certification from the Executive Director of the Arkansas Public Employees' Retirement System, the Treasurer of State shall transfer from the Department of Correction Inmate Care and Custody Fund Account of the State General Government Fund to the Arkansas Public Employees' Retirement System Fund an amount equal to the contributions made by the state penitentiary employees. That amount shall be credited to the Employer Contribution Fund of the system.~~

~~(c) Upon becoming a member of the Arkansas Public Employees' Retirement System, the member shall be entitled to the same rights and privileges as other members of the Arkansas Public Employees' Retirement System.~~

~~(d) The Board of Trustees of the Arkansas Public Employees' Retirement System is directed to make such rules and regulations as, in its opinion, will effect an orderly transfer of membership and service credits as provided in this section.~~

~~(e) All persons in receipt of a straight life annuity from the former Arkansas State Penitentiary Employees' Retirement System shall be transferred to the retirement rolls of the Arkansas Public Employees' Retirement System on January 1, 1970, and their monthly benefits shall be continued for the remainder of their natural lives.~~

~~(f) On January 1 of each year, the Executive Director of the Arkansas Public Employees' Retirement System shall determine the amount necessary for the purpose of providing funds to assure the payment of such benefits. The Treasurer of State shall transfer from the Department of Correction Inmate Care and Custody Fund Account of the State General Government Fund to the Arkansas Public Employees' Retirement System Fund that amount, as certified by the executive director.~~

SECTION 11. Arkansas Code § 24-4-741 is repealed.

~~24-4-741. Credit for service in reciprocal system.~~

~~Notwithstanding the provisions of § 24-4-510 regarding total credited~~

~~service in reciprocal retirement systems, both service in the Arkansas Public Employees' Retirement System as a member of the Arkansas State Claims Commission and service in another reciprocal system during the same period of time may be counted as credited service to meet the service requirements for benefits from the Arkansas Public Employees' Retirement System and another reciprocal system, subject to the following:~~

~~(1) The provisions of § 24-4-521 may not be used to meet the minimum service requirements;~~

~~(2) The portion of service credit attributed under the provisions of this section shall not be used to determine a member's retirement eligibility or the member's normal retirement age under § 24-4-101;~~

~~(3) The benefit payable by a reciprocal system will be based on the credited service in that system and on the final average compensation under that system; and~~

~~(4) If a member has less than five (5) actual years of service credited in a reciprocal system, then "final average compensation" means the monthly average of pay to the member during his or her total years of service in that system.~~

SECTION 12. Arkansas Code § 24-4-804(c)(1), the cessation of participation in the Deferred Retirement Option Plan under the Arkansas Public Employees' Retirement System, is amended to read as follows:

(c)(1) When a member's participation in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan ceases, that member is not eligible for employment in any position covered by the plans identified in § 24-2-401(3), except as provided for in § 24-4-520 unless the separation period would prevent a popularly elected official from taking or holding office.

SECTION 13. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the operations of the Arkansas Public Employees' Retirement System must be able to meet the needs of its members as anticipated by the General Assembly; that certain provisions of the system are in imminent need of revision; and that this act is immediately necessary in order to maintain an orderly system of benefits for the members

of the 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/B. Sample*

**APPROVED: 3/13/19**